



2026 South Dakota Legislature

House Bill 1140

Introduced by: **Representative Hughes**

1 **An Act to permit a court to impose as a condition of probation, or parole in certain**
 2 **circumstances, treatment at a nonprofit entity awarded an alternative care**
 3 **program grant.**

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

5 **Section 1. That § 23A-27-18.3 be AMENDED:**

6 **23A-27-18.3.** The conditions of probation imposed pursuant to § 23A-27-12 or
 7 23A-27-13, or the conditions of a suspension of execution imposed pursuant to § 23A-27-
 8 18, shall provide, in addition to any other conditions, and as an explicit condition of
 9 probation, suspended imposition of sentence, or suspended execution of sentence, that
 10 the defendant not commit another federal, state, or local crime during the term of
 11 probation or suspension.

12 The conditions of probation imposed pursuant to § 23A-27-12 or 23A-27-13, or the
 13 conditions of a suspension of execution imposed pursuant to § 23A-27-18, may provide,
 14 in addition to any other conditions, and as an explicit condition of probation, suspended
 15 imposition of sentence, or suspended execution of sentence, that the defendant:

- 16 (1) Pay a fine or perform community service work as directed by the court; ~~or~~
 17 (2) Participate in and complete a program at any nonprofit entity awarded an
 18 alternative care program grant pursuant to § 16-2-60, if:
 19 (a) The defendant consents to participating in the program;
 20 (b) The program has availability and the defendant's application is approved
 21 based on the standard criteria for all applicants; and
 22 (c) The defendant's application is completed prior to sentencing;
 23 (3) Participate in and complete a drug court program, DUI court program, veterans
 24 treatment court program, or mental health court program, if:
 25 (a) The defendant consents to participating in the program;

- 1 **(b) The program has availability and the defendant's application is approved**
 2 **based on the standard criteria for all applicants; and**
 3 **(c) The defendant's application is completed prior to sentencing;**
 4 ~~(2)~~(4) Receive treatment for chemical dependency at any South Dakota treatment facility
 5 accredited pursuant to § 34-20A-27 and reimburse the county for costs of
 6 treatment ordered by the court; or
 7 ~~(3)~~(5) Make restitution pursuant to the provisions of chapter 23A-28.

8 **Section 2. That § 32-23-4 be AMENDED:**

9 **32-23-4.** If conviction for a violation of § 32-23-1 is for a third offense, the person
 10 is guilty of a Class 6 felony, and the court must revoke the person's driver license for a
 11 period of not less than one year from the date sentence is imposed or one year from the
 12 date of initial release from imprisonment, whichever is later. If the person is returned to
 13 imprisonment prior to the completion of the period of driver's license revocation, time
 14 spent imprisoned does not count toward fulfilling the period of revocation. If the person is
 15 convicted of driving without a license during that period, the court must sentence the
 16 person to the county jail for not less than ten days, which sentence may not be suspended.
 17 Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the
 18 license revocation for the term of the revocation. Upon the successful completion of a
 19 court-approved chemical dependency counseling program, and proof of financial
 20 responsibility pursuant to § 32-35-113, the court may permit the person to operate a
 21 vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, child
 22 care delivery or pickup, health appointments, attendance at court or probation
 23 appointments, or attendance at counseling programs, treatment, ~~or~~ aftercare, or an
 24 alternative care program pursuant to subdivision 23A-27-18.3(2).

25 **Section 3. That § 32-23-4.6 be AMENDED:**

26 **32-23-4.6.** If a conviction for a violation of § 32-23-1 is for a fourth offense, the
 27 person is guilty of a Class 5 felony, and the court must revoke the person's driver license
 28 for a period of not less than two years from the date sentence is imposed or two years
 29 from the date of initial release from imprisonment, whichever is later. If the person is
 30 returned to imprisonment prior to the completion of the period of driver's license
 31 revocation, time spent imprisoned does not count toward fulfilling the period of revocation.
 32 If the person is convicted of driving without a license during that period, the court must
 33 sentence the person to the county jail for not less than twenty days, which sentence may

1 not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify
2 the conditions of the license revocation for the term of the revocation. Upon the successful
3 completion of a court-approved chemical dependency counseling program, and proof of
4 financial responsibility pursuant to § 32-35-113, the court may permit the person to
5 operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at
6 school, child care delivery or pickup, health appointments, attendance at court or
7 probation appointments, or attendance at counseling programs, treatment, or aftercare.
8 Sentencing pursuant to this section includes the provisions of § 23A-27-18.

9 The court must sentence the person to at least two years in a state correctional
10 facility, one year of which must be served on parole, unless refused pursuant to § 24-15A-
11 15. Any term of parole must include at least one of the following: enrollment in an alcohol
12 or drug accountability program, an ignition interlock, a breath alcohol interlock, an alcohol
13 monitoring bracelet, or another enhanced monitoring tool. The court may suspend this
14 sentence only if the court orders the person to participate in and complete a drug court
15 program, DUI court program, veterans treatment court program, ~~or~~ mental health court
16 program, or an alternative care program pursuant to subdivision 23A-27-18.3(2), as a
17 condition of probation.

18 **Section 4. That § 32-23-4.7 be AMENDED:**

19 **32-23-4.7.** If a conviction for violation of § 32-23-1 is for a fifth or subsequent
20 offense, the person is guilty of a Class 4 felony and the court must revoke the person's
21 driver license for a period of not less than three years from the date sentence is imposed
22 or three years from the date of initial release from imprisonment, whichever is later. If
23 the person is returned to imprisonment prior to the completion of the period of driver's
24 license revocation, time spent imprisoned does not count toward fulfilling the period of
25 revocation. If the person is convicted of driving without a license during that period, the
26 court must sentence the person to the county jail for not less than twenty days, which
27 sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains
28 jurisdiction to modify the conditions of the license revocation for the term of the
29 revocation. Upon the successful completion of a court-approved chemical dependency
30 counseling program, and proof of financial responsibility pursuant to § 32-35-113, the
31 court may permit the person to operate a vehicle for the purposes of employment, 24/7
32 sobriety testing, attendance at school, child care delivery or pickup, health appointments,
33 attendance at court or probation appointments, or attendance at counseling programs,
34 treatment, or aftercare.

1 The court must sentence the person to at least four years in a state correctional
2 facility, one year of which must be served on parole, unless refused pursuant to § 24-15A-
3 15. Any term of parole must include at least one of the following: enrollment in an alcohol
4 or drug accountability program, an ignition interlock, a breath alcohol interlock, an alcohol
5 monitoring bracelet, or another enhanced monitoring tool. The court may suspend this
6 sentence only if the court orders the person to participate in and complete a drug court
7 program, DUI court program, veterans treatment court program, ~~or~~ mental health court
8 program, or an alternative care program pursuant to subdivision 23A-27-18.3(2), as a
9 condition of probation.