



2025 South Dakota Legislature

Senate Bill 64

SENATE JUDICIARY ENGROSSED

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

1 **An Act to revise provisions related to the establishment of an initial parole date.**

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

3 **Section 1. That § 24-15-4.1 be AMENDED:**

4 **24-15-4.1.** For the purposes of this section, the term, "offense," means any of the
5 following:

6 (1) ~~Manslaughter in the first degree, as defined in § 22-16-15~~First degree murder, as
7 defined in § 22-16-4;

8 ~~(2)~~ Second degree murder, as defined in § 22-16-7;

9 ~~(2)(3)~~ Kidnapping in the first degree, as defined in § 22-19-1;

10 ~~(3)(4)~~ An act of terrorism, as defined in § 22-8-12;

11 ~~(5)~~ Manslaughter in the first degree, as defined in § 22-16-15;

12 ~~(6)~~ Rape in the first degree, as defined in § 22-22-1;

13 ~~(4)~~ Rape in the second degree, as defined in § 22-22-1;

14 ~~(5)(7)~~ Attempted first degree murder of a law enforcement officer, as defined in § 22-4-
15 3;

16 ~~(8)~~ Aggravated kidnapping in the second degree, as defined in § 22-19-1.1;

17 ~~(9)~~ Rape in the second degree, as defined in § 22-22-1;

18 ~~(10)~~ Torture of a human trafficking victim, as defined in § 22-49-5;

19 ~~(6)(11)~~ Commission of a felony while armed with firearms, as defined in § 22-14-12;

20 ~~(7)(12)~~ Aggravated assault against a law enforcement officer, firefighter, ambulance
21 personnel, Department of Corrections employee or contractor, health care
22 personnel, or other public officer, as defined in § 22-18-1.05;

23 ~~(8)(13)~~ Aggravated battery of an infant, as defined in § 22-18-1.4;

24 ~~(9)(14)~~ Assault with intent to cause serious permanent disfigurement, as defined in
25 § 22-18-1.5;

26 ~~(10)(15)~~ Robbery in the first degree, as defined in § 22-30-6;

- 1 ~~(11)~~(16) First degree burglary, as defined in § 22-32-1;
- 2 ~~(12)~~(17) First degree arson, as defined in § 22-33-9.1; and
- 3 ~~(13)~~(18) First degree human trafficking, as defined in § 22-49-2.

4 An inmate convicted of and sentenced for an offense as specified in this section,
 5 for a crime committed on or after July 1, 2023, is not eligible for parole by the Board of
 6 Pardons and Paroles, except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An
 7 inmate shall serve the full term of imprisonment imposed by the court for the offense. The
 8 court ~~shall retain~~ retains the discretion to suspend a portion of the prison sentence
 9 required. If the court suspends a portion of the prison sentence, the Board of Pardons and
 10 Paroles ~~shall~~ must supervise the suspended time and ~~has the authority to~~ may revoke the
 11 suspended portion of the sentence for ~~failing~~ the inmate's failure to follow the conditions
 12 of release.

13 An inmate may earn any credit for which the inmate is eligible. However, ~~such~~
 14 ~~credits~~ the credit may only be used for increased privileges and may not be used to reduce
 15 the sentence imposed by the court.

16 **Section 2. That § 24-15-4.2 be AMENDED:**

17 **24-15-4.2.** For the purposes of this section, the term, "offense," means any of the
 18 following:

- 19 (1) Vehicular homicide, as defined in § 22-16-41;
- 20 (2) Aggravated assault, as defined in § 22-18-1.1;
- 21 (3) Aggravated criminal battery of an unborn child, as defined in § 22-18-1.3;
- 22 (4) Kidnapping in the second degree, as defined in § 22-19-1.1;
- 23 (5) Second degree burglary, as defined in § 22-32-3;
- 24 (6) Riot, as defined in § 22-10-1;
- 25 (7) Manslaughter in the second degree, as defined in § 22-16-20;
- 26 (8) Second degree robbery, as defined in § 22-30-6;
- 27 (9) Second degree human trafficking, as defined in § 22-49-3;
- 28 ~~(9)~~(10) Felony child abuse, as defined in § 26-10-1; and
- 29 ~~(10)~~(11) Attempt to commit, or a conspiracy to commit, or a solicitation to commit any
 30 offense enumerated in § 24-15-4.1.

