



## 2024 South Dakota Legislature

# House Bill 1234

Introduced by: **Representative Mulally**

1 **An Act to address the issuance and revocation requirements pertaining to a permit**  
 2 **to carry a concealed weapon.**

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

4 **Section 1. That § 23-7-7 be AMENDED:**

5 **23-7-7.** A permit to carry a concealed pistol must be issued to any applicant by  
 6 the sheriff of the county in which the applicant resides. The permit must be valid  
 7 throughout the state and must be issued pursuant to § 23-7-7.1.

8 For purposes of verifying the qualifications of an applicant, prior to issuing a permit,  
 9 the sheriff shall execute, and the applicant shall pass, a background investigation,  
 10 including a computer check of available on-line records and a check utilizing the National  
 11 Instant Criminal Background Check System.

12 The issuance of a permit to carry a concealed pistol under this chapter does not  
 13 impose a general prohibition on the carrying of a pistol without a permit.

14 Nothing in this section requires an individual to obtain a permit as a condition of  
 15 carrying a concealed pistol in this state.

16 **Section 2. That § 23-7-7.1 be AMENDED:**

17 **23-7-7.1.** A temporary permit to carry a concealed pistol ~~shall~~ must be issued to  
 18 a person under § 23-7-7, within five days of the application, ~~if~~ if the person:

- 19 (1) Is eighteen years of age or older;
- 20 (2) Has never pled guilty to, nolo contendere to, or been convicted of ~~a~~;  
 21 (a) A felony ~~or a~~;  
 22 (b) A crime of violence, as defined in § 22-1-2;
- 23 (3) ~~Is not~~ Has no documented history of habitually being in an intoxicated or drugged  
 24 condition;
- 25 (4) Has no documented history of violence;

1 (5) ~~Has not been found in the previous ten years,~~ in the immediately preceding ten-  
2 year period, been adjudged by a court to be a:

3 (a) A danger to others or a, ~~as defined in § 27A-1-1;~~ or

4 (b) A danger to self, ~~as defined in § 27A-1-1 or is;~~

5 (6) Is not currently adjudged by a court to be mentally incompetent;

6 ~~(6)(7) Has not been acquitted of a crime by reason of insanity, as provided for in § 23A-~~  
7 ~~26-5;~~

8 (8) Has physically resided in and is a resident of the county where the application is  
9 being made for at least thirty days immediately preceding the date of the  
10 application;

11 ~~(7)(9) Has had no violation of not,~~ in the immediately preceding five-year period, been  
12 convicted of violating this chapter 23-7, chapter 22-14, or chapter 22-42,  
13 constituting a felony or misdemeanor in the five years preceding the date of  
14 application or is;

15 (10) Is not currently known to be charged under indictment or information for such an  
16 offense listed in subdivision (9) of this section;

17 ~~(8)(11)~~ Is a citizen or legal resident of the United States;

18 ~~(9)(12)~~ Is not a fugitive from justice; and

19 ~~(10)(13)~~ Is not otherwise prohibited by state law, 18 U.S.C. § 922(g) as amended to  
20 October 26, 2005, or 18 U.S.C. § 922(n) as amended to October 26, 2005, from  
21 receiving, possessing, or transporting a firearm, by:

22 (a) State law;

23 (b) 18 U.S.C. § 922(g) (January 1, 2024); or

24 (c) 18 U.S.C. § 922(n) (January 1, 2024); and passes

25 (14) Passes a National Instant Criminal Background Check.

26 If the sheriff denies an application for a permit under this section, the sheriff must,  
27 at the time of denial, provide the applicant with a copy of each document and record that  
28 the sheriff reviewed in making the determination.

29 A person denied a permit may appeal the denial to the circuit court, pursuant to  
30 chapter 1-26. The standard for review of a denial under this section is clear and convincing  
31 evidence.

32 For purposes of this section, the term "documented history" means substantiated  
33 facts contained in court records.

34 **Section 3. That § 23-7-8.4 be AMENDED:**

1           **23-7-8.4.** A prosecuting attorney, upon application of a certified law enforcement  
2 officer, may apply to the circuit court for an order ~~to show cause why~~ revoking a person's  
3 permit to carry a concealed pistol ~~should not be revoked. Upon order of the court, after~~  
4 ~~hearing, the permit shall be revoked and the holder of the permit shall~~ or revoking a  
5 person's constitutional right to bear arms. An order of revocation issued under this section  
6 must be based on a finding that:

7           (1) The person no longer meets the requirements set forth in § 23-7-7.1; or

8           (2) The person's right to bear arms is otherwise prohibited by state law.

9           The burden of proof under this section, which rests with the prosecuting attorney,  
10 is clear and convincing evidence.

11           If after a hearing, findings of fact, and conclusions of law, a court orders the  
12 revocation of a person's permit, the person must immediately surrender the permit to the  
13 sheriff of the county in which ~~he~~ the person resides. The person's right to bear arms is  
14 terminated upon the order of revocation.

15           A revocation under this section is appealable to the Supreme Court, pursuant to  
16 chapter 15-26A.