

SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 1100-02	PAGE NUMBER 1 OF 4
		DISTRIBUTION:	Public
		SUBJECT:	Offender DNA Collection
Related Standards:	None	EFFECTIVE DATE:	January 15, 2025
		SUPERSESION:	01/15/2024
DESCRIPTION: Inspector General	REVIEW MONTH: December	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) that every offender committed to the custody of the DOC must provide a DNA sample as ordered by DOC staff and required by law, unless it is verified the offender previously provided a sufficient sample and the sample and identifying information is documented in the state's Combined DNA Index System (CODIS).

II. PURPOSE

The purpose of this policy is to provide guidance to all staff for the collection and documentation of deoxyribonucleic acid (DNA) from offenders.

III. DEFINITIONS

Adjudicated Delinquent:

Any child ten (10) years of age or older who, regardless of where the violation occurred, is found by a court to have violated any federal, state, or local law or regulation for which there is a penalty of a criminal nature for an adult; except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as misdemeanors, or petty offenses.

Deoxyribonucleic Acid (DNA) Sample:

A biological sample consisting of deoxyribonucleic acid (DNA) taken from an offender for submission to the South Dakota Forensic Laboratory, pursuant to SDCL Chapter § 23-5A, for storage and/or analysis.

Qualifying Offense:

SDCL 23-5A-1(8) Any felony offense under the laws of South Dakota, a crime of violence, as defined in SDCL § 22-1-2, or a violation of chapter 22-22 (sex offense). Includes any offender who is required to register as a sex offender, pursuant to SDCL § 22-24B-1 to 22-24B-14, inclusive.

IV. PROCEDURES

1. Requirements:

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- A. Any adult offender (eighteen (18) years of age or older) sentenced and admitted to a DOC facility, or adjudicated delinquent remanded to the DOC for a qualifying offense, is required to provide a DNA sample at the time of admission, provided he/she has not previously provided sufficient sample and the offender's name and identifying information is not entered into the Combined DNA Index System (CODIS).
1. This requirement includes offenders received or housed in an out-of-state institution, a halfway house, or contractual facility, and those offenders under supervised release by the DOC but received or living outside of the state.
 2. Offenders sentenced to capital punishment or life in prison who have committed a qualifying offense are required to provide a DNA sample.
 3. The acceptance of an offender from another state through the interstate compact program, other agency reciprocal agreement, or any provision of law convicted or adjudicated of an offense in any jurisdiction which would be considered a qualifying/equivalent offense in South Dakota is conditional upon the offender providing a sufficient DNA sample, in accordance with this policy and state law.
 4. Adult offenders serving the incarceration period for receipt of a suspended imposition of sentence (SIS), are subject to providing a DNA sample.
- B. If an offender's DNA sample is determined inadequate for any reason, the offender shall be required to provide an adequate DNA sample for submission to CODIS.
- C. Offenders required to provide a DNA sample must provide a completed fingerprint card to verify identity.

2. DNA Collection:

- A. Jameson Prison and South Dakota Women's Prison will each designate at least one (1) staff person who is trained and responsible to collect DNA samples from new admission offenders who have not previously provided a sufficient DNA sample to CODIS. The staff will also confirm that all offenders scheduled to discharge or release from the custody of the institution have completed the requirement to provide a sufficient DNA sample.
- B. Juvenile corrections agents (JCAs) will ensure all juvenile offenders required to comply provide a sufficient DNA sample during the intake process. A compliance tracking process through the Division of Criminal Investigations (DCI) identifies juveniles who have not yet complied with the DNA requirements with monthly notification to the director of Juvenile Services.
- C. The state forensic lab provides the DOC with directions and materials used to collect biological samples, cheek (buccal) swabs from offenders who have committed a qualifying offense.
- D. Division of Parole and the Division of Juvenile Services staff will ensure all offenders discharging/releasing from supervision have previously completed the requirement to provide a sufficient DNA sample to CODIS.
- E. Staff members responsible for collecting DNA samples from offenders will verify the status of an offender's sample with the electronic database maintained by CODIS, which can be found at: <http://www.riss.net>.
1. To sign into the database, a name and password must be entered. Names and passwords are issued by the SD DCI.
 2. If an offender's name/identifying information appears in the database, a DNA sample will not be collected by DOC staff, unless otherwise directed.
 3. If an offender's name/identifying information does not appear in the database, a DNA sample will be collected from the offender.

