



## 2023 South Dakota Legislature

# Senate Bill 4

SENATE ENGROSSED

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

1 **An Act to modify a court's authority to commit a habitual juvenile offender to the**  
 2 **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.** If a child has been adjudicated as a delinquent child, the court shall enter  
 6 a decree of disposition according to the least restrictive alternative available in keeping  
 7 with the best interests of the child. The decree shall contain one or more of the following:

8 (1) The court may require the child to pay restitution, as defined in subdivision 23A-  
 9 28-2(4) and under conditions set by the court, if payment can be enforced without  
 10 serious hardship or injustice to the child;

11 (2) The court may impose a fine not to exceed one thousand dollars;

12 (3) The court may place the child on probation under the supervision of a court services  
 13 officer or another designated individual pursuant to § 26-8C-14;

14 (4) The court may require a child as a condition of probation to participate in a  
 15 supervised community service program, if the child is not deprived of the schooling  
 16 that is appropriate for the child's age, needs, and specific rehabilitative goals. The  
 17 supervised community service program shall be of a constructive nature designed  
 18 to promote rehabilitation, appropriate to the age level and physical ability of the  
 19 child, and shall be combined with counseling by the court services officer or other  
 20 guidance personnel. The supervised community service program assignment shall  
 21 be made for a period of time consistent with the child's best interests, but for not  
 22 more than ninety days;

23 (5) The court may place the child at the Human Services Center for examination and  
 24 treatment;

25 (6) The court may place the child in a detention facility for not more than ninety days,  
 26 which may be in addition to any period of temporary custody;

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

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