



2020 South Dakota Legislature

Senate Bill 47

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 **An Act to revise certain provisions regarding sex offender registration statutes.**

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

3 **Section 1.** That § 22-24B-1 be AMENDED:

4 **22-24B-1. Sex crimes determined.**

5 For the purposes of §§ 22-24B-2 to 22-24B-14, inclusive, a sex crime is any of the
6 following crimes regardless of the date of the commission of the offense or the date of
7 conviction:

- 8 (1) Rape as set forth in § 22-22-1;
- 9 (2) Felony sexual contact with a minor under sixteen as set forth in § 22-22-7 if
10 committed by an adult;
- 11 (3) Sexual contact with a person incapable of consenting as set forth in § 22-22-7.2;
- 12 (4) Incest if committed by an adult;
- 13 (5) Possessing, manufacturing, or distributing child pornography as set forth in § 22-
14 24A-3;
- 15 (6) Sale of child pornography as set forth in § 22-24A-1;
- 16 (7) Sexual exploitation of a minor as set forth in § 22-22-24.3;
- 17 (8) Kidnapping, as set forth in § 22-19-1, if the victim of the criminal act is a minor;
- 18 (9) Promotion of prostitution of a minor as set forth in subdivision 22-23-2(2);
- 19 (10) Criminal pedophilia as previously set forth in § 22-22-30.1;
- 20 (11) Felony indecent exposure as previously set forth in former § 22-24-1 or felony
21 indecent exposure as set forth in § 22-24-1.2;
- 22 (12) Solicitation of a minor as set forth in § 22-24A-5;
- 23 (13) Felony indecent exposure as set forth in § 22-24-1.3;
- 24 (14) Bestiality as set forth in § 22-22-42;
- 25 (15) An attempt, conspiracy, or solicitation to commit any of the crimes listed in this
26 section;

- 1 (16) Any crime, court martial offense, or tribal offense committed in a place other than
 2 this state that constitutes a sex crime under this section if committed in this state;
- 3 (17) Any federal crime, court martial offense, or tribal offense that constitutes a sex
 4 crime under federal law;
- 5 (18) Any crime committed in another state if that state also requires anyone convicted
 6 of that crime register as a sex offender in that state;
- 7 (19) If the victim is a minor:
- 8 (a) Any sexual acts between a jail employee and a detainee as set forth in § 22-
 9 22-7.6;
- 10 (b) Any sexual contact by a psychotherapist as set forth in § 22-22-28; or
- 11 (c) Any sexual penetration by a psychotherapist as set forth in § 22-22-29;
- 12 (20) Intentional exposure to HIV infection as set forth in subdivision (1) of § 22-18-31;
- 13 (21) First degree human trafficking as set forth in § 22-49-2 if the victim is a minor; ~~or~~
- 14 (22) Second degree human trafficking as set forth in § 22-49-3 involving the prostitution
 15 of a minor; or
- 16 (23) Felony use or dissemination of visual recording or photographic device without
 17 consent and with intent to self-gratify, harass, or embarrass as set forth in § 22-
 18 21-4.

19 **Section 2.** That § 22-24B-27 be AMENDED:

20 **22-24B-27. Community Safety Zone--Exemption--Eligibility.**

21 To be eligible for exemption from the community safety zone restrictions, the
 22 petitioner shall show, by clear and convincing evidence, the following:

- 23 (1) That at least ten years have elapsed since the date the petitioner was convicted of
 24 the offense that subjected the petitioner to community safety zone restrictions
 25 pursuant to §§ 22-24B-22 to 22-24B-28, inclusive. For purposes of this subdivision,
 26 any period of time during which the petitioner was incarcerated or during which the
 27 petitioner was confined in a mental health facility or during which the petitioner was
 28 on probation or parole supervision does not count toward the ten-year calculation,
 29 regardless of whether such incarceration, confinement or community supervision
 30 was for the sex offense requiring registration or for some other offense;
- 31 (2) That the petitioner is not a recidivist sex offender. A recidivist sex offender is a
 32 person who has been convicted or adjudicated for more than one sex crime listed
 33 in ~~subdivisions 22-24B-1(1) to (19), inclusive § 22-24B-1,~~ regardless of when those
 34 convictions or adjudications occurred. For purposes of this subdivision and

- 1 subdivision (1) of this section, a conviction or adjudication includes a verdict or plea
2 of guilty; a verdict or plea of guilty but mentally ill; a plea of nolo contendere; a
3 suspended imposition of sentence granted under § 23A-27-13, regardless of
4 whether it has been discharged; a deferred prosecution agreement entered by a
5 prosecutor; and a determination made in another state, federal jurisdiction, or
6 courts martial that is comparable to any of these events;
- 7 (3) That the petitioner has completely and truthfully complied with the registration and
8 reregistration requirements imposed under this chapter;
- 9 (4) That the petitioner has actually resided in South Dakota at least ten consecutive
10 years immediately prior to the filing of the petition. Residence as used in this
11 subdivision does not mean the registration address of an incarcerated sex offender;
12 and
- 13 (5) The circumstances of the crime subjecting the offender to community safety zone
14 restrictions did not involve a child under age thirteen.