CHAPTER 22-24B. SEX OFFENDER REGISTRY

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*** This document is current through all 2013 legislation passed at the ***
§ 22B-1. "Sex crime" defined

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

(1) Rape as set forth in § 22-22-1;

(2) Felony sexual contact with a minor under sixteen as set forth in § 22-22-7 if committed by an adult;

(3) Sexual contact with a person incapable of consenting as set forth in § 22-22-7.2;

(4) Incest if committed by an adult;

(5) Possessing, manufacturing, or distributing child pornography as set forth in § 22-24A-3;

(6) Sale of child pornography as set forth in § 22-24A-1;

(7) Sexual exploitation of a minor as set forth in § 22-22-4.3;

(8) Kidnapping, as set forth in § 22-19-1, if the victim of the criminal act is a minor;

(9) Promotion of prostitution of a minor as set forth in subdivision 22-23-2(2);

(10) Criminal pedophilia as previously set forth in § 22-22-30.1;

(11) Felony indecent exposure as previously set forth in former § 22-24-1 or felony indecent exposure as set forth in § 22-24-1.2;

(12) Solicitation of a minor as set forth in § 22-24A-5;

(13) Felony indecent exposure as set forth in § 22-24-1.3;

(14) Bestiality as set forth in § 22-22-42;

(15) An attempt to commit any of the crimes listed in this section or any conspiracy or solicitation to commit any of the crimes listed in this section;

(16) Any crime committed in a place other than this state which would constitute a sex crime under this section if committed in this state;

(17) Any federal crime or court martial offense that would constitute a sex crime under federal law;
(18) Any crime committed in another state if that state also requires that anyone convicted of that crime register as a sex offender in that state; or

(19) If the victim is a minor:

(a) Any sexual acts between a jail employee and a detainee as set forth in § 22-22-7.6;

(b) Any sexual contact by a psychotherapist as set forth in § 22-22-28; or

(c) Any sexual penetration by a psychotherapist as set forth in § 22-22-29;

(20) Intentional exposure to HIV infection as set forth in subdivision (1) of § 22-18-31.

S.D. Codified Laws § 22-24B-1.1 (2014)

§ 22-24B-1.1. Definition of "business day"

For the purposes of this chapter, the term, business day, is defined to mean the same as subdivision 37-24-1(2).


§ 22-24B-2. Registration of convicted sex offenders -- Violation as felony -- Discharge

Any person who has been convicted for commission of a sex crime, as defined in § 22-24B-1, shall register as a sex offender. The term, convicted, includes a verdict or plea of guilty, a plea of nolo contendere, and a suspended imposition of sentence which has not been discharged pursuant to § 23A-27-14 prior to July 1, 1995. Any juvenile fourteen years or older shall register as a sex offender if that juvenile has been adjudicated of rape as defined in subdivision 22-24B-1(1), or of an out-of-state or federal offense that is comparable to the elements of these crimes of rape or any crime committed in another state if the state also requires a juvenile adjudicated of that crime to register as a sex offender in that state. The term, adjudicated, includes a court's finding of delinquency, an admission, and a suspended adjudication of delinquency which has not been discharged pursuant to § 26-8C-4 prior to July 1, 2009. The sex offender shall register within three business days of coming into any county to reside, temporarily domicile, attend school, attend postsecondary education classes, or work. Registration shall be with the chief of police of the municipality in which the sex offender resides, temporarily domiciles, attends school, attends postsecondary education classes, or works, or, if no chief of police exists, then with the sheriff of the county. If the sex offender is not otherwise registered in the state, the sex offender shall register within three business days of coming into any county when the sex offender applies for or receives a South Dakota driver license, registers a motor vehicle, establishes a postal address, or registers to vote. A violation of this section is a Class 6 felony. Any person whose sentence is discharged under § 23A-27-14 after July 1, 1995, shall forward a certified copy of such formal discharge by certified mail to the Division of Criminal Investigation and to local law enforcement where the person is then registered under this section. Upon receipt of such notice, the person shall be removed from the sex offender registry open to public inspection and shall be relieved of further registration requirements under this section. Any juvenile whose suspended adjudication is discharged under § 26-8C-4 after July 1, 2009, shall forward a certified copy of the formal discharge by certified mail to the Division of Criminal Investigation and to local law enforcement where the juvenile is then registered under this section. Upon receipt of the notice, the juvenile
shall be removed from the sex offender registry open to public inspection and shall be relieved of further registration requirements under this section.


