



2025 South Dakota Legislature

House Bill 1115

Introduced by: **Representative Fitzgerald**

1 **An Act to establish the crime of aggravated criminal entry of a motor vehicle with**
 2 **the intent to steal a firearm, to make offenders ineligible for presumptive**
 3 **probation, and to provide a penalty therefor.**

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

5 **Section 1. That a NEW SECTION be added to chapter 22-32:**

6 Any person who enters a motor vehicle and takes or exercises control over the
 7 property of another, with the intent to deprive the owner of that property, and the property
 8 is a firearm, regardless of value, is guilty of a Class 5 felony.

9 **Section 2. That § 22-6-11 be AMENDED:**

10 **22-6-11.** The sentencing court shall sentence an offender convicted of a Class 5
 11 or Class 6 felony, except those convicted under §§ 22-11A-2.1, 22-14-15, 22-18-1, 22-
 12 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-
 13 22A-2, 22-22A-4, 22-22-24.3, subdivision 22-23-2(2), 22-24-1.2, 22-24B-2, 22-24B-12,
 14 22-24B-12.1, 22-24B-23, 22-30A-17 if the property stolen is a firearm, 22-30A-46,
 15 section 1 of this Act, 22-42-7, subdivision 24-2-14(1), 32-23-4.6, 32-34-5, and any
 16 person ineligible for probation under § 23A-27-12, to a term of probation. If the offender
 17 is under the supervision of the Department of Corrections, the court must order a fully
 18 suspended state incarceration sentence pursuant to § 23A-27-18.4. The sentencing court
 19 may impose a sentence other than probation or a fully suspended state incarceration
 20 sentence if the court finds aggravating circumstances exist that pose a significant risk to
 21 the public and require a departure from presumptive probation under this section. If a
 22 departure is made, the judge must state the aggravating circumstances on the record at
 23 the time of sentencing and in the dispositional order. Neither this section nor its application
 24 may be the basis for establishing a constitutionally protected liberty, property, or due
 25 process interest.