

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

637R0173

## HOUSE JUDICIARY ENGROSSED NO. **HB 1073** 2/1/2010

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

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions relating to a court's continuing  
2 jurisdiction to revoke probation or a suspended execution of sentence.

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

4 Section 1. Any court granting probation or a suspended execution of sentence retains  
5 jurisdiction to revoke the probation or suspended execution of sentence for violation of its terms  
6 and conditions.

7 Section 2. That § 23A-27-18 be amended to read as follows:

8 23A-27-18. Upon conviction, the sentencing court ~~having jurisdiction to try the offense~~ may  
9 suspend the execution of any sentence imposed during good behavior, subject to such conditions  
10 or restitutions as the court may impose. The suspension order or judgment can be made only by  
11 the court in which the conviction occurred. A defendant given a suspended execution of  
12 sentence shall remain under the jurisdiction of the court. A penitentiary sentence may be  
13 imposed as a condition of a suspended execution of sentence as authorized in § 23A-27-18.1.

14 Section 3. That chapter 23A-27 be amended by adding thereto a NEW SECTION to read  
15 as follows:



1       Upon conviction, the sentencing court may suspend any portion of a penitentiary sentence  
2 subject to conditions or restrictions as the court may impose. The suspension order or judgment  
3 can be made only in the court in which the conviction occurred. A defendant with a partially  
4 suspended penitentiary sentence is under the supervision of the Department of Corrections and  
5 the Board of Pardons and Paroles. The board is charged with the responsibility for enforcing the  
6 conditions imposed by the sentencing judge, and the board retains jurisdiction to revoke the  
7 suspended portion of the sentence for violation of the terms of parole or the terms of the  
8 suspension.

9       A defendant with an entirely suspended penitentiary sentence is under the supervision of the  
10 sentencing court unless the entirely suspended penitentiary sentence is concurrent or consecutive  
11 to an additional penitentiary sentence in which case, the defendant is under the supervision of  
12 the Board of Pardons and Paroles.

13       Section 4. That § 23A-27-18.2 be amended to read as follows:

14       23A-27-18.2. A person who is sentenced to a county jail as a condition of suspended  
15 imposition of sentence, suspended sentence, or suspended execution of sentence, is under the  
16 supervision of the court services officer assigned by the court having jurisdiction of the person.  
17 A person sentenced to the state penitentiary as a condition of suspended imposition of sentence  
18 or suspended execution of sentence is under the supervision of the court services officer  
19 assigned by the court having jurisdiction of the person upon that persons's release from the state  
20 penitentiary after completion of the penitentiary term imposed pursuant to § 23A-27-18.1.

21       Section 5. That § 23A-27-19 be amended to read as follows:

22       23A-27-19. ~~A court which may suspend sentence under § 23A-27-18~~ The sentencing court  
23 retains jurisdiction for the purpose of suspending any such sentence for a period of two years  
24 from the effective date of the judgment of conviction, notwithstanding the fact that the time for

1 an appeal from such judgment is limited to a shorter period of time. The court shall notify the  
2 attorney who prosecuted such person or shall notify the successor in office of such attorney at  
3 least fourteen days in advance of such suspension. Such notice shall be provided any victim by  
4 such attorney pursuant to the provisions of § 23A-27-1.2. Any person whose sentence is  
5 suspended pursuant to this section is under the supervision of the Board of Pardons and Paroles,  
6 except as provided in § 23A-27-18.2. The board is charged with the responsibility for enforcing  
7 the conditions imposed by the sentencing judge, and the board retains jurisdiction to revoke the  
8 suspended portion of the sentence for violation of the terms of the suspension.