§ 22-24B-2.1. Three tier sex offender registry

The sex offender registry shall consist of three tiers as provided for in this Act. Placement in Tier III requires registrants to register throughout their lifetime. Placement in Tier II requires registrants to register for a minimum of twenty-five years. Placement in Tier I requires registrants to register for a minimum of ten years.

S.D. Codified Laws § 22-24B-3 (2014)

§ 22-24B-3. "Work" defined

As used in § 22-22-31, the term, work, includes employment that is full-time or part-time for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.


§ 22-24B-4. "Attends school" and "attends classes" defined

As used in § 22-22-31, the term, attends school, and the term, attends classes, refer to any person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education.


§ 22-24B-5. Sex offender registry -- Verification form -- Duty to return -- Penalty for violation

The Division of Criminal Investigation shall mail a nonforwardable verification form at least once annually to the last reported address of each person registered under § 22-24B-2. The person shall return the verification form to the Division of Criminal Investigation within ten days after receipt of any such form. The verification form shall be signed by the person required to register and shall state that the person still resides at the address last reported to the Division of Criminal Investigation. If the person fails to return the verification form to the Division of Criminal Investigation within ten days after receipt of the form, the person is in violation of this section. Nonreceipt of a registration verification does not constitute a defense to failure to comply with this with this section. A violation of this section is a Class 6 felony.

S.D. Codified Laws § 22-24B-6 (2014)
§ 22-24B-6. Registration update form to be completed upon commencement or termination of enrollment or employment -- Report to local law enforcement -- Violations

Any person who is registered as required by § 22-24B-2 and who is employed, carries on a vocation, or attends postsecondary classes at an institution of higher education, institution of higher learning, or technical institute in this state shall, within three business days of any commencement and within three business days of termination of such enrollment or employment or change in employer, report to the chief of police or county sheriff where the institution is located and complete a registration update form. A violation of this section is a Class 6 felony.

S.D. Codified Laws § 22-24B-7 (2014)

§ 22-24B-7. Sex offender registry -- Duty to reregister -- Penalty for violation

Any person who is subject to the provisions of § 22-24B-2 shall reregister every six months in the same manner as may be provided by law for initial registration. Such person shall reregister during the calendar month during which the registrant was born and six months following the person's birth month.

A violation of this section is a Class 6 felony.

S.D. Codified Laws § 22-24B-7 (2014)

§ 22-24B-8. Sex offender registry -- Information required for registration -- Penalty

The registration shall include the following information which, unless otherwise indicated, shall be provided by the offender:

1. Name and all aliases used;

2. Complete description, photographs, fingerprints and palm prints collected and provided by the registering agency;

3. Residence, length of time at that residence including the date the residence was established, and length of time expected to remain at that residence;
(4) The type of sex crime convicted of;

(5) The date of commission and the date of conviction of any sex crime committed;

(6) Social Security number on a separate confidential form;

(7) Driver license number and state of issuance;

(8) Whether or not the registrant is receiving or has received any sex offender treatment;

(9) Employer name, address, and phone number or school name, address, and phone number;

(10) Length of employment or length of attendance at school;

(11) Occupation or vocation;

(12) Vehicle license plate number of any vehicle owned by the offender;

(13) Information identifying any internet accounts of the offender as well as any user names, screen names, and aliases that the offender uses on the internet;

(14) A listing of all felony convictions, in any jurisdiction, for crimes committed as an adult and sex offense convictions and adjudications subject to sex offender registry provided by the offender and confirmed by the registering agency;

(15) A description of the offense, provided by the prosecuting attorney;

(16) Acknowledgment whether the offender is currently an inmate, parolee, juvenile in department of corrections placement or under aftercare supervision, county or city jail inmate or detainee in a juvenile detention center, provided by the offender and confirmed by the administering body of the correctional facility;

(17) Acknowledgment whether the offender is subject to community safety zone restrictions, provided by the registering agency;

(18) The name, address and phone number of two local contacts, who have regular interaction with the offender and the name, address and phone number of the offender's next of kin;

(19) Passport and any document establishing immigration status, including the document type and number; and

(20) Any professional, occupational, business or trade license from any jurisdiction.

