

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

781J0303

HOUSE BILL NO. 1101

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

1 FOR AN ACT ENTITLED, An Act to limit the time period during which children in need of
2 supervision may be held in a detention facility.

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

4 Section 1. That § 26-8B-6 be amended to read as follows:

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

9 (1) The court may place the child on probation or under protective supervision in the
10 custody of one or both parents, guardian, custodian, relative, or another suitable
11 person under conditions imposed by the court;

12 (2) The court may require as a condition of probation that the child report for assignment
13 to a supervised work program, provided the child is not placed in a detention facility
14 and is not deprived of the schooling that is appropriate to the child's age, needs, and
15 specific rehabilitative goals. The supervised work program shall be of a constructive
16 nature designed to promote rehabilitation, shall be appropriate to the age level and



1 physical ability of the child, and shall be combined with counseling by a court
2 services officer or other guidance personnel. The supervised work program
3 assignment shall be made for a period of time consistent with the child's best
4 interests, but may not exceed ninety days;

5 (3) If the court finds that the child has violated a valid court order, the court may place
6 the child in a detention facility for not more than ninety days, which may be in
7 addition to any period of temporary custody, for purposes of disposition if:

8 (a) The child is not deprived of the schooling that is appropriate for the child's
9 age, needs, and specific rehabilitative goals;

10 (b) The child had a due process hearing before the order was issued; and

11 (c) A plan of disposition from a court services officer is provided to the court;

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

15 (5) The court may commit the child to the Department of Corrections for placement in
16 a juvenile correctional facility, foster home, group home, group care center, or
17 residential treatment center pursuant to chapter 26-11A. Prior to placement in a
18 juvenile correctional facility, an interagency team comprised of representatives from
19 the Department of Human Services, Department of Social Services, Department of
20 Education, the Department of Corrections, and the Unified Judicial System shall
21 make a written finding that placement at a Department of Corrections facility is the
22 least restrictive placement commensurate with the best interests of the child.
23 Subsequent placement in any other Department of Corrections facility may be
24 authorized without an interagency review;

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

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

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

5 (9) The court may order the suspension or revocation of the child's driving privilege or
6 restrict the privilege in such manner as it the court sees fit or as required by
7 § 32-12-52.4;

8 (10) The court may assess or charge the same costs and fees as permitted by §§ 16-2-41,
9 23-3-52, 23A-27-26, and 23A-27-27 against the child, parent, guardian, custodian,
10 or other party responsible for the child.

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