



2024 South Dakota Legislature

Senate Bill 27

Introduced by: 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~~ ten 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~~ 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~~ ten-year calculation, regardless of whether ~~such~~ the

9 incarceration or confinement was for the sex offense requiring registration or for some

10 other offense.