In addition, at the time of the offender's registration, the registering agency will collect a DNA sample and submit the sample to the South Dakota State Forensic Laboratory in accordance with procedures established by the South Dakota State Forensic Laboratory. The collection of DNA at the time of the registration is not required if the registering agency can confirm that DNA collection and submission to the South Dakota State Forensic Laboratory has already occurred.
Any failure by the offender to accurately provide the information required by this section is a Class 6 felony.


§ 22-24B-9. Sex offender registry -- Information provided by law enforcement

When a law enforcement official provides information from the sex offender registry, the information shall include the offender's name, address, the type of sex crime convicted of, and the date of the commission of the crime and the date of conviction of any sex crime committed.

S.D. Codified Laws § 22-24B-10 (2014)

§ 22-24B-10. Sex offender registry -- Division of Criminal Investigation to maintain state-wide file

Within three days of registering a person pursuant to §§ 22-24B-1 to 22-24B-14, inclusive, the registering law enforcement agency shall forward the information to the Division of Criminal Investigation. The Division of Criminal Investigation shall maintain a file of all the registrations and shall make them available to state, county, and municipal law enforcement agencies on a twenty-four hour basis. An offender's registration compliance status and registration information, other than the registrant's social security number, victim name, DNA sample, and the names, addresses, and phone numbers for local contacts and next of kin are public information. The provisions of §§ 23-5-11 and 23-6-14 do not apply to providing files pursuant to §§ 22-24B-1 to 22-24B-14, inclusive.


§ 22-24B-11. Sex offender registry -- Division to share file with regional and national registries

The Division of Criminal Investigation may make the file available to any regional or national registry of sex offenders and shall participate in the National Sex Offender Public Registry maintained by the United States Department of Justice. The division shall accept files from any regional or national registry of sex offenders and shall make such files available when requested

S.D. Codified Laws § 22-24B-12 (2014)

§ 22-24B-12. Written notice of new address required -- Time limit -- Forwarding information -- Violation

Any person required to register pursuant to §§ 22-24B-1 to 22-24B-14, inclusive, who moves to a different location or residence address shall inform the law enforcement agency with whom the person last registered of the new location or address, in writing, within three business days. The law enforcement agency shall, within three days of receipt, forward the information to the Division of Criminal Investigation and to the law enforcement agency
having jurisdiction of the new location or residence. A failure to register pursuant to this section is a Class 6 felony.


§ 22-24B-12.1. Second or subsequent conviction -- Penalty

Any person who has been convicted of, or entered a plea of guilty to, one or more violations of §§ 22-24B-2, 22-24B-5, 22-24B-6, 22-24B-7, 22-24B-8 or 22-24B-12 is guilty of a Class 5 felony for any second or subsequent conviction of §§ 22-24B-2, 22-24B-5, 22-24B-6, 22-24B-7, 22-24B-8 or 22-24B-12.


§ 22-24B-13. Duty of institutions to inform convicted sex offenders of registration requirements and community safety zone restrictions

Any person required to register pursuant to §§ 22-24B-1 to 22-24B-14, inclusive, who is discharged or paroled or temporarily released from an institution of the Department of Corrections or the Department of Human Services or the Department of Social Services or from any jail or other facility in this state where the person was confined because of a conviction of an offense as described in § 22-24B-1 shall, prior to discharge, parole, furlough, work release, or similar program outside the facility, or release, be informed of the duty to register under §§ 22-24B-1 to 22-24B-14, inclusive, and informed of community safety zone restrictions, by the institution in which the person was confined. The institution shall require the person to read and sign any forms as may be required by the Division of Criminal Investigation stating that the duty to register, community safety zone restrictions, and the procedure for registration have been explained. The institution shall obtain the address where the person plans to reside upon discharge, parole, furlough, work release, or similar program outside the facility, or release and shall report the address to the Division of Criminal Investigation. The institution shall give one copy of the form to the person and shall send one copy to the Division of Criminal Investigation and one copy to the law enforcement agency having jurisdiction where the person plans to reside upon discharge, parole, furlough, work release, or similar program outside the facility, or release, and one copy to the office of the state's attorney in the county in which the person was convicted.


