

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

583Y0591

## HOUSE ENGROSSED NO. **SB 164** - 3/1/2017

Introduced by: Senators Novstrup, Greenfield (Brock), Jensen (Phil), Rusch, and Stalzer and Representatives Kaiser, Dennert, Haggar, Heinemann, and Rounds

1 FOR AN ACT ENTITLED, An Act to revise the length of the maximum probationary period  
2 for juvenile probationers and to revise the conditions of a juvenile commitment to the  
3 Department of Corrections.

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

5 Section 1. That § 26-8B-8 be amended to read:

6 26-8B-8. The terms and conditions of probation of a child in need of supervision shall be  
7 specified by rules or orders of the court and by a court services officer.

8 The duration of juvenile probation shall be specified by order of the court but may not  
9 exceed ~~four~~ six months unless:

10 (1) The child is placed in the intensive juvenile probation program; or

11 (2) The child's probation is extended as provided under this section.

12 If the child is placed on intensive juvenile probation, the duration of probation ordered by  
13 the court may be up to ~~eight~~ twelve months.

14 If the child is placed on juvenile probation, a court services officer may request two  
15 extensions up to ~~four~~ six months each or one extension up to ~~four~~ six months for intensive



1 juvenile probation. The court may authorize the same in accordance with Unified Judicial  
2 System procedure if the extension is necessary for the child to complete evidence-based  
3 treatment as required by the case plan. If evidence-based treatment is not available, an extension  
4 may be granted if the youth is engaged in alternative court-approved treatment that will not be  
5 completed before the previously ordered term of probation expires.

6 The total duration of probation, including juvenile intensive probation and extensions in all  
7 cases, may not exceed ~~twelve~~ eighteen months unless the court provides written authorization  
8 to allow a child to complete evidence-based treatment that will not be completed before  
9 probation expires. Probation may not be extended solely to collect restitution. If probation is  
10 terminated with restitution owing, Unified Judicial System procedure may govern the collection.

11 Each child placed on probation shall be given a written statement of the terms and  
12 conditions of probation and the probation policy. The terms and conditions, as well as the  
13 probation extension policy, shall be explained to the child.

14 The court shall review the terms and conditions of probation and the progress of each child  
15 placed on probation at least once every ~~four~~ six months. The court may release a child from  
16 probation or modify the terms and conditions of the child's probation at any time, but any child  
17 who has complied satisfactorily with the terms, conditions, and duration of probation shall be  
18 released from probation and the jurisdiction of the court terminated. If the duration of probation  
19 previously prescribed has expired, the court shall release the child from probation and terminate  
20 jurisdiction.

21 Section 2. That § 26-8C-14 be amended to read:

22 26-8C-14. The terms and conditions of probation of a delinquent child shall be specified by  
23 rules or orders of the court and by court services officers.

24 The duration of juvenile probation shall be specified by order of the court but may not

1 exceed ~~four~~ six months unless:

2 (1) The child is placed in the intensive juvenile probation program; or

3 (2) The child's probation is extended as provided under this section.

4 If the child is placed on intensive juvenile probation, the duration of probation upon order  
5 by the court may be up to ~~eight~~ twelve months.

6 If the child is placed on juvenile probation, a court services officer may request two  
7 extensions up to ~~four~~ six months each or one extension up to ~~four~~ six months for intensive  
8 juvenile probation. The court may authorize the same in accordance with Unified Judicial  
9 System procedure if the extension is necessary for the child to engage in evidence-based  
10 treatment as required by the case plan. If evidence-based treatment is not available, an extension  
11 may be granted if the youth is engaged in alternative court-approved treatment that will not be  
12 completed before the previously ordered term of probation expires.

13 The total duration of probation, including juvenile intensive probation and any extension  
14 may not exceed ~~twelve~~ eighteen months unless the court provides written authorization to allow  
15 a child to complete evidence-based treatment that will not be completed before probation  
16 expires. Probation may not be extended solely to collect restitution. If probation is terminated  
17 with restitution owing, the Unified Judicial System procedure may govern the collection.

18 Each child placed on probation shall be given a written statement of the terms and  
19 conditions of probation, and the probation extension policy. The terms and conditions, as well  
20 as the probation extension policy, shall be explained to the child.

21 The court shall review the terms and conditions of probation and the progress of each child  
22 placed on probation at least once every ~~four~~ six months. The court may release a child from  
23 probation or modify the terms and conditions of the child's probation at any time, but any child  
24 who has complied satisfactorily with the terms, conditions, and duration of probation shall be

1 released from probation and the jurisdiction of the court terminated. If the duration of probation  
2 previously prescribed has expired, the court shall release the child from probation and terminate  
3 jurisdiction.

4 Section 3. That subdivision (10) of § 26-8C-7 be amended to read:

5 (10) The court may only commit a child to the Department of Corrections if the judge  
6 finds that:

7 (a) No viable alternative exists;

8 (b) The Department of Corrections is the least restrictive alternative; and

9 (c) The child is currently adjudicated delinquent for an offense eligible for  
10 transfer proceedings pursuant to § 26-11-3.1; the child is currently adjudicated  
11 delinquent for a crime of violence pursuant to subdivision 22-1-2(9), sex  
12 offense pursuant to § 22-24B-1, felony sexual registry offense pursuant to  
13 chapter 22-24B, or burglary in the second degree pursuant to § 22-32-3; or the  
14 court finds from evidence presented at the dispositional hearing or from the  
15 pre-dispositional report that the youth presents a significant risk of physical  
16 harm to themselves or to another person.

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