



2024 South Dakota Legislature

House Bill 1210

Introduced by: **Representative Jensen (Kevin)**

1 **An Act to permit a child adjudicated delinquent for theft of a firearm to be committed**
 2 **to the Department of Corrections.**

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

4 **Section 1. That § 26-8C-7 be AMENDED:**

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

- 9 (1) ~~The court may require the child~~ A requirement to pay restitution, as defined in
 10 subdivision 23A-28-2(4) and under conditions set by the court, if payment can be
 11 enforced without serious hardship or injustice to the child;
- 12 (2) ~~The court may impose a~~ A fine not to exceed one thousand dollars;
- 13 (3) ~~The court may place~~ Placement of the child on probation under the supervision of
 14 a court services officer or another designated individual pursuant to § 26-8C-14;
- 15 (4) ~~The court may require a~~ A requirement that the child, as a condition of probation
 16 ~~to,~~ participate in a supervised community service program, if the child is not
 17 deprived of the schooling that is appropriate for the child's age, needs, and specific
 18 rehabilitative goals. The supervised community service program ~~shall~~ must be of a
 19 constructive nature designed to promote rehabilitation, appropriate to the age level
 20 and physical ability of the child, and ~~shall~~ must be combined with counseling by
 21 the court services officer or other guidance personnel. The court shall make the
 22 supervised community service program assignment ~~shall be made~~ for a period of
 23 time consistent with the child's best interests, but for not more than ninety days;
- 24 (5) ~~The court may place~~ Placement of the child at the Human Services Center for
 25 examination and treatment;

- 1 (6) ~~The court may place~~ Placement of the child in a detention facility for not more than
 2 ninety days, which may be in addition to any period of temporary custody;
- 3 (7) ~~The court may place~~ Placement of the child in an alternative educational program;
- 4 (8) ~~The court may order the suspension or revocation of~~ An order to suspend or revoke
 5 the child's right to apply for a driving privilege, ~~suspend or revoke an~~ or an existing
 6 driving privilege, or to otherwise restrict the child's privilege in ~~the~~ any manner the
 7 court sees fit, including requiring that financial responsibility be proved and
 8 maintained;
- 9 (9) ~~The court may assess or charge~~ An assessment of costs and fees permitted by
 10 §§ 16-2-41, 23-3-52, 23A-27-26, 23A-28B-42, and 23A-27-27 against the child,
 11 parent, guardian, custodian, or other party responsible for the child; or
- 12 (10) ~~The court may only commit a~~ Commitment of the child to the Department of
 13 Corrections if the judge finds that no viable alternative exists, the Department of
 14 Corrections is the least restrictive alternative, and one of the following:
- 15 (a) ~~No viable alternative exists; and~~
- 16 (b) ~~The Department of Corrections is the least restrictive alternative; and one~~
 17 ~~of the following:~~
- 18 (i) ~~The~~ child is currently adjudicated delinquent for an offense eligible for
 19 transfer proceedings pursuant to § 26-11-3.1; the child is currently
 20 adjudicated delinquent for a crime of violence pursuant to subdivision 22-
 21 1-2(9), sex offense pursuant to § 22-24B-1, felony sexual registry offense
 22 pursuant to chapter 22-24B, theft pursuant to chapter 22-30A of a firearm
 23 as defined in subdivision 22-1-2(16), or burglary in the second degree
 24 pursuant to § 22-32-3; or the court finds from evidence presented at the
 25 dispositional hearing or from the pre-dispositional report that the youth
 26 presents a significant risk of physical harm to another person;
- 27 (ii)(b) The child has been previously adjudicated delinquent for separate
 28 delinquent acts, arising out of separate and distinct criminal episodes, three
 29 or more times within the preceding twelve-month period; or
- 30 (iii)(c) The court finds from evidence presented at the dispositional hearing or from
 31 the pre-dispositional report that the child is at high risk for re-offense based
 32 on a validated risk assessment, and the child has either had a previous
 33 unsuccessful discharge from probation for a felony offense or is on
 34 supervised probation for a felony offense; ~~and~~

- 1 (A) ~~The~~ the child has been adjudicated for intentional damage to property ~~and~~
2 the property with the damage exceeds exceeding five thousand dollars; or
3 (B) ~~The child has been adjudicated~~ for a drug distribution offense that is
4 punishable at least as a Class 4 felony.
5 Any finding made pursuant to this section ~~shall~~ must be made in the written decree.