



2021 South Dakota Legislature

House Bill 1068

ENROLLED

AN ACT

ENTITLED An Act to revise the requirement for written findings of fact and conclusions in certain judicial proceedings involving a child.

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

Section 1. That § 26-7A-87 be AMENDED.

26-7A-87. Adjudication subject to intermediate appeal--Dispositional proceedings--Interim dispositional decree.

If the court finds the allegations of the petition are supported by clear and convincing evidence in cases concerning an alleged abused or neglected child or are supported by evidence beyond a reasonable doubt in cases concerning an alleged child in need of supervision or an alleged delinquent child, the court shall adjudicate the child accordingly and shall issue findings of fact, conclusions of law and an order of adjudication stating the child to be an abused or neglected child as defined in chapter 26-8A, a child in need of supervision as defined in chapter 26-8B, or a delinquent child as defined in chapter 26-8C. Written findings of fact and conclusions of law are only required in delinquency or child in need of supervision adjudicatory proceedings if there is a contested evidentiary hearing or if the disposition is a commitment to the Department of Corrections. The order of adjudication is an intermediate order and is subject to intermediate appeal with the permission of the court according to the rules of procedure governing civil appeals.

The court shall proceed with the dispositional phase of the proceedings and shall issue an order setting the time, date, and place of the initial dispositional hearing and prescribing notice of the hearing. However, the court may proceed immediately with the initial dispositional hearing with the consent of the state, the child and the child's parents, guardian, or custodian or other parties who are respondents in the action.

On completion of the adjudicatory hearing resulting in adjudication of the child, the court may issue an interim dispositional decree governing custody, placement, care,

shelter, or detention of the child as determined by the court pending the initial dispositional hearing and any continuance of it.

Section 2. That § 26-7A-90 be AMENDED.

26-7A-90. Evidence heard at dispositional hearing--Interim decree--Final decree.

After adjudication, the court shall conduct dispositional hearings and consider evidence regarding proper disposition of the child best serving the interests of the child with due regard to the rights and interests of the child's parents, guardian, custodian, other parties respondent, the public, and the state. Dispositional evidence may include social study reports, mental and medical examination and evaluation reports, homestudy investigation reports, and any other evidence related to appropriate disposition of the child.

Following the dispositional hearing, the court shall issue an interim decree of disposition. During the dispositional phase, the court shall balance the rights and interests of the child and the respective parties, including the public and the state.

On completion of the final dispositional hearing, the court shall issue findings of fact, conclusions of law, and a final decree of disposition. Written findings of fact and conclusions of law are only required in delinquency or child in need of supervision dispositional proceedings if there is a contested evidentiary hearing or if the disposition is a commitment to the Department of Corrections. The decree is the final order of the court for the purpose of an appeal by any party according to the rules of procedure governing civil appeals.

An Act to revise the requirement for written findings of fact and conclusions in certain judicial proceedings involving a child.

I certify that the attached Act originated in the:

House as Bill No. 1068

Received at this Executive Office
this _____ day of _____,

2021 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this _____ day of
_____, A.D., 2021

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2021
at _____ o'clock ____ M.

Secretary of the Senate

Secretary of State

House Bill No. 1068
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State