State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

400X0295

HOUSE JUDICIARY ENGROSSED NO. SB 26 - 02/29/2016

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

FOR AN ACT ENTITLED, An Act to revise certain provisions concerning sex offender registration and to require an offender to notify of intended foreign travel.

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

Section 1. That § 22-24B-1 be amended to read:

22-24B-1. 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;

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Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

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

(7) Sexual exploitation of a minor as set forth in § 22-22-24.3;

(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, conspiracy, or solicitation 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, court martial offense, or tribal offense committed in a place other than this state ~~which would constitute~~ that constitutes a sex crime under this section if committed in this state;

(17) Any federal crime ~~or~~, court martial offense, or tribal offense that ~~would constitute~~ constitutes 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;

(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;

(21) First degree human trafficking as set forth in § 22-49-2 if the victim is a minor; or

(22) Second degree human trafficking as set forth in § 22-49-3 involving the prostitution of a minor.

Section 2. That § 22-24B-2 be amended to read:

22-24B-2. Any person who has been convicted for commission of a sex crime, as defined in § 22-24B-1, shall register in person 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~~ before July 1, 1995.

Any juvenile fourteen years or older at the time of the offense 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~~ the crime 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~~ before 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 or the sheriff of the county 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~~. The sex offender shall notify the chief of police or sheriff if there is a change where the sex offender resides, attends school, or works. 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 pursuant to § 23A-27-14 after July 1, 1995, shall forward a certified copy of ~~such~~ the 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 the 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 pursuant to § 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.

Section 3. That § 22-24B-8 be amended to read:

22-24B-8. The registration shall include the following information which, unless otherwise indicated, shall be provided by the offender:

(1) Name, date of birth, 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 or identification card number ~~and~~, state of issuance, and a photocopy of the driver license or identification card;

(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 or regularly operated 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 along with a photocopy of the passport or immigration document; 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.

Section 4. That chapter 22-24B be amended by adding a NEW SECTION to read:

A sex offender shall report his or her intention to travel outside of the United States at least twenty-one days in advance of the travel to the chief of police or county sheriff. The law enforcement officer shall complete a notification of international travel of sex offender form and forward the form to the Division of Criminal Investigation. The division shall forward the form to the United States marshals service national sex offender targeting center. A violation of this section is a Class 1 misdemeanor.