3. Refusal to Provide a DNA Sample:

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- A. Under no circumstance will an offender required to provide a sufficient DNA sample be released from DOC custody or supervision until the offender has provided the required sample to DOC staff.
- B. Any offender subject to the requirements of chapter 23-5A, who, after receiving notification of the requirement to provide a DNA sample, knowingly refuses to provide such DNA sample, is guilty of a Class 5 felony.
- C. The attorney general's office will be notified immediately of any offender who refuses to provide a DNA sample.
- D. If an offender refuses to provide a DNA sample, DOC staff may employ reasonable force to obtain the DNA sample from the offender at the discretion of the attorney general, warden, and director of Prisons.

4. Control of DNA Samples:

- A. DNA samples collected pursuant to this policy will be forwarded to the South Dakota Forensic Laboratory CODIS.
 - 1. DOC staff will treat any DNA record or sample collected from an offender as confidential and will not disclose or share identifying information or the sample with any unauthorized person or agency.
 - 2. Any DNA sample submitted to the South Dakota Forensic Laboratory pursuant to this policy, is confidential and is not a public record.
 - 3. Analysis of DNA samples obtained pursuant to this policy is not authorized for identification of any medical or genetic disorder.
 - 4. The DOC will be notified of any offender hit report involving an offender DNA profile match.

V. RESPONSIBILITY

The inspector general is responsible for the annual review and revision as necessary of this policy.

VI. AUTHORITY

- A. SDCL § [22-1-2](#) Definitions.
- B. SDCL § [22-22](#) Sex Offenses.
- C. SDCL § [22-24B-1](#) Sex crimes determined.
- D. SDCL § [22-24B-2](#) Registration of convicted sex offenders--Time limit--Violation as felony--Discharge.
- E. SDCL § [22-24B-3](#) Work defined.
- F. SDCL § [22-24B-4](#) Attends school and attends classes defined.
- G. SDCL § [22-24B-5](#) Annual verification form mailed to registered offender--Return of form--Failure to return form--Violation as felony.
- H. SDCL § [22-24B-6](#) Commencement or change in enrollment or employment--Report to local law enforcement--Time limit--Violation as felony.
- I. SDCL § [22-24B-7](#) Registration every six months--Violation as felony.
- J. SDCL § [22-24B-8](#) Information required for sex offender registration--DNA sample--Violation as felony.
- K. SDCL § [22-24B-9](#) Information from sex offender registry--Specifics included.
- L. SDCL § [22-24B-10](#) Registration forwarded to Division of Criminal Investigation--Files open to public--Exceptions.
- M. SDCL § [22-24B-11](#) Availability of sex offenders' files--Participation in National Sex Offender Public Registry.
- N. SDCL § [22-24B-12](#) Written notice of new location or address required--Time limit--Violation as felony.
- O. SDCL § [22-24B-13](#) Duty of institutions to inform convicted sex offenders of registration requirements and community safety zone restrictions.
- P. SDCL § [22-24B-14](#) Duty of court to inform sexual offenders of registration requirement and community safety zone restrictions.
- Q. SDCL § [23-5A](#) DNA Samples.
- R. SDCL § [23-5A-1\(8\)](#) Definition of terms.
- S. SDCL § [23-5A-4](#) Persons required to provide DNA sample--Retroactivity of requirement.

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- T. SDCL § [23-5A-6](#) Incarcerated or supervised persons to provide DNA sample--Release contingent upon provision of sample.
- U. SDCL § [23-5A-7](#) Interjurisdictional provisions to provide DNA sample.
- V. SDCL § [23-5A-8](#) Application of this chapter to persons on probation or parole--Application to persons sentenced to death, life or indeterminate sentences--Other application.
- W. SDCL § [23-5A-10](#) Fingerprints to be provided as identification of person.
- X. SDCL § [23-5A-13](#) Reasonable force allowed in collection of DNA sample--Immunity from liability.
- Y. SDCL § [23-5A-14](#) Refusal to supply sample a felony.
- Z. SDCL § [23-5A-17](#) Permissible uses of DNA analyses.
- AA. SDCL § [23-5A-22](#) Confidentiality of records--Disclosure prohibited.
- BB. SDCL § [23-5A-23](#) Records not public.

VII. HISTORY

January 2025
January 2024
June 2022
July 2021
July 2020
June 2019

ATTACHMENTS

1. DOC Policy Implementation / Adjustments