

AN ACT

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

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

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

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

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

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

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

If an inmate is under the supervision of the Department of Corrections and the Board of Pardons

and Paroles as directed in §§ 23A-27-18.4 and 23A-27-19, the inmate is considered a parolee and is governed by the supervision and revocation provisions of chapters 24-15 and 24-15A.

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

22-6-11. The sentencing court shall sentence an offender convicted of a Class 5 or Class 6 felony, except those convicted under §§ 22-11A-2.1, 22-18-1, 22-18-1.05, 22-18-26, 22-19A-1, 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, 22-24-1.2, 22-24B-2, 22-24B-12, 22-24B-12.1, 22-24B-23, 22-42-7, subdivision 24-2-14(1), 32-34-5, and any person ineligible for probation under § 23A-27-12, to a term of probation. If the offender is under the supervision of the Department of Corrections, the court shall order a fully suspended penitentiary sentence pursuant to § 23A-27-18.4. The sentencing court may impose a sentence other than probation or a fully suspended penitentiary sentence if the court finds aggravating circumstances exist that pose a significant risk to the public and require a departure from presumptive probation under this section. If a departure is made, the judge shall state on the record at the time of sentencing the aggravating circumstances and the same shall be stated in the dispositional order. Neither this section nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest.

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I certify that the attached Act originated in the

SENATE as Bill No. 31

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. 31
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