§ 22-24B-14. Sex offender registry -- Duty of court to inform offender released on probation of registration requirements -- Duty to report offender's address to Division

Any person required to register pursuant to §§ 22-22-30 to 22-22-39, inclusive, who is released on probation because of the commission or attempt to commit one of the offenses as described in § 22-22-30 shall, prior to release be informed of the duty to register under §§ 22-22-30 to 22-22-39, inclusive, and informed of community safety zone restrictions, by the court in which the person was convicted. The court shall require the person to read and sign any forms as may be required by the Division of Criminal Investigation stating that the duty to register, community safety zone restrictions, and the procedure for registration have been explained. The court shall obtain the address where the person plans to reside upon release and shall report the address to the Division of Criminal Investigation. The court shall
give one copy of the form to the person and shall send one copy to the Division of Criminal Investigation and one copy to the law enforcement agency having jurisdiction where the person plans to reside upon release.


§ 22-24B-15. Sex offender registry -- Records are public records -- Victim identifying information confidential

Registration records collected by local law enforcement agencies pursuant to this chapter, registration lists provided to local law enforcement by the Division of Criminal Investigation, and records collected by institutions pursuant to § 22-24B-13 for those persons required to register under the provisions of §§ 22-24B-1 to 22-24B-14 are public records as provided in chapter 1-27.

Nothing in this section allows the release of the name or any identifying information regarding the victim of the crime to any person other than law enforcement agencies, and such victim identifying information is confidential.

S.D. Codified Laws § 22-24B-16 (2014)

§ 22-24B-16. Sex offender registry -- Commission of crime resulting from information gained through registry -- Penalty

Any person who commits any crime as a result of information gained through the sex offender registry or through public information kept pursuant to § 22-24B-15 is guilty of a Class 6 felony. Such liability is in addition to any other civil or criminal penalties.

S.D. Codified Laws § 22-24B-17 (2014)

§ 22-24B-17. Petition for removal from sex offender registry

Any person required to register under this chapter who is eligible to seek removal from the registry as provided for in § 22-24B-19 or in § 22-24B-19.1 may petition the circuit court in the county where the person resides for an order terminating the person’s obligation to register. If the person seeking removal from the registry is not a resident of this state, but is required to register under other requirements of § 22-24B-2, then the person may petition the circuit court of any county of this state where the person is currently registered. The offender shall serve the petition and all supporting documentation on the state’s attorney in the county where the offender is currently registered, the office of the prosecutor in the jurisdiction where the offense occurred, and the Attorney General. The Attorney General's office shall respond to each petition to request removal from the sex offender registry.

No person petitioning the court under this section for an order terminating the person’s obligation to register is entitled to court appointed counsel, experts, or publicly funded witnesses.

§ 22-24B-18. Petition and documentation to support request for removal from sex offender registry -- Contents

The petition and documentation to support the request for removal from the sex offender registry shall include:

(1) The information required for registration of convicted sex offenders in § 22-22-32;

(2) A detailed description of the sex crime that was the basis for the offender to register;

(3) A certified copy of judgment of conviction or other sentencing document; and

(4) The offender's criminal record and a detailed description of those offenses.


§ 22-24B-19. Criteria required to be eligible for removal from the registry

To be eligible for removal from the registry as a Tier I offender, the petitioner shall show, by clear and convincing evidence, that all of the following criteria have been met:

(1) At least ten years have elapsed since the date the petitioner first registered pursuant to this chapter;

(2) The crime requiring registration was for:

   (a) Statutory rape under subdivision 22-22-1(5), or an attempt to commit statutory rape under subdivision 22-22-1(5), but only if the petitioner was twenty-one years of age or younger at the time the offense was committed or attempted;

   (b) A juvenile adjudication for a sex crime as defined in subdivision 22-24B-1(1);

   (c) Sexual contact under § 22-22-7 if the victim was between the ages of thirteen and sixteen and the petitioner was at least three years older than the victim, but only if the petitioner was twenty-one years of age or younger at the time the offense was committed; or

