

2024 South Dakota Legislature

House Bill 1089**AMENDMENT 1089A
FOR THE INTRODUCED BILL**

1 **An Act to exclude certain crimes from 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 §§ 22-11A-2.1, 22-14-15, 22-18-1, 22-
6 18-1.05, 22-18-26, 22-18-29, 22-19A-1, 22-19A-2, 22-19A-3, 22-19A-7, 22-19A-16, 22-
7 22A-2, 22-22A-4, 22-24A-3, 22-22-24.3, subdivision 22-23-2(2), 22-24-1.2, 22-24B-2,
8 22-24B-12, 22-24B-12.1, 22-24B-23, 22-30A-17 if the property stolen is a firearm, 22-
9 30A-46, 22-42-7, subdivision 24-2-14(1), 32-34-5, and any person ineligible for probation
10 under § 23A-27-12, to a term of probation. ~~An offender convicted of a Class 5 or Class 6~~
11 ~~felony under § 22-30A-17, if the property stolen is a firearm, is also excluded from a~~
12 ~~presumptive sentence of probation.~~

13 If the offender is under the supervision of the Department of Corrections, the court
14 shall order a fully suspended state incarceration sentence pursuant to § 23A-27-18.4. The
15 sentencing court may impose a sentence other than probation or a fully suspended state
16 incarceration sentence if the court finds aggravating circumstances exist that pose a
17 significant risk to the public and require a departure from presumptive probation under
18 this section. If a departure is made, the judge shall state on the record at the time of
19 sentencing the aggravating circumstances and the same shall be stated in the dispositional
20 order. Neither this section nor its application may be the basis for establishing a
21 constitutionally protected liberty, property, or due process interest.