

AN ACT

ENTITLED, An Act to clarify certain provisions relating to a court's continuing jurisdiction to revoke probation or a suspended execution of sentence.

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

Section 1. Any court granting probation or a suspended execution of sentence retains jurisdiction to revoke the probation or suspended execution of sentence for violation of its terms and conditions.

Section 2. That § 23A-27-18 be amended to read as follows:

23A-27-18. Upon conviction, the sentencing court may suspend the execution of any sentence imposed during good behavior, subject to such conditions or restitutions as the court may impose. The suspension order or judgment can be made only by the court in which the conviction occurred. A defendant given a suspended execution of sentence shall remain under the jurisdiction of the court. A penitentiary sentence may be imposed as a condition of a suspended execution of sentence as authorized in § 23A-27-18.1.

Section 3. That chapter 23A-27 be amended by adding thereto a NEW SECTION to read as follows:

Upon conviction, the sentencing court may suspend any portion of a penitentiary sentence subject to conditions or restrictions as the court may impose. The suspension order or judgment can be made only in the court in which the conviction occurred. A defendant with a partially suspended penitentiary sentence is under the supervision of the Department of Corrections and the Board of Pardons and Paroles. The board is charged with the responsibility for enforcing the conditions imposed by the sentencing judge, and the board retains jurisdiction to revoke the suspended portion of the sentence for violation of the terms of parole or the terms of the suspension.

A defendant with an entirely suspended penitentiary sentence is under the supervision of the sentencing court unless the entirely suspended penitentiary sentence is concurrent or consecutive to

an additional penitentiary sentence in which case, the defendant is under the supervision of the Board of Pardons and Paroles.

Section 4. That § 23A-27-18.2 be amended to read as follows:

23A-27-18.2. A person who is sentenced to a county jail as a condition of suspended imposition of sentence, suspended sentence, or suspended execution of sentence, is under the supervision of the court services officer assigned by the court having jurisdiction of the person. A person sentenced to the state penitentiary as a condition of suspended imposition of sentence or suspended execution of sentence is under the supervision of the court services officer assigned by the court having jurisdiction of the person upon that persons's release from the state penitentiary after completion of the penitentiary term imposed pursuant to § 23A-27-18.1.

Section 5. That § 23A-27-19 be amended to read as follows:

23A-27-19. The sentencing court retains jurisdiction for the purpose of suspending any such sentence for a period of two years from the effective date of the judgment of conviction, notwithstanding the fact that the time for an appeal from such judgment is limited to a shorter period of time. The court shall notify the attorney who prosecuted such person or shall notify the successor in office of such attorney at least fourteen days in advance of such suspension. Such notice shall be provided any victim by such attorney pursuant to the provisions of § 23A-27-1.2. Any person whose sentence is suspended pursuant to this section is under the supervision of the Board of Pardons and Paroles, except as provided in § 23A-27-18.2. The board is charged with the responsibility for enforcing the conditions imposed by the sentencing judge, and the board retains jurisdiction to revoke the suspended portion of the sentence for violation of the terms of the suspension.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1073

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1073
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State