



2025 South Dakota Legislature

Senate Bill 57

SENATE JUDICIARY ENGROSSED

Introduced by: The Chair of the Committee on Judiciary at the request of the Attorney General

1 **An Act to revise presumptive probation.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 22-6-11 be AMENDED:**

4 **22-6-11.** The sentencing court shall sentence an offender convicted of a Class 5
 5 or Class 6 felony, except those convicted under §§ 22-11-15.5, 22-11-15.7, 22-11A-2.1,
 6 22-14-15, 22-18-1, 22-18-1.05, 22-18-26, 22-18-29, 22-19A-1, 22-19A-2, 22-19A-3,
 7 22-19A-7, 22-19A-16, 22-22A-2, 22-22A-4, 22-22-24.3, subdivision 22-23-2(2), 22-24-
 8 1.2, 22-24B-2, 22-24B-12, 22-24B-12.1, 22-24B-23, 22-30A-17 if the property stolen is
 9 a firearm, 22-30A-46, 22-42-7, subdivision 23A-43-31(1), subdivision 24-2-14(1), 32-23-
 10 4.6, 32-33-18.2, and 32-34-5, and any person ineligible for probation under § 23A-27-
 11 12, to a term of probation.

12 ~~If the offender is under the supervision of the Department of Corrections, the court~~
 13 ~~must order a fully suspended state incarceration sentence pursuant to § 23A-27-18.4.~~ The
 14 sentencing court may impose a sentence other than probation or a fully suspended state
 15 incarceration sentence if the court finds aggravating circumstances exist that pose a
 16 significant risk to the public and require a departure from presumptive probation under
 17 this section. If a departure is made, the judge must state the aggravating circumstances
 18 on the record at the time of sentencing and in the dispositional order.

19 If the offender was under felony probation or parole supervision at the time of the
 20 instant offense, this section does not apply.

21 Neither this section nor its application may be the basis for establishing a
 22 constitutionally protected liberty, property, or due process interest.