

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

166B0299

SENATE BILL NO. 67

Introduced by: Senators Novstrup, Monroe, Russell, and Schoenbeck and Representatives Perry, Glanzer, Rounds, and Steele

1 FOR AN ACT ENTITLED, An Act to revise provisions regarding commitment of a child
2 adjudicated as delinquent.

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

4 Section 1. That § 26-8C-7 be amended to read:

5 26-8C-7. If a child has been adjudicated as a delinquent ~~child~~, the court shall enter a written
6 decree of disposition according to the least restrictive alternative available in keeping with the
7 best interests of the child. The decree shall contain ~~one or more of the following~~:

- 8 (1) ~~The court may require~~ A requirement that the child ~~to~~ pay restitution, as defined in
9 ~~subdivision 23A-28-2(4)~~ § 23A-28-2 and under conditions set by the court, if
10 payment can be enforced without serious hardship or injustice to the child;
- 11 (2) ~~The court may impose a~~ A fine not to exceed one thousand dollars;
- 12 (3) ~~The court may place~~ Placement of the child on probation under ~~the~~ supervision of a
13 ~~court services officer or another designated individual pursuant to~~ in accordance with
14 § 26-8C-14;
- 15 (4) ~~The court may require a child~~ A requirement that, as a condition of probation ~~to,~~ the



1 child shall participate in a supervised community service program, if the child is not
 2 deprived of the schooling that is appropriate for the child's age, needs, and specific
 3 rehabilitative goals. The supervised community service program shall be of a
 4 constructive nature designed to promote rehabilitation, appropriate to the age level
 5 and physical ability of the child, and shall be combined with counseling by the court
 6 services officer or other guidance personnel. The supervised community service
 7 program assignment shall be made for a period ~~of time~~ consistent with the child's best
 8 interests, but ~~for not more~~ not longer than ninety days;

9 (5) ~~The court may place~~ Placement of the child at the Human Services Center for
 10 examination and treatment;

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

13 (7) ~~The court may place~~ Placement of the child in an alternative educational program;

14 (8) ~~The court may order the~~ The suspension or revocation of the child's right to apply for
 15 a driving privilege, ~~suspend or revoke an~~ the suspension or revocation of the child's
 16 existing driving privilege, or ~~restrict the~~ the restriction of the child's driving privilege
 17 in such a manner as it sees fit of the court's determination, including ~~requiring a~~
 18 requirement that the child's financial responsibility be proved and maintained;

19 (9) ~~The court may assess~~ An assessment or charge of costs and fees as permitted by
 20 §§ 16-2-41, 23-3-52, 23A-27-26, 23A-27-27, and 23A-28B-42, ~~and 23A-27-27~~
 21 against the child, parent, guardian, custodian, or other party responsible for the child;
 22 or

23 (10) ~~The court may only commit a~~ Commitment of the child to the Department of
 24 Corrections only if the judge finds that:

- 1 (a) No viable alternative exists;
- 2 (b) The Department of Corrections is the least restrictive alternative; ~~and~~
- 3 (c) One of the following exists:
 - 4 (i) The child is currently adjudicated delinquent for an offense eligible for
 - 5 transfer proceedings ~~pursuant to~~ in accordance with § 26-11-3.1; ~~the~~
 - 6 (ii) The child is currently adjudicated delinquent for a crime of violence
 - 7 ~~pursuant to subdivision 22-1-2(9)~~ as defined in § 22-1-2, a sex offense
 - 8 ~~pursuant to~~ under § 22-24B-1, a felony sexual registry offense pursuant
 - 9 ~~to~~ that requires registration under chapter 22-24B, or burglary in the
 - 10 second degree ~~pursuant to~~ as defined in § 22-32-3; ~~or the~~
 - 11 (iii) The court finds from evidence presented at the dispositional hearing or
 - 12 from the pre-dispositional report that the youth child presents a
 - 13 significant risk of physical harm to another person; or
 - 14 (iv) The court finds from evidence presented at the dispositional hearing or
 - 15 from the pre-dispositional report that the child has been previously
 - 16 placed on probation, which was unsuccessful, and no other appropriate
 - 17 services are available in the child's community.

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