



2021 South Dakota Legislature

House Bill 1068

HOUSE JUDICIARY ENGROSSED

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

1 **An Act to revise the requirement for written findings of fact and conclusions in**
 2 **certain judicial proceedings involving a child.**

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

4 **Section 1.** That § 26-7A-87 be AMENDED.

5 **26-7A-87. Adjudication subject to intermediate appeal--Dispositional**
 6 **proceedings--Interim dispositional decree.**

7 If the court finds the allegations of the petition are supported by clear and
 8 convincing evidence in cases concerning an alleged abused or neglected child or are
 9 supported by evidence beyond a reasonable doubt in cases concerning an alleged child in
 10 need of supervision or an alleged delinquent child, the court shall adjudicate the child
 11 accordingly and shall issue findings of fact, conclusions of law and an order of adjudication
 12 stating the child to be an abused or neglected child as defined in chapter 26-8A, a child in
 13 need of supervision as defined in chapter 26-8B, or a delinquent child as defined in chapter
 14 26-8C. Written findings of fact and conclusions of law are only required in delinquency or
 15 child in need of supervision adjudicatory proceedings if there is a contested evidentiary
 16 hearing or if the disposition is a commitment to the Department of Corrections. The order
 17 of adjudication is an intermediate order and is subject to intermediate appeal with the
 18 permission of the court according to the rules of procedure governing civil appeals.

19 The court shall proceed with the dispositional phase of the proceedings and shall issue
 20 an order setting the time, date, and place of the initial dispositional hearing and
 21 prescribing notice of the hearing. However, the court may proceed immediately with the
 22 initial dispositional hearing with the consent of the state, the child and the child's parents,
 23 guardian, or custodian or other parties who are respondents in the action.

24 On completion of the adjudicatory hearing resulting in adjudication of the child, the
 25 court may issue an interim dispositional decree governing custody, placement, care,

1 shelter, or detention of the child as determined by the court pending the initial
2 dispositional hearing and any continuance of it.

3 **Section 2.** That § 26-7A-90 be AMENDED.

4 **26-7A-90. Evidence heard at dispositional hearing--Interim decree--Final**
5 **decree.**

6 After adjudication, the court shall conduct dispositional hearings and consider
7 evidence regarding proper disposition of the child best serving the interests of the child
8 with due regard to the rights and interests of the child's parents, guardian, custodian,
9 other parties respondent, the public, and the state. Dispositional evidence may include
10 social study reports, mental and medical examination and evaluation reports, homestudy
11 investigation reports, and any other evidence related to appropriate disposition of the
12 child.

13 Following the dispositional hearing, the court shall issue an interim decree of
14 disposition. During the dispositional phase, the court shall balance the rights and interests
15 of the child and the respective parties, including the public and the state.

16 On completion of the final dispositional hearing, the court shall issue findings of fact,
17 conclusions of law, and a final decree of disposition. Written findings of fact and
18 conclusions of law are only required in delinquency or child in need of supervision
19 dispositional proceedings if there is a contested evidentiary hearing or if the disposition is
20 a commitment to the Department of Corrections. ~~The decree shall be~~ is the final order of
21 the court for the purpose of an appeal by any party according to the rules of procedure
22 governing civil appeals.