   (d) An out-of-state, federal or court martial offense that is comparable to the elements of the crimes listed in (a), (b), or (c);

(3) The circumstances surrounding the crime requiring registration did not involve a child under the age of thirteen;

(4) The petitioner is not a recidivist sex offender;

(5) The petitioner has substantially complied in good faith with the registration and re-registration requirements imposed under chapter 22-24B; and

(6) Petitioner demonstrates to the satisfaction of the court that he or she does not pose a risk or danger to the community.
For purposes of this section, any period of time during which the petitioner was incarcerated or during which the petitioner was confined in a mental health facility does not count toward the ten-year calculation, regardless of whether such incarceration or confinement was for the sex offense requiring registration or for some other offense.


§ 22-24B-19.1. Removal from Tier II offender registry

To be eligible for removal from the registry as a Tier II offender, the petitioner shall show, by clear and convincing evidence, that all of the following criteria have been met:

(1) At least twenty-five years have elapsed since the date the petitioner first registered pursuant to this chapter;

(2) The crime requiring registration was for:

(a) Incest as defined in § 22-22A-2; or

(b) An out-of-state, federal or court martial offense that is comparable to the elements of incest as defined in § 22-22A-2; or

(c) Bestiality as set forth in § 22-22-42;

(3) The circumstances surrounding the crime requiring registration did not involve a child under the age of thirteen;

(4) The petitioner is not a recidivist sex offender;

(5) The petitioner has substantially complied in good faith with the registration and re-registration requirements imposed under chapter 22-24B; and

(6) Petitioner demonstrates to the satisfaction of the court that he or she does not pose a risk or danger to the community.

For purposes of this section, any period of time during which the petitioner was incarcerated or during which the petitioner was confined in a mental health facility does not count toward the twenty-five year calculation, regardless of whether such incarceration or confinement was for the sex offense requiring registration or for some other offense.


§ 22-24B-19.2. Tier III offender

Any person, who is on the sex offender registry and who is not eligible for removal pursuant to §§ 22-24B-19 and 22-24B-19.1, is a Tier III offender.

§ 22-24B-19.3. Recidivist sex offender

A recidivist sex offender is a person who has been convicted or adjudicated for more than one sex crime listed in § 22-24B-1, regardless of when those convictions or adjudications occurred. However, no person is a recidivist sex offender unless the person committed the second sex crime after having been convicted or adjudicated of a previous sex crime. For purposes of this section, a conviction or adjudication includes a verdict or plea of guilty; a verdict or plea of guilty but mentally ill; a plea of nolo contendere; a suspended imposition of sentence granted under § 23A-27-13, regardless of whether it has been discharged; a deferred prosecution agreement entered by a prosecutor; and a determination made in another state, federal jurisdiction, or courts martial that is comparable to any of these events.


§ 22-24B-20. Order requiring removal of name from sex offender registry or denial of petition

If the court finds that all of the criteria described in § 22-24B-19 or in § 22-24B-19.1 have been met and that the petitioner is not likely to offend again, then the court may, in its discretion, enter an order terminating the petitioner's obligation to register in this state and require the removal of petitioner's name from the registry. However, if the court finds that the offender has provided false, misleading, or incomplete information in support of the petition, or failed to serve the petition and supporting documentation upon the respondent, then the petition may be denied. If the petition is denied, the petitioner may not file a subsequent petition for at least two years from the date the previous petition was denied.


§ 22-24B-21. Internet site for sex offender registration information

The Division of Criminal Investigation shall post and maintain on an internet site sex offender registration information including offender name, physical description and photograph, address, type of sex crime convicted of, previous convictions requiring registration as defined in § 22-24B-1, dates of commission and the dates of conviction of any sex crime committed, community safety zone restrictions, offense description, and the offender's status as an inmate, parolee, or person who has completed their correctional placement.

The division shall update sex offender registration information on the internet site within three business days of receipt from the registering agency. The division and the registering agency are not civilly or criminally liable for good faith conduct under this section or § 22-24B-11.