31 An inmate convicted of and sentenced for an offense as specified in this section,
 32 for a crime committed on or after July 1, 2023, is not eligible for parole by the Board of
 33 Pardons and Paroles except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An
 34 inmate shall serve the full term of imprisonment imposed by the court for the offense. The

Underscores indicate new language.
 Overstrikes indicate deleted language.

1 court ~~shall retain~~ retains the discretion to suspend a portion of the prison sentence
 2 ~~required~~. If the court suspends a portion of the prison sentence, the Board of Pardons and
 3 Paroles ~~shall~~ must supervise the suspended time and ~~has the authority to~~ may revoke the
 4 suspended portion of the sentence for ~~failing the inmate's failure~~ to follow the conditions
 5 of release.

6 An inmate may earn any credit for which the inmate is eligible. However, ~~such~~
 7 ~~credits~~ the credit may only be used for increased privileges and may not be used to reduce
 8 the sentence imposed by the court, except as otherwise provided in this section.

9 Discharge credits earned pursuant to §§ 24-15A-50 and 24-15A-50.1 may be used
 10 to reduce an inmate's sentence by up to fifteen percent of the sentence imposed by the
 11 court that the inmate must serve before becoming eligible for release on parole. Discharge
 12 credits may not be used to alter the inmate's sentence expiration date.

13 **Section 3. That § 24-15A-32 be AMENDED:**

14 **24-15A-32.** For a crime committed before July 1, 2023, each inmate sentenced
 15 to a state incarceration term, except those under a sentence of life or death, or determined
 16 to be ineligible for parole as authorized in § 24-15A-32.1, must have an initial parole date
 17 set by the department. This date must be calculated by applying the percentage indicated
 18 in the following grid to the full term, minus any suspended time. ~~The following crimes~~ A
 19 crime listed below, or an attempt to commit, a conspiracy to commit, or a solicitation to
 20 commit any ~~of the following crimes shall be considered~~ crime listed below, is a violent
 21 crime for purposes of setting an initial parole date: murder, manslaughter, rape,
 22 aggravated assault, riot, robbery, burglary in the first degree, burglary in the second
 23 degree if committed before July 1, 2006, arson, kidnapping, felony sexual contact as
 24 defined in §§ 22-22-7 and 22-22-7.2, child abuse, ~~felony sexual contact as defined in~~
 25 ~~§ 22-22-7.2~~, felony stalking as defined in §§ 22-19A-2 and 22-19A-3, photographing a
 26 child in an obscene act as previously set forth in § 22-22-23, felony assault as defined in
 27 §§ 22-18-26 and 22-18-29, felony simple assault as defined in § 22-18-1, aggravated
 28 criminal battery of an unborn child as defined in § 22-18-1.3, aggravated battery of an
 29 infant as defined in § 22-18-1.4, assault with intent to cause serious permanent
 30 disfigurement as defined in § 22-18-1.5, commission of a felony while armed as defined
 31 in § 22-14-12, discharging a firearm at an occupied structure or motor vehicle as defined
 32 in § 22-14-20, discharging a firearm from a moving vehicle as defined in § 22-14-21,
 33 criminal pedophilia as previously set forth in § 22-22-30.1, threatening to commit a sexual

1 offense as defined in § 22-22-45, abuse or neglect of a disabled adult as defined in § 22-
 2 46-2, and aggravated incest as defined in §§ 22-22A-3 and 22-22A-3.1:

3 Felony Convictions

4	Felony Class	First	Second	Third
5	Nonviolent			
6	Class 6	.25	.30	.40
7	Class 5	.25	.35	.40
8	Class 4	.25	.35	.40
9	Class 3	.30	.40	.50
10	Class 2	.30	.40	.50
11	Class 1	.35	.40	.50
12	Class C	.35	.40	.50
13	Violent			
14	Class 6	.35	.45	.55
15	Class 5	.40	.50	.60
16	Class 4	.40	.50	.65
17	Class 3	.50	.60	.70
18	Class 2	.50	.65	.75
19	Class 1	.50	.65	.75
20	Class C	.50	.65	.75
21	Class B	1.0	1.0	1.0
22	Class A	1.0	1.0	1.0

