



2024 South Dakota Legislature

Senate Bill 27

SENATE JUDICIARY ENGROSSED

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

1 **An Act to modify the criteria for removal from the sex offender registry.**

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

3 **Section 1. That § 22-24B-19 be AMENDED:**

4 **22-24B-19.** To be eligible for removal from the registry as a Tier I offender, the
 5 petitioner ~~shall~~ must show, by clear and convincing evidence, that all of the following
 6 criteria have been met:

- 7 (1) At least five years have elapsed since the date the petitioner first registered
- 8 pursuant to this chapter;
- 9 (2) The crime requiring registration was for:
 - 10 (a) Statutory rape under subdivision 22-22-1(5), or an attempt to commit
 - 11 statutory rape under subdivision 22-22-1(5), but only if the petitioner was
 - 12 twenty-one years of age or younger at the time the offense was committed
 - 13 or attempted;
 - 14 (b) A juvenile adjudication for a sex crime as defined in subdivision 22-24B-
 - 15 1(1);
 - 16 (c) Sexual contact under § 22-22-7 if the victim was between the ages of
 - 17 thirteen and sixteen and the petitioner was at least three years older than
 - 18 the victim, but only if the petitioner was twenty-one years of age or younger
 - 19 at the time the offense was committed;
 - 20 (d) Felony use or dissemination of ~~visual recording or photographic device~~ any
 - 21 image or recording without consent under § 22-21-4; or
 - 22 (e) An out-of-state, federal or court martial offense that is comparable to the
 - 23 elements of the crimes listed in ~~(a), (b), or (c)~~ subsections (2)(a), (2)(b),
 - 24 (2)(c), or (2)(d);
 - 25 (3) The circumstances surrounding the crime requiring registration did not involve a
 - 26 child under the age of thirteen;

- 1 (4) The petitioner is not a recidivist sex offender;
2 (5) The petitioner has substantially complied in good faith with the registration and re-
3 registration requirements imposed under chapter 22-24B; and
4 (6) Petitioner demonstrates to the satisfaction of the court that ~~he or she~~ the petitioner
5 does not pose a risk or danger to the community.

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

10 **Section 2. That § 22-24B-2.1 be AMENDED:**

11 **22-24B-2.1.** The sex offender registry ~~shall consist~~ consists of three tiers as
12 provided for in §§ 22-24B-19 to 22-24B-19.2, inclusive. Placement in Tier III requires
13 registrants to register throughout their lifetime. Placement in Tier II requires registrants
14 to register for a minimum of twenty-five years. Placement in Tier I requires registrants to
15 register for a minimum of ~~ten~~ five years.