

# 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.