§ 22-24B-22. Definitions
Terms used in §§ 22-24B-1 to 22-24B-32, inclusive, mean:

1. "Community safety zone," the area that lies within five hundred feet from the facilities and grounds of any school, public park, public playground, or public pool, including the facilities and grounds itself;

2. "Loiter," to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors;

3. "School," any public, private, denominational, or parochial school offering preschool, kindergarten, or any grade from one through twelve;

4. "Residence," the address an offender lists for purposes of the sex offender registry as provided for in subdivision § 22-24B-8(3).

S.D. Codified Laws § 22-24B-23 (2014)

§ 22-24B-23. Restrictions on sex offender's residence within community safety zone -- Violation as felony

No person who is required to register as a sex offender pursuant to this chapter may establish a residence or reside within a community safety zone unless:

1. The person is incarcerated in a jail or prison or other correctional placement which is located within a community safety zone;

2. The person is on parole or probation and has been assigned to a halfway house or supervised living center within a community safety zone;

3. The person is homeless and has been admitted to a community homeless shelter within a community safety zone by an appropriate community official;

4. The person is placed in a health care facility licensed pursuant to chapter 34-12, or certified under Title XVIII or XIX of the Social Security Act as amended to December 31, 2001, or receiving services from a community service provider accredited or certified by the Department of Human Services or the Department of Social Services, which is located within a community safety zone;

5. The person was under age eighteen at the time of the offense and the offender was not tried and convicted of the offense as an adult;

6. The person established the residence prior to July 1, 2006;

7. The school, public park, public pool, or public playground was built or established subsequent to the person's establishing residence at the location; or

8. The circuit court has entered an order pursuant to § 22-24B-28 exempting the offender from the provisions of §§ 22-24B-22 to 22-24B-28, inclusive.

A violation of this section is a Class 6 felony. Any subsequent violation is a Class 5 felony.

**Legislative Alert:**

LEXSEE 2014 S.D. SB 125 -- See section 1.

§ 22-24B-24. No loitering within community safety zone -- Exception -- Penalty

No person who is required to register as a sex offender as defined in chapter 22-24B may loiter within a community safety zone unless the person was under age eighteen at the time of the offense and the offender was not tried and convicted of the offense as an adult or the circuit court has entered an order pursuant to § 22-24B-28 exempting the offender from the provisions of this chapter.

A violation of this section is a Class 6 felony. Any subsequent violation is a Class 5 felony.


§ 22-24B-25. Restricting offender access to community -- No ordinances inconsistent with this chapter

No city, county, municipality, or township may, by local ordinance, restrict or mitigate residence or community access for convicted sex offenders inconsistent with the provisions of this chapter.


§ 22-24B-26. Petition for exemption from community safety zone restrictions -- Service of petition -- Response -- No right to court appointed counsel or publicly funded experts and witnesses -- Components of petition and supporting documentation -- Additional information

An offender subject to community safety zone restrictions pursuant to this chapter who is eligible to seek exemption from these restrictions as provided for in § 22-24B-27 may petition the circuit court in the county where the person resides for an order to terminate the person's obligation to comply with the community safety zone restrictions. The offender shall serve the petition and all supporting documentation on the state's attorney in the county where the offender currently resides, the office of the prosecutor in the jurisdiction where the offense occurred, and the Office of the Attorney General. The state's attorney in the county where the offender currently resides shall respond to each petition to request exemption from the community safety zone restrictions.

No person petitioning the court under this section for an order terminating the person's obligation to comply with community safety zone restrictions is entitled to court appointed counsel, publicly funded experts, or publicly funded witnesses.

The petition and documentation to support the request for exemption from the community safety zone restrictions shall include:
(1) All information required for registration of convicted sex offenders in § 22-24B-8;

(2) A detailed description of the sex crime that was the basis for the offender to be subject to community safety zone restrictions;

(3) A certified copy of judgment of conviction or other sentencing document; and

(4) The offender’s criminal record.

The court may request that the petitioner provide additional information if the information provided is incomplete or if the court desires more information relative to the request for exemption.


