

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0215

HOUSE ENGROSSED NO. **SB41** - 2/20/98

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to allow certain adjudicated children to be placed in a
2 juvenile correctional facility, foster home, group home, group care center, or residential
3 treatment center pursuant to chapter 26-11A.

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

5 Section 1. That § 26-11A-8 be amended to read as follows:

6 26-11A-8. If a juvenile is committed to the Department of Corrections, the department shall
7 determine the extent of security and treatment services that are in the best interest of the juvenile
8 and in the best interest of the state. When the department makes its determination, it shall place
9 the juvenile in a juvenile correctional facility under the department's control pursuant to
10 § 1-15-1.4 or a group home, group care center, or residential treatment center.

11 ~~—No adjudicated child in need of supervision may be placed in the juvenile prison or state~~
12 ~~training school.~~

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

14 26-8B-6. If a child has been adjudicated as a child in need of supervision, the court shall enter
15 a decree of disposition according to the least restrictive alternative available in keeping with the
16 best interests of the child. The decree shall contain one or more of the following 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 services
10 officer or other guidance personnel. The supervised work program assignment shall
11 be made for a period of time consistent with the child's best interests, but may not
12 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 purposes of disposition if:
 - 15 (a) The child is not deprived of the schooling that is appropriate for the child's age,
16 needs, and specific rehabilitative goals;
 - 17 (b) The child had a due process hearing before the order was issued;
 - 18 (c) Before the issuance of such order, a local interagency team, authorized
19 pursuant to § 27A-15-56 shall review the behavior of the child and the
20 circumstances under which such child was brought before the court and made
21 subject to such order; determine the reasons for the behavior that caused such
22 child to be brought before the court and made subject to such order; determine
23 that all dispositions, including treatment, other than placement in a detention
24 facility or the Department of Corrections, have been exhausted or are clearly
25 inappropriate; and submit to the court a written report stating the results of the

1 review and determinations made;

2 (4) The court may require the child to pay for any damage done to property or for
3 medical expenses under conditions set by the court if payment can be enforced
4 without serious hardship or injustice to the child;

5 (5) The court may commit the child to the Department of Corrections for placement in
6 a juvenile correctional facility, foster home, group home, group care center, or
7 residential treatment center pursuant to chapter 26-11A;

8 (6) The court may place a child in an alternative educational program;

9 (7) The court may order the child to be examined and treated at the Human Services
10 Center;

11 (8) The court may impose a fine not to exceed five hundred dollars;

12 (9) The court may order the suspension or revocation of the child's driving privilege or
13 restrict the privilege in such manner as it sees fit or as required by § 32-12-52.4.

14 No adjudicated child in need of supervision may be incarcerated in a detention facility except
15 as provided in subdivision (3) of this section.

1 **BILL HISTORY**

2 1/13/98 First read in Senate and referred to Judiciary. S.J. 27

3 1/16/98 Scheduled for Committee hearing on this date.

4 1/16/98 Judiciary Do Pass, Passed, AYES 4, NAYS 1. S.J. 55

5 1/17/98 Senate Deferred to another day. S.J. 74

6 1/20/98 Senate Do Pass, Passed, AYES 34, NAYS 1. S.J. 126

7 1/21/98 First read in House and referred to Judiciary. H.J. 171

8 2/13/98 Scheduled for Committee hearing on this date.

9 2/13/98 Judiciary Do Pass, Passed, AYES 10, NAYS 2. H.J. 640

10 2/14/98 House of Representatives Deferred to another day. H.J. 703

11 2/17/98 House of Representatives Do Pass, Failed, AYES 34, NAYS 32. H.J. 728

12 2/17/98 Intent to reconsider. H.J. 728

13 2/18/98 House of Representatives Reconsidered, AYES 50, NAYS 18. H.J. 746

14 2/18/98 House of Representatives Deferred to another day. H.J. 747

15 2/19/98 Motion to Amend, Passed. H.J. 782

16 2/19/98 House of Representatives Do Pass Amended, Passed, AYES 61, NAYS 7. H.J. 784

17 2/19/98 House of Representatives Title Amended Passed. H.J. 784