

AN ACT

ENTITLED, An Act to revise the length of the maximum probationary period for juvenile probationers and to revise the conditions of a juvenile commitment to the Department of Corrections.

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

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

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

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

- (1) The child is placed in the intensive juvenile probation program; or
- (2) The child's probation is extended as provided under this section.

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

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

The total duration of probation, including juvenile intensive probation and extensions in all cases, may not exceed eighteen months unless the court provides written authorization to allow a child to complete evidence-based treatment that will not be completed before probation expires.

Probation may not be extended solely to collect restitution. If probation is terminated with restitution owing, Unified Judicial System procedure may govern the collection.

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

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

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

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

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

- (1) The child is placed in the intensive juvenile probation program; or
- (2) The child's probation is extended as provided under this section.

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

If the child is placed on juvenile probation, a court services officer may request two extensions up to six months each or one extension up to six months for intensive juvenile probation. The court may authorize the same in accordance with Unified Judicial System procedure if the extension is necessary for the child to engage in evidence-based treatment as required by the case plan. If

evidence-based treatment is not available, an extension may be granted if the youth is engaged in alternative court-approved treatment that will not be completed before the previously ordered term of probation expires.

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

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

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

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

- (10) The court may only commit a child to the Department of Corrections if the judge finds that:
- (a) No viable alternative exists;
  - (b) The Department of Corrections is the least restrictive alternative; and
  - (c) The child is currently adjudicated delinquent for an offense eligible for transfer proceedings pursuant to § 26-11-3.1; the child is currently adjudicated delinquent

for a crime of violence pursuant to subdivision 22-1-2(9), sex offense pursuant to § 22-24B-1, felony sexual registry offense pursuant to chapter 22-24B, or burglary in the second degree pursuant to § 22-32-3; or the court finds from evidence presented at the dispositional hearing or from the pre-dispositional report that the youth presents a significant risk of physical harm to themselves or to another person.

An Act to revise the length of the maximum probationary period for juvenile probationers and to revise the conditions of a juvenile commitment to the Department of Corrections.

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I certify that the attached Act originated in the

SENATE as Bill No. 164

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 164  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State