§ 22-24B-27. Necessary elements of proof for exemption from community safety zone restrictions -- Clear and convincing evidence

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

(1) That at least ten years have elapsed since the date the petitioner was convicted of the offense that subjected the petitioner to community safety zone restrictions pursuant to this chapter. For purposes of this subdivision, any period of time during which the petitioner was incarcerated or during which the petitioner was confined in a mental health facility or during which the petitioner was on probation or parole supervision does not count toward the ten-year calculation, regardless of whether such incarceration, confinement or community supervision was for the sex offense requiring registration or for some other offense;

(2) That the petitioner is not a recidivist sex offender. A recidivist sex offender is a person who has been convicted or adjudicated for more than one sex crime listed in subdivisions 22-24B-1(1) to (19), inclusive, regardless of when those convictions or adjudications occurred. For purposes of this subdivision and subdivision (1) of this section, a conviction or adjudication includes a verdict or plea of guilty; a verdict or plea of guilty but mentally ill; a plea of nolo contendere; a suspended imposition of sentence granted under § 23A-27-13, regardless of whether it has been discharged; a deferred prosecution agreement entered by a prosecutor; and a determination made in another state, federal jurisdiction, or courts martial that is comparable to any of these events;

(3) That the petitioner has completely and truthfully complied with the registration and reregistration requirements imposed under chapter 22-24B;

(4) That the petitioner has actually resided in South Dakota at least ten consecutive years immediately prior to the filing of the petition. Residence as used in this subdivision does not mean the registration address of an incarcerated sex offender; and

(5) The circumstances of the crime subjecting the offender to community safety zone restrictions did not involve a child under age thirteen.

§ 22-24B-28. Discretion of court to terminate obligation -- Two year time restriction before filing subsequent petition -- Termination of obligation forwarded to Division of Criminal Investigation

If the court finds that all of the criteria provided for in § 22-24B-27 have been met and that the petitioner is not likely to offend again, then the court may, in its discretion, enter an order terminating the petitioner's obligation to comply with the community safety zone restrictions of this state. However, if the court finds that the offender has provided false or misleading information in support of the petition, or failed to serve the petition and supporting documentation upon the parties provided for in § 22-24B-26, then the petition shall be denied. If the petition is denied, the petitioner may not file a subsequent petition for at least two years from the date the previous petition was denied. The court shall forward any order terminating the petitioner's obligation to comply with community safety zone restrictions to the Division of Criminal Investigation.


§ 22-24B-29. Summary description of offense for inclusion in sex offender registry -- "Foreign criminal conviction" defined

If any person is convicted of a sex crime as defined in § 22-24B-1 that is subject to sex offender registration requirements as defined in §§ 22-24B-2 to 22-24B-14, inclusive, the prosecuting attorney shall prepare a summary description of the offense and forward this to the Division of Criminal Investigation for inclusion on the sex offender registry.

Any person who, on July 1, 2006, is subject to sex offender registration or is subject to sex offender registration as a result of a foreign criminal conviction, may have a summary description of the offense developed by the Division of Criminal Investigation and entered on the registry, if the information is available.

The term, foreign criminal conviction, as used in this section and § 22-24B-31, means any conviction issued by a court of competent jurisdiction of another state, federal court, Indian tribe, the District of Columbia, or a commonwealth, territory, or possession of the United States which is enforceable as if the order was issued by a court in this state.

Nothing in this section allows the release of the name of the victim of the crime to any person other than law enforcement agencies, and the name of the victim is confidential.


§ 22-24B-30. Inmates and juvenile offenders committed to Department of Corrections -- Registration forwarded to Division of Criminal Investigation -- Notice of change of status

Any person required to register pursuant to §§ 22-24B-1 to 22-24B-14, inclusive, who is incarcerated or is a juvenile offender committed to the Department of Corrections, shall register within three business days of admission to the correctional facility or commitment to the Department of Corrections.
The Department of Corrections or administering authority of the county or city jail or juvenile detention center shall submit required sex offender registrations to the Division of Criminal Investigation.

The administering authority of the correctional facility shall notify the Division of Criminal Investigation if a person required to register changes status from an inmate to parolee or probationer or if an inmate is transferred to a different address, informing the division of the date of transfer and address of the new location.


§ 22-24B-31. Required registration of foreign criminal conviction -- Violation as felony

Any person with a foreign criminal conviction, which requires the person to register either as a sex offender pursuant to § 22-24B-2, pursuant to the laws of the state where the conviction took place, or pursuant to any court order, shall be required to register within \textit{three business days} of their arrival in South Dakota. A violation of this section is a Class 4 felony.


