



State Bar of South Dakota

Law and Youth

(Revised April 15, 1997)

Juvenile Courts

What kind of cases are handled in juvenile court?

All criminal cases against juveniles both misdemeanor and felony which involve a criminal penalty, except hunting, fishing, boating, park, traffic offenses or underage consumption or possession of alcohol, are begun in juvenile court. After the filing of the petition alleging a child to be delinquent the prosecutor has the option of seeking to have the case moved to the adult side of the court docket depending on a number of factors, none of which carry greater weight than the other.

Before a court will transfer a child from juvenile to regular court for treatment as an adult, the judge will consider the seriousness of the offense, the manner in which the offense was committed, whether the offense was against persons or property, the prosecutorial merit of the complaint, the desirability of one proceeding where adults and juveniles have been charged in the same action, the prior record of the juvenile, the protection of the public, the prospects of rehabilitation of juvenile, and the juvenile's mental, physical and social history. If a child is 16 years of age or older and has committed murder, manslaughter, kidnapping, rape, 1st degree burglary or other serious violent felony, it is presumed that he or she should be transferred from juvenile court and treated as an adult.

Juvenile court also has jurisdiction over all cases involving dependency, neglect or termination of parental rights.

Can a case filed in adult court be transferred?

Since in South Dakota all criminal cases against juveniles are begun as delinquency proceedings and may be transferred to the "adult side" of the court, in the discretion of the trial judge, there would be an occasion for a case to be transferred from the circuit court to the juvenile court. Since such a procedure is not prohibited, if justice so required, such a transfer could be made.

Are juvenile court records made public?

As a general rule, proceedings involving abused or neglected children, or children in need of supervision are closed to the public in order to protect the child. In cases involving an alleged delinquent child, if the child is 16 years of age or older and commits a violent crime such as murder, manslaughter, rape, arson, robbery, 1st or 2nd degree burglary, kidnapping, or has been charged with possession or distribution of a controlled substance, the records and hearings involving the child are open to the public. If a child does not commit a crime of a violence but has his or her are transferred, the records of the proceeding are open to public inspection as well. These records may also be reviewed as part of a presentence investigation following any subsequent criminal conviction.

However, virtually all branches of the military, including the National Guard, require applicants to disclose juvenile records. Felonies or serious misdemeanors committed as a juvenile may result in rejection or a delay in enlistment.

Can a juvenile offender be put in jail?

Yes. A child who is charged w