

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

781P0246

HOUSE BILL NO. 1131

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to permit the court to assess the crime victims'
2 compensation surcharge in cases involving certain adjudicated children.

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

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

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

8 (1) The court may make any one or more of the dispositions in § 26-8B-6, except that a
9 delinquent child may be incarcerated in a detention facility established pursuant to
10 provisions of chapter 26-7A for not more than ninety days, which may be in addition
11 to any period of temporary custody;

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

13 (3) The court may place the child on probation under the supervision of a court services
14 officer or another designated individual. The child may be required as a condition of
15 probation to report for assignment to a supervised work program, provided the child



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

8 (4) The court may place the child at the Human Services Center for examination and
9 treatment;

10 (5) The court may commit the child to the Department of Corrections;

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

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

14 (8) The court may order the suspension or revocation of the child's driving privilege or
15 restrict the privilege in such manner as it sees fit, including requiring that financial
16 responsibility be proved and maintained;

17 (9) The court may assess or charge costs and fees permitted by §§ 16-2-41, 23-3-52,
18 23A-27-26, 23A-28B-42, and 23A-27-27 against the child, parent, guardian,
19 custodian, or other party responsible for the child.

20 Section 2. That § 26-8B-6 be amended to read as follows:

21 26-8B-6. If a child has been adjudicated as a child in need of supervision, the court shall
22 enter a decree of disposition according to the least restrictive alternative available in keeping
23 with the best interests of the child. The decree shall contain one or more of the following
24 alternatives:

- 1 (1) The court may place the child on probation or under protective supervision in the
2 custody of one or both parents, guardian, custodian, relative, or another suitable
3 person under conditions imposed by the court;
- 4 (2) The court may require as a condition of probation that the child report for assignment
5 to a supervised work program, provided the child is not placed in a detention facility
6 and is not deprived of the schooling that is appropriate to the child's age, needs, and
7 specific rehabilitative goals. The supervised work program shall be of a constructive
8 nature designed to promote rehabilitation, shall be appropriate to the age level and
9 physical ability of the child, and shall be combined with counseling by a court
10 services officer or other guidance personnel. The supervised work program
11 assignment shall be made for a period of time consistent with the child's best
12 interests, but may not exceed ninety days;
- 13 (3) If the court finds that the child has violated a valid court order, the court may place
14 the child in a detention facility for not more than ninety days, which may be in
15 addition to any period of temporary custody, for purposes of disposition if:
 - 16 (a) The child is not deprived of the schooling that is appropriate for the child's
17 age, needs, and specific rehabilitative goals;
 - 18 (b) The child had a due process hearing before the order was issued; and
 - 19 (c) A plan of disposition from a court services officer is provided to the court;
- 20 (4) The court may require the child to pay for any damage done to property or for
21 medical expenses under conditions set by the court if payment can be enforced
22 without serious hardship or injustice to the child;
- 23 (5) The court may commit the child to the Department of Corrections for placement in
24 a juvenile correctional facility, foster home, group home, group care center,

1 residential treatment center, or other community-based services, if those community-
2 based services were not provided prior to commitment, pursuant to chapter 26-11A.
3 Prior to placement in a juvenile correctional facility, an interagency team comprised
4 of representatives from the Department of Human Services, Department of Social
5 Services, Department of Education, the Department of Corrections, and the Unified
6 Judicial System shall make a written finding that placement at a Department of
7 Corrections facility is the least restrictive placement commensurate with the best
8 interests of the child. Subsequent placement in any other Department of Corrections
9 facility may be authorized without an interagency review;

- 10 (6) The court may place a child in an alternative educational program;
- 11 (7) The court may order the child to be examined and treated at the Human Services
12 Center;
- 13 (8) The court may impose a fine not to exceed five hundred dollars;
- 14 (9) The court may order the suspension or revocation of the child's driving privilege or
15 restrict the privilege in such manner as the court sees fit or as required by § 32-12-
16 52.4, including requiring that financial responsibility be proved and maintained;
- 17 (10) The court may assess or charge the same costs and fees as permitted by §§ 16-2-41,
18 23-3-52, 23A-27-26, 23A-28B-42, and 23A-27-27 against the child, parent, guardian,
19 custodian, or other party responsible for the child.

20 No adjudicated child in need of supervision may be incarcerated in a detention facility
21 except as provided in subdivision (3) or (5) of this section.