§ 22-24B-32. No civil or criminal liability for good faith conduct

No law enforcement agency, employee of any law enforcement agency, employee or official of any state and county agency and person contracting or appointed to perform services under this chapter is civilly or criminally liable for good faith conduct under this chapter.


§ 22-24B-33. Residence restriction for-out-of-state sex offender registrant

No sex offender registrant, who has committed a registerable offense in some other state is eligible to petition to request removal from the sex offender registry in South Dakota unless the sex offender registrant is also eligible to petition, under substantially equivalent provisions, to request removal from the sex offender registry in the state in which the registerable offense occurred.


No sex offender registrant, who has committed a registerable offense in some other state is eligible to establish a residence or reside outside a community safety zone in South Dakota unless the sex offender registrant would also be eligible to establish a residence or reside in a substantially equivalent location in the state in which the offense occurred pursuant to the community safety zone statutes in the state in which the offense occurred.
§ 22-24B-35. Prohibition against registered sex offender circulating certain petitions

No registered sex offender is eligible to circulate certain nominating petitions pursuant to §§ 12-1-32 to 12-1-34, inclusive.

BELOW IS FOR INFORMATION ONLY: SUMMARY OF S.D. REG REQUIREMENTS

STATE OF SOUTH DAKOTA SEX OFFENDER DUTY TO REGISTER

The sex offender registration laws in SDCL 22-24B-1 through 22-24B-32 apply to any person who has been convicted (either upon a verdict or a plea of guilty or plea of nolo contendere), or who has received a suspended imposition of sentence that has not been discharged pursuant to SDCL (23A-27-14), of a sex crime as defined in SDCL 22-24B-1, including convictions for attempt, conspiracy, or solicitation of sex crimes as defined in SDCL 22-24B-1. A foreign criminal conviction which requires registration as a sex offender pursuant to the laws of the state where the conviction took place also requires registration in South Dakota within three (3) business days of arrival into this state. The laws also apply to any juvenile fourteen (14) years of age or older shall register as a sex offender if that juvenile has been adjudicated of rape as defined in subdivision 22-24B-1(1), or of an out-of-state or federal offense that is comparable to the elements of these crimes of rape or any crime committed in another state if that state also requires a juvenile adjudicated of that crime to register as a sex offender in that state. Registration requires submission of certain information, including the offender's fingerprints, photograph, signature, DNA, passport information, INS number and document types, professional licenses and other information. An offender must register within three (3) business days of coming into any county to reside, temporarily domicile, attend school, attend post-secondary education classes or work. Any offender registering in this state who is employed, carries on a vocation, or attends post secondary classes at an institution of higher education, institution of higher learning or technical institute in this state shall, within three (3) business days of any commencement or termination of such enrollment or employment, report to the registering agency where the institution is located and complete a Registration Update form. The registering agency is the Chief of Police of the municipality where the offender resides, domiciles, attends school, attends post-secondary education classes or works; or, if no Chief of Police exists, then it is the county Sheriff. Any offender registered in South Dakota who plans to enter another state to work, carry on a vocation or attend school must comply with that state's registration requirements as well. Any change of residence address or location requires the offender to submit, within three (3) business days of the move, a Registration Update form to the law enforcement agency where the offender last registered. An offender registered in South Dakota who moves to another state must notify the registering agency in South Dakota where the offender last registered and provide information of their new address. The offender must also comply with any registration requirements in the new state of residency. Offenders must register every (6) six months. They are first required to register on their birth month and then required to register six (6) months after their birth month. Each offender registered in South Dakota must go to the South Dakota law enforcement agency where the offender last registered. The offender will be sent once a year a non-forwardable verification form to the last known address. The offender is required to return the verification form to the Division of Criminal Investigation within 10 days. Failure to comply is a Class 6 Felony. Those required to register as sex offenders may NOT establish a residence or reside within a "community safety zone". The community safety zone is 500 feet from the facilities and grounds of any school, public park, public playground, or public pool. If a sex offender committed a registrable offense in another state, they are subject to the residence restriction distance of that state, if it is greater than SD's 500 feet rule. A violation of the registration laws is a Cls 6 Felony. Any subsequent violation is a Cls 5 Felony.