



2023 South Dakota Legislature

Senate Bill 6

*Introduced by: **Senators** Wheeler, Reed, Schoenfish, and Tobin and **Representatives** Stevens, Deutsch, Healy, Ernie Otten, and Rehfeldt at the request of the Study Committee on Juvenile Justice*

1 **An Act to authorize community response teams to recommend alternative**
 2 **community-based resources for children alleged to be delinquent and**
 3 **children alleged to be in need of supervision prior to adjudication.**

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

5 **Section 1. That § 26-8D-1 be AMENDED:**

6 **26-8D-1.** Terms used in this chapter mean:

- 7 (1) "Community response team" or "team," a support team tasked with finding viable
 8 community resources to help rehabilitate ~~delinquent children and children in need~~
 9 ~~of supervision~~ children alleged to be delinquent and children alleged to be in need
 10 of supervision in community-based settings who are at risk for commitment to the
 11 Department of Corrections;
- 12 (2) "Juvenile cited violation," designated delinquency or children in need of supervision
 13 violation handled by law enforcement with the uniform traffic ticket pursuant to
 14 § 23-1A-2;
- 15 (3) "Juvenile Justice Oversight Council," the council established by § 26-8D-7;
- 16 (4) "Quality assured," monitored to determine the extent to which individuals
 17 delivering treatment to juveniles are administering that treatment consistently and
 18 as designed;
- 19 (5) "Recidivism," for the Department of Corrections for the purposes of this chapter,
 20 within one year, two years, or three years of discharge from the custody of the
 21 Department of Corrections, a juvenile commitment or conviction in adult court for
 22 a felony resulting in a sentence to the Department of Corrections. For the Unified
 23 Judicial System for the purposes of this chapter, the term means being adjudicated
 24 delinquent while on probation or adjudicated delinquent or convicted of a felony in
 25 adult court within one year, two years, or three years after discharge from juvenile
 26 probation;

- 1 (6) "Risk factors," characteristics and behaviors that, when addressed or changed,
 2 affect a child's risk for committing delinquent acts. The term includes prior and
 3 current offense history, antisocial behavior, antisocial personality, attitude and
 4 thinking about delinquent activity, family dysfunction, low levels of education or
 5 engagement in school, poor use of leisure time and recreation, and substance
 6 abuse;
- 7 (7) "Specialized transition services," independent living; foster care; respite; crisis
 8 stabilization; short-term assessment; a residential setting intended to transition
 9 the juvenile from a residential treatment center, intensive residential treatment
 10 center, or more restrictive group care or juvenile corrections facility; or other
 11 transitional setting authorized by the secretary of the Department of Corrections;
- 12 (8) "Treatment," when used in a juvenile justice context, targeted interventions that
 13 utilize evidence-based practices to focus on juvenile risk factors, to improve mental
 14 health, and to reduce the likelihood of delinquent behavior; and
- 15 (9) "Validated risk and needs assessment," a tool scientifically proven to identify
 16 factors for delinquency and predict a child's risk to reoffend.

17 **Section 2. That § 26-8D-10 be AMENDED:**

18 **26-8D-10.** The presiding judge of each judicial circuit may appoint one or more
 19 community response teams to assist judges by recommending viable community-based
 20 interventions for ~~children in need of supervision and delinquent children~~ children alleged
 21 to be delinquent and children alleged to be in need of supervision. Each team
 22 appointed shall must include the court services officer in the jurisdiction where the team
 23 is to operate, a representative of a public school district in which the team is to operate,
 24 and designees of the secretaries of the Departments of Social Services and Corrections.
 25 Each team may include ~~a representative of a public school district in which the team is to~~
 26 ~~operate and~~ one or more representatives of the public. The Unified Judicial System shall
 27 maintain a record of the membership of each team and report nonidentifying data to the
 28 oversight council. The team may operate telephonically or through electronic
 29 communications.

30 The records prepared or maintained by the team are confidential. However, the
 31 records may be inspected by, or disclosed to, justices, judges, magistrates, and employees
 32 of the Unified Judicial System in the course of their duties; ~~the~~ the attorney for the child and
 33 child's parents, guardian, or other custodian; ~~the~~ the state's attorney prosecuting the case; ~~and~~
 34 and to any person specifically authorized by order of the court. The record of the team

1 may only be released to a third party upon good cause shown to the satisfaction of the
2 court that the release is necessary and the information contained in the record is not
3 available elsewhere.

4 **Section 3. That § 26-8B-4 be AMENDED:**

5 ~~26-8B-4. Following adjudication of a child as a child in need of supervision, the~~
6 ~~court may continue the case and may require a court services officer to present to the~~
7 ~~court a plan of disposition.~~ If a community response team as defined in § 26-8D-1 has
8 been established, following any advisory or initial hearing, the court may seek
9 recommendations for community-based interventions and rehabilitative resources from
10 the team. Following adjudication of a child in need of supervision and prior to any
11 disposition to the Department of Corrections, the court may seek a recommendation for a
12 viable community alternative disposition from the team. If the team is unable to provide
13 any recommendation within seven days of the referral, the court may exercise its
14 discretion and make a disposition decision without the input of the team, pursuant to § 26-
15 8B-6. In all cases, the court may adopt the recommendation of the team in part, in full,
16 or reject the recommendation of the team in its entirety.

17 Following adjudication of a child as a child in need of supervision, the court may
18 continue the case and may require a court services officer to present to the court a plan
19 of disposition.

20 **Section 4. That § 26-8C-5 be AMENDED:**

21 ~~26-8C-5. Following adjudication of a child as a delinquent child, the court may~~
22 ~~continue the case and may require a court services officer to present to the court a plan~~
23 ~~of disposition.~~ Where a community response team as defined in § 26-8D-1 has been
24 established, following any advisory or initial hearing, the court may seek
25 recommendations for community-based interventions and rehabilitative resources from
26 the team. Following adjudication of a child as a delinquent child and prior to any disposition
27 to the Department of Corrections, the court may seek a recommendation for a viable
28 community alternative disposition from the team. If the team is unable to provide any
29 recommendation within seven days of the referral, the disposing court may exercise its
30 discretion and make a disposition decision without the input of the team, pursuant to § 26-
31 8C-7. In each case, the court may adopt the recommendation of the team in part, in full,
32 or reject the recommendation of the team in its entirety.

- 1 Following adjudication of a child as a delinquent child, the court may continue the
2 case and may require a court services officer to present to the court a plan of disposition.