

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

400X0329

SENATE BILL NO. 31

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the sentencing and
2 supervision of prison inmates and parolees with suspended sentences.

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

4 Section 1. That § 23A-27-19 be amended to read:

5 23A-27-19. The sentencing court retains jurisdiction for the purpose of suspending any ~~such~~
6 sentence for a period of two years from the effective date of the judgment of conviction,
7 notwithstanding the fact that the time for an appeal from such judgment is limited to a shorter
8 period of time. The court shall notify the attorney who prosecuted ~~such~~ the person or ~~shall notify~~
9 the successor in office of ~~such~~ the prosecuting attorney at least fourteen days in advance of ~~such~~
10 the suspension. ~~Such notice~~ Notice shall be provided to any victim by ~~such~~ the prosecuting
11 attorney or the successor in office pursuant to the provisions of § 23A-27-1.2. Any person
12 whose sentence is suspended pursuant to this section is under the supervision of the Board of
13 Pardons and Paroles, except as provided in § 23A-27-18.2. The board is charged with the
14 responsibility for enforcing the conditions imposed by the sentencing judge, and the board
15 retains jurisdiction to revoke the suspended portion of the sentence for violation of the terms of



1 parole or the terms of the suspension.

2 Section 2. That chapter 23A-27 be amended by adding a NEW SECTION to read:

3 In addition to any conditions imposed by the sentencing judge, an inmate under the
4 supervision of the Department of Corrections and the Board of Pardons and Paroles pursuant
5 to § 23A-27-18.4 or 23A-27-19 shall maintain a good disciplinary record and comply with all
6 programming required by the Department of Corrections and the Board of Pardons and Paroles.
7 A suspended sentence may be revoked by the Board of Pardons and Paroles for failure to
8 comply with these requirements.

9 Section 3. That chapter 23A-27 be amended by adding a NEW SECTION to read:

10 If an inmate is under the supervision of the Department of Corrections and the Board of
11 Pardons and Paroles as directed in §§ 23A-27-18.4 and 23A-27-19, the inmate is considered a
12 parolee and is governed by the supervision and revocation provisions of chapters 24-15 and
13 24-15A.

14 Section 4. That § 22-6-11 be amended to read:

15 22-6-11. The sentencing court shall sentence an offender convicted of a Class 5 or Class 6
16 felony, except those convicted under §§ 22-11A-2.1, 22-18-1, 22-18-1.05, 22-18-26, 22-19A-1,
17 22-19A-2, 22-19A-3, 22-19A-7, 22-19A-16, 22-22A-2, 22-22A-4, 22-24A-3, 22-22-24.3, 22-
18 24-1.2, 22-24B-2, 22-24B-12, 22-24B-12.1, 22-24B-23, 22-42-7, subdivision 24-2-14(1), 32-34-
19 5, and any person ineligible for probation under § 23A-27-12, to a term of probation. If the
20 offender is under the supervision of the Department of Corrections, the court shall order a fully
21 suspended penitentiary sentence pursuant to § 23A-27-18.4. The sentencing court may impose
22 a sentence other than probation or a fully suspended penitentiary sentence if the court finds
23 aggravating circumstances exist that pose a significant risk to the public and require a departure
24 from presumptive probation under this section. If a departure is made, the judge shall state on

1 the record at the time of sentencing the aggravating circumstances and the same shall be stated
2 in the dispositional order. Neither this section nor its application may be the basis for
3 establishing a constitutionally protected liberty, property, or due process interest.