State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

166B0299

SENATE JUDICIARY ENGROSSED NO. SB 67 - 2/6/2019

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

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

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

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

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

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

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Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

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 such manner as it 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;

(b) The Department of Corrections is the least restrictive alternative; and

(c) 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; or the court finds from evidence presented at the dispositional hearing or from the pre-dispositional report that the child is currently on probation, that probation has been unsuccessful, and that no other appropriate services are available in the child's community.

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