

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

747X0257

SENATE JUDICIARY ENGROSSED NO. **SB 140** 02/16/2016

Introduced by: Senators Tieszen, Bradford, Brown, Buhl O'Donnell, Frerichs, Haverly, Heinert, Hunhoff (Bernie), Novstrup (David), Olson, Otten (Ernie), Rusch, Shorma, Soholt, Solano, and Vehle and Representatives Johns, Bartling, Bolin, Bordeaux, Deutsch, Feickert, Gibson, Heinemann (Leslie), Holmes, Kirschman, Novstrup (Al), Ring, Rozum, Schrempp, Soli, and Wollmann

1 FOR AN ACT ENTITLED, An Act to eliminate life sentences for defendants under the age of
2 eighteen at the time of the crime.

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

4 Section 1. That § 22-6-1 be amended to read:

5 22-6-1. Except as otherwise provided by law, felonies are divided into the following nine
6 classes which are distinguished from each other by the following maximum penalties which are
7 authorized upon conviction:

8 (1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence
9 than death or life imprisonment may not be given for a Class A felony. In addition,
10 a fine of fifty thousand dollars may be imposed;

11 (2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not
12 be given for a Class B felony. In addition, a fine of fifty thousand dollars may be
13 imposed;



- 1 (3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty
2 thousand dollars may be imposed;
- 3 (4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine
4 of fifty thousand dollars may be imposed;
- 5 (5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition,
6 a fine of fifty thousand dollars may be imposed;
- 7 (6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine
8 of thirty thousand dollars may be imposed;
- 9 (7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of
10 twenty thousand dollars may be imposed;
- 11 (8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine
12 of ten thousand dollars may be imposed; and
- 13 (9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four
14 thousand dollars, or both.

15 If the defendant is under the age of eighteen years at the time of the offense and found guilty
16 of a Class A, or B, or C felony, the maximum sentence may be ~~life imprisonment in the state~~
17 ~~penitentiary. In addition, a term of years in the state penitentiary, and~~ a fine of fifty thousand
18 dollars may be imposed.

19 The court, in imposing sentence on a defendant who has been found guilty of a felony, shall
20 order in addition to the sentence that is imposed pursuant to the provisions of this section, that
21 the defendant make restitution to any victim in accordance with the provisions of chapter 23A-
22 28.

23 Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7,
24 22-7-8, and 22-7-8.1.

1 Section 2. That the code be amended by adding a NEW SECTION to read:

2 The penalty of life imprisonment may not be imposed upon any defendant for any offense

3 committed when the defendant was less than eighteen years of age.