



2023 South Dakota Legislature
Senate Bill 4
ENROLLED

AN ACT

ENTITLED An Act to modify a court's authority to commit a habitual juvenile offender to the Department of Corrections.

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

Section 1. That § 26-8C-7 be AMENDED:

26-8C-7. If a child has been adjudicated as a delinquent child, the court shall enter a decree of disposition according to the least restrictive alternative available in keeping with the best interests of the child. The decree shall contain one or more of the following:

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

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

- (B) The child has been adjudicated for a drug distribution offense that is punishable at least as a Class 4 felony.

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

An Act to modify a court's authority to commit a habitual juvenile offender to the Department of Corrections.

I certify that the attached Act originated in
the:
Senate as Bill No. 4

Received at this Executive Office
this ____ day of _____,
2023 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this _____ day of
_____, A.D., 2023

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2023
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 4
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State