

2020 South Dakota Legislature

Draft 500

Requested by: at the request of the Unified Judicial System

1 **An Act to revise certain provisions regarding the commitment of a delinquent child**
2 **to the Department of Corrections.**

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

4 **Section 1.** That § 26-8C-7 be AMENDED:

5 **26-8C-7. Decree of disposition--Contents--Findings.**

6 If a child has been adjudicated as a delinquent child, the court shall enter a decree
7 of disposition according to the least restrictive alternative available in keeping with the
8 best interests of the child. The decree shall contain one or more of the following:

- 9 (1) The court may require the child to pay restitution, as defined in subdivision 23A-
10 28-2(4) and under conditions set by the court, if payment can be enforced without
11 serious hardship or injustice to the child;
- 12 (2) The court may impose a fine not to exceed one thousand dollars;
- 13 (3) The court may place the child on probation under the supervision of a court services
14 officer or another designated individual pursuant to § 26-8C-14;
- 15 (4) The court may require a child as a condition of probation to participate in a
16 supervised community service program, if the child is not deprived of the schooling
17 that is appropriate for the child's age, needs, and specific rehabilitative goals. The
18 supervised community service program shall be of a constructive nature designed
19 to promote rehabilitation, appropriate to the age level and physical ability of the
20 child, and shall be combined with counseling by the court services officer or other
21 guidance personnel. The supervised community service program assignment shall
22 be made for a period of time consistent with the child's best interests, but for not
23 more than ninety days;
- 24 (5) The court may place the child at the Human Services Center for examination and
25 treatment;
- 26 (6) The court may place the child in a detention facility for not more than ninety days,
27 which may be in addition to any period of temporary custody;
- 28 (7) The court may place the child in an alternative educational program;

- 1 (8) The court may order the suspension or revocation of the child's right to apply for a
2 driving privilege, suspend or revoke an existing driving privilege, or restrict the
3 privilege ~~in such the manner as it the court~~ sees fit, including requiring that financial
4 responsibility be proved and maintained;
- 5 (9) The court may assess or charge costs and fees permitted by §§ 16-2-41, 23-3-52,
6 23A-27-26, 23A-28B-42, and 23A-27-27 against the child, parent, guardian,
7 custodian, or other party responsible for the child; or
- 8 (10) The court may only commit a child to the Department of Corrections if the judge
9 finds that:
- 10 (a) No viable alternative exists;
- 11 (b) The Department of Corrections is the least restrictive alternative; and
- 12 (c) The child is currently adjudicated delinquent for an offense eligible for
13 transfer proceedings pursuant to § 26-11-3.1; the child is currently
14 adjudicated delinquent for a crime of violence pursuant to subdivision 22-1-
15 2(9), sex offense pursuant to § 22-24B-1, felony sexual registry offense
16 pursuant to chapter 22-24B, or burglary in the second degree pursuant to
17 § 22-32-3; or the court finds from evidence presented at the dispositional
18 hearing or from the pre-dispositional report that the youth presents a
19 significant risk of physical harm to another person; or
- 20 (d) The court finds from evidence presented at the dispositional hearing or from
21 the pre-dispositional report that the child is at high risk for re-offense based
22 on a validated risk assessment, and the child has either had a previous
23 unsuccessful discharge from probation for a felony offense or is on
24 supervised probation for a felony offense; and
- 25 (i) The child has been adjudicated for intentional damage to property
26 and the property damage exceeds five thousand dollars; or
- 27 (ii) The child has been adjudicated for a drug distribution offense that is
28 punishable at least as a Class 4 felony.

29 Any finding made pursuant to this section shall be made in the written decree.