

State of South Dakota

EIGHTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2010

169R0145

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the eligibility to
2 petition for removal from the sex offender registry.

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

4 Section 1. That § 22-24B-19 be amended to read as follows:

5 22-24B-19. To be eligible for removal from the registry, the petitioner shall show, by clear
6 and convincing evidence, that all of the following criteria have been met:

7 (1) At least ten years have elapsed since the date the petitioner first registered pursuant
8 to this chapter if the offense constituted a Class 6 felony or less, or at least twenty-
9 five years have elapsed since the date the petitioner first registered pursuant to this
10 chapter if the offense constituted a Class 5, 4, or 3 felony. For purposes of this
11 subdivision, any period of time during which the petitioner was incarcerated or
12 during which the petitioner was confined in a mental health facility does not count
13 toward the ten-year calculation, regardless of whether such incarceration or
14 confinement was for the sex offense requiring registration or for some other offense;

15 (2) The crime requiring registration was not for:

16 ~~(a) Statutory rape under subdivision 22-22-1(5), or an attempt to commit statutory~~



1 rape under subdivision 22-22-1(5), but only if the petitioner was twenty-one
2 years of age or younger at the time the offense was committed;

3 ~~(b) A juvenile adjudication for a sex crime as defined in § 22-24B-1(1), 22-24B-~~
4 ~~1(9), or 22-22-7.2 ; or~~

5 ~~(c) An out-of-state, federal or court martial offense that is comparable to the~~
6 ~~elements of the crimes listed in (a) or (b) a Class 2 felony or higher;~~

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

9 (4) The petitioner is not a recidivist sex offender. A recidivist sex offender is a person
10 who has been convicted or adjudicated for more than one sex crime listed in
11 subdivisions 22-24B-1(1) to (17), inclusive, regardless of when those convictions or
12 adjudications occurred. For purposes of this subdivision, a conviction or adjudication
13 includes a verdict or plea of guilty; a verdict or plea of guilty but mentally ill; a plea
14 of nolo contendere; a suspended imposition of sentence granted under § 23A-27-13,
15 regardless of whether it has been discharged; a deferred prosecution agreement
16 entered by a prosecutor; and a determination made in another state, federal
17 jurisdiction, or courts martial that is comparable to any of these events; and

18 (5) The petitioner has ~~completely and truthfully~~ substantially complied in good faith with
19 the registration and re-registration requirements imposed under chapter 22-24B.