23 The application of the violent or nonviolent column of the grid is based on whether
 24 the inmate's current sentence is for a violent or nonviolent crime. The department shall
 25 consider any prior felony regardless of whether the crime is violent or nonviolent when
 26 determining which percentage to apply to the inmate's parole date calculation. Each
 27 inmate shall serve at least sixty days prior to parole release. An inmate with a life sentence
 28 is not eligible for parole except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An
 29 initial parole date through the application of this grid may be applied to a life sentence
 30 only after the sentence is commuted to a term of years. A Class A or B felony commuted
 31 to a number of years ~~shall~~ must be applied to the Class C violent column of the grid. An

1 inmate convicted of a Class A or B felony who was a juvenile at the time of the offense
 2 and receives a sentence of less than life ~~shall~~ must be applied to the Class C violent column
 3 of the grid.

4 For a crime committed on or after July 1, 2023, each inmate sentenced to a
 5 penitentiary term, except those under a sentence of life or death, or determined to be
 6 ineligible for parole as authorized in §§ 24-15-4.1, 24-15-4.2, and 24-15A-32.1, must
 7 have an initial parole date set by the department. The date must be calculated by applying
 8 the percentage indicated in the following grid to the full term of the sentence, minus any
 9 suspended time. Any of the following crimes, or any attempt to commit, a conspiracy to
 10 commit, or a solicitation to commit any of the following crimes is considered a violent
 11 crime for the purpose of setting an initial parole date: arson in the second degree as
 12 defined in § 22-33-9.2, rape in the third or fourth degree as defined in § 22-22-1, felony
 13 sexual contact as defined in §§ 22-22-7 and 22-22-7.2, felony stalking as defined in
 14 §§ 22-19A-2 and 22-19A-3, felony assault as defined in §§ 22-18-26 and 22-18-29, felony
 15 simple assault as defined in § 22-18-1, discharging a firearm at an occupied structure or
 16 motor vehicle as defined in § 22-14-20, discharging a firearm from a moving vehicle as
 17 defined in § 22-14-21, threatening to commit a sexual offense as defined in § 22-22-45,
 18 abuse or neglect of a disabled adult as defined in § 22-46-2, and aggravated incest as
 19 defined in §§ 22-22A-3 and 22-22A-3.1:

20 Felony Convictions

21	Felony Class	First	Second	Third
22	Nonviolent			
23	Class 6	.25	.30	.40
24	Class 5	.25	.35	.40
25	Class 4	.25	.35	.40
26	Class 3	.30	.40	.50
27	Class 2	.30	.40	.50
28	Class 1	.35	.40	.50
29	Class C	.35	.40	.50
30	Violent			
31	Class 6	.35	.45	.55
32	Class 5	.40	.50	.60

1	Class 4	.40	.50	.65
2	Class 3	.50	.60	.70
3	Class 2	.50	.65	.75
4	Class 1	.50	.65	.75
5	Class C	.50	.65	.75
6	Class B	1.0	1.0	1.0
7	Class A	1.0	1.0	1.0
8	§ 24-15-4.1	1.0	1.0	1.0
9	§ 24-15-4.2	1.0-.85	1.0-.85	1.0-.85

10 The application of the violent or nonviolent column of the grid is based on whether
11 the inmate's current sentence is for a violent or nonviolent crime. The department shall
12 consider any prior felony regardless of whether the crime is violent or nonviolent when
13 determining which percentage to apply to the inmate's parole date calculation. Each
14 inmate shall serve at least sixty days prior to parole release. An inmate with a life sentence
15 and an inmate who commits an offense as defined in § 24-15-4.1 is not eligible for parole
16 except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An inmate who commits an
17 offense as defined in § 24-15-4.2 is not eligible for parole except as provided in §§ 24-
18 15-4.2 and 24-15A-55 to 24-15A-68, inclusive. The provisions set forth in §§ 24-15-4.1
19 and 24-15-4.2 apply to a life sentence that has been commuted to a term of years.