

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

367E0180

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1077 - 02/07/2001

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 impose certain costs and fees as part
2 of the disposition for a child adjudicated as a child in need of supervision.

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 enter
6 a decree of disposition according to the least restrictive alternative available in keeping with the
7 best interests of the child. The decree shall contain one or more of the following alternatives:

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

11 (2) The court may require as a condition of probation that the child report for assignment
12 to a supervised work program, provided the child is not placed in a detention facility
13 and is not deprived of the schooling that is appropriate to the child's age, needs, and
14 specific rehabilitative goals. The supervised work program shall be of a constructive
15 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 services
2 officer or other guidance personnel. The supervised work program assignment shall
3 be made for a period of time consistent with the child's best interests, but may not
4 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 purposes of disposition if:

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

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

10 (c) Before the issuance of such order, a local interagency team, authorized
11 pursuant to § 27A-15-56 shall review the behavior of the child and the
12 circumstances under which such child was brought before the court and made
13 subject to such order; determine the reasons for the behavior that caused such
14 child to be brought before the court and made subject to such order; determine
15 that all dispositions, including treatment, other than placement in a detention
16 facility or the Department of Corrections, have been exhausted or are clearly
17 inappropriate; and submit to the court a written report stating the results of the
18 review and determinations made;

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

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

1 juvenile correctional facility, an interagency team comprised of representatives from
2 the Department of Human Services, Department of Social Services, Department of
3 Education and Cultural Affairs, and the Department of Corrections shall make a
4 written finding that placement at a Department of Corrections facility is the least
5 restrictive placement commensurate with the best interests of the child. Subsequent
6 placement in any other Department of Corrections facility may be authorized without
7 an interagency review;

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 (10) The court may assess or charge the same costs and fees as permitted by §§ 16-2-41,
15 23-3-52, 23A-27-26, and 23A-27-27 against the child, parent, guardian, custodian,
16 or other party responsible for the child.

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