



2020 South Dakota Legislature

Senate Bill 138

Introduced by: **Senator Rusch**

1 **An Act to amend parole provisions regarding life sentences.**

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

3 **Section 1.** That § 24-15-4 be AMENDED:

4 **24-15-4. Inmate sentenced to life imprisonment parole eligibility--**

5 **Exception.**

6 No inmate sentenced to life imprisonment for a Class A felony is eligible for parole
7 by the Board of Pardons and Paroles except as provided in §§ 24-15A-55 to 24-15A-68,
8 inclusive.

9 An inmate sentenced to life imprisonment for a Class B felony is eligible for parole
10 by the Board of Pardons and Paroles upon serving forty years of the inmate's sentence,
11 except that an inmate may be eligible for parole before that date if eligible under §§ 24-
12 15A-55 to 24-15A-68, inclusive.

13 An inmate sentenced to life imprisonment for a Class C felony is eligible for parole
14 by the Board of Pardons and Paroles upon serving thirty years of the inmate's sentence,
15 except that an inmate may be eligible for parole before that date if eligible under §§ 24-
16 15A-55 to 24-15A-68, inclusive.

17 **Section 2.** That § 24-15A-32 be AMENDED:

18 **24-15A-32. Establishment of initial parole date--Calculation of parole date--**

19 **Certain crimes deemed violent for purposes of parole--Minimum time to be**
20 **served.**

21 Each inmate sentenced to a penitentiary term, except those under a sentence of
22 life or death, or determined to be ineligible for parole as authorized in § 24-15A-32.1,
23 shall have an initial parole date set by the department. This date shall be calculated by
24 applying the percentage indicated in the following grid to the full term minus any
25 suspended time of the inmate's sentence pursuant to § 22-6-1. The following crimes or

1 an attempt to commit, or a conspiracy to commit, or a solicitation to commit, any of the
 2 following crimes shall be considered a violent crime for purposes of setting an initial parole
 3 date: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first
 4 degree, burglary in the second degree if committed before July 1, 2006, arson, kidnapping,
 5 felony sexual contact as defined in § 22-22-7, child abuse, felony sexual contact as defined
 6 in § 22-22-7.2, felony stalking as defined in §§ 22-19A-2 and 22-19A-3, photographing a
 7 child in an obscene act, felony assault as defined in §§ 22-18-26 and 22-18-29, felony
 8 simple assault as defined in § 22-18-1, aggravated criminal battery of an unborn child as
 9 defined in § 22-18-1.3, aggravated battery of an infant as defined in § 22-18-1.4, assault
 10 with intent to cause serious permanent disfigurement as defined in § 22-18-1.5,
 11 commission of a felony while armed as defined in § 22-14-12, discharging a firearm at an
 12 occupied structure or motor vehicle as defined in § 22-14-20, discharging a firearm from
 13 a moving vehicle as defined in § 22-14-21, criminal pedophilia, threatening to commit a
 14 sexual offense as defined in § 22-22-45, abuse or neglect of a disabled adult as defined
 15 in § 22-46-2, and aggravated incest as defined in §§ 22-22A-3 and 22-22A-3.1:

16 Felony Convictions

17	Felony Class	First	Second	Third
18	Nonviolent			
19	Class 6	.25	.30	.40
20	Class 5	.25	.35	.40
21	Class 4	.25	.35	.40
22	Class 3	.30	.40	.50
23	Class 2	.30	.40	.50
24	Class 1	.35	.40	.50
25	Class C	.35	.40	.50
26	Violent			
27	Class 6	.35	.45	.55
28	Class 5	.40	.50	.60
29	Class 4	.40	.50	.65
30	Class 3	.50	.60	.70
31	Class 2	.50	.65	.75
32	Class 1	.50	.65	.75

1	Class C	.50	.65	.75
2	Class B	1.0	1.0	1.0
3	Class A	1.0	1.0	1.0

4 The application of the violent or nonviolent column of the grid is based on whether the
5 inmate's current sentence is for a violent or nonviolent crime. Any prior felony shall be
6 considered regardless of whether it is violent or nonviolent when determining which
7 percentage to apply to the inmate's parole date calculation. Each inmate shall serve at
8 least sixty days prior to parole release. ~~Inmates with life sentences are not eligible for~~
9 ~~parole except as provided in §§ 24-15A-55 to 24-15A-68, inclusive.~~ The eligibility for an
10 initial parole date of an inmate serving a life sentence, except for a life sentence that has
11 been commuted to a term of years, shall be determined under § 24-15-4. An initial parole
12 date through the application of this grid may be applied to a life sentence only after the
13 sentence is commuted to a term of years. A Class A or B felony commuted to a number
14 of years shall be applied to the Class C violent column of the grid. An inmate convicted of
15 a Class A or B felony who was a juvenile at the time of the offense and receives a sentence
16 of less than life shall be applied to the Class C violent column of the grid.