
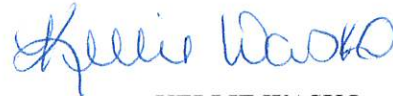


<p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE</p>		POLICY NUMBER	PAGE NUMBER
		1400-01	1 OF 3
		DISTRIBUTION:	Public
		SUBJECT:	Withholding of Parole Eligibility for Sex Offenders
RELATED STANDARDS:	None	EFFECTIVE DATE:	January 15, 2025
		SUPERSESION:	01/01/2024
DESCRIPTION: Parole Services	REVIEW MONTH: December	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

An offender's parole eligibility may be withheld pursuant to SDCL § [24-15A-32.1](#), in accordance with the procedures contained within this policy.

II. PURPOSE

The purpose of this policy is to provide an outline of the process in determining eligibility for withholding parole and the procedures and approvals needed to withhold an offender's parole eligibility as directed by South Dakota statute.

III. DEFINITIONS

None.

IV. PROCEDURES

1. Applicability:

- A. Offenders who are parole eligible and have a past or current sex offense conviction may have their parole eligibility withheld.
- B. Only an offender whose date of qualifying offense(s) occurred on or after July 1, 2006, may have his/her parole eligibility withheld.
- C. An offender is not required to be serving a current sentence for a sex offense conviction to be subject to these provisions.
- D. An offender with multiple sentences may only have parole eligibility withheld on those sentences that are consistent with SDCL as set forth by this policy.
- E. An offender's parole eligibility may be withheld if the offender is past his/her initial parole date, provided the offender has not discharged the sentence(s) being considered for withholding.
 1. This includes non-compliant offenders who have appeared before the Board of Pardons and Paroles (Board) and have been subsequently denied parole by the Board.
 2. This includes any offender released on parole/suspended sentence, who subsequently violated the terms of parole/suspended sentence and was returned to prison.

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2. Recommendation to the Warden and Warden's Review:

- A. Sex Offender Management Program (SOMP) staff will notify the respective warden if sufficient cause exists to support the offender is at risk of re-offending if released.
1. SOMP staff's recommendation will be based on assessment(s) of the offender, including but not limited to, review of the offender's psycho-sexual evaluation, mental health assessment (if available), pre-sentence investigation (PSI), WRNA score (females) LSI-R score (males) (Females =>40 Males =>37), , the offender's treatment status, treatment history / compliance / participation and whether the offender was assessed as not benefiting from group programming.
 2. Offenders meeting one or more of the following criteria will be referred by staff to the warden for possible withholding of parole.
 - a. Offender scoring five (5) or more on the SOMP =Screen Instrument.
 - b. MnSOST-R score of R.
 - c. PSL; SV score of =>18The recommendation will include specific information and/or incidents supporting the recommendation, including evidence that shows the offender's risk of re-offending if released from custody.
 3. The recommendation may be submitted to the warden at any time, but normally no later than ninety (90) days prior to an offender's programmed parole date, term expires date or next parole date.
 4. Following receipt of SOMP staff's recommendation, the warden will review the offender's institutional history, current treatment status, psycho-sexual assessment and evidence supporting the offender's risk of re-offending and danger to the public and victims.
 5. If the warden finds no sufficient cause to recommend the withholding of the offender's parole eligibility, the warden will notify SOMP staff of his/her decision.
 6. If the warden finds there is sufficient cause to recommend the offender's parole eligibility be withheld, the warden will provide notice of his/her recommendation to the chairman of the Parole Board.
 - a. If the offender has multiple sentences subject to parole eligibility withholding, a list of these sentences will be included in the warden's notice.
 - 1) This does not preclude the warden from a subsequent recommendation to the Board if additional sentences subject to parole eligibility are identified or limit the Board's consideration of additional sentences identified after the recommendation was received.
- B. A new or revised recommendation can be made by SOMP staff to the respective warden if any of the following occurs:
1. New information has developed or is discovered showing cause the offender is likely to re-offend, or significant changes in the offender's treatment status have occurred/developed, or
 2. The offender has complied with required programming/treatment, as set forth by SOMP staff, and/or the offender is no longer at risk of re-offending, or
 3. The offender has become eligible for release to parole supervision.
 - a. SOMP staff's recommendation to withhold the offender's parole must be made to the warden at least thirty (30) days prior to the offenders scheduled parole hearing.
 4. All recommendations from SOMP staff must include the *Notification for Warden Review Form* (attachment #1).

3. Notice to the Chairman of the Parole Board and Hearing Results:

- A. If the warden supports withholding the offender's parole, the completed Notification for Warden Review Form will be sent to the chairman of the Board of Pardons and Paroles, SOMP staff, the risk reduction manager, and Offender Services.
- B. The offender will be forwarded a copy.

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- C. The Board will schedule a hearing to consider the facts and recommendation. The offender, warden, SOMP staff, and risk reduction manager will be provided notice of the Board's decision.
- D. If the offender's parole is withheld by the Board, the risk reduction manager will confirm the offender is assigned to Level 3 System Risk. The outcome of the Board's decision will be noted in the offender's High Risk Release packet (DOC policy 400-13 – *System Risk Level*).

V. RESPONSIBILITY

The director of Parole and director of Prisons are responsible for the annual review and maintenance of this policy.

VI. AUTHORITY

- A. SDCL § [22-22](#) Sex Offenses.
- B. SDCL § [22-24B-1](#) Sex crimes determined.
- C. SDCL § [22-24B-2](#) Registration of convicted sex offenders--Time limit--Violation as felony--Discharge.
- D. SDCL § [22-24B-3](#) Work defined.
- E. SDCL § [22-24B-4](#) Attends school and attends classes defined.
- F. SDCL § [22-24B-5](#) Annual verification form mailed to registered offender--Return of form--Failure to return form--Violation as felony.
- G. SDCL § [22-24B-6](#) Commencement or change in enrollment or employment--Report to local law enforcement--Time limit--Violation as felony.
- H. SDCL § [22-24B-7](#) Registration every six months--Violation as felony.
- I. SDCL § [22-24B-8](#) Information required for sex offender registration--DNA sample--Violation as felony.
- J. SDCL § [22-24B-9](#) Information from sex offender registry--Specifics included.
- K. SDCL § [22-24B-10](#) Registration forwarded to Division of Criminal Investigation--Files open to public--Exceptions.
- L. SDCL § [22-24B-11](#) Availability of sex offenders' files--Participation in National Sex Offender Public Registry.
- M. SDCL § [22-24B-12](#) Written notice of new location or address required--Time limit--Violation as felony.
- N. SDCL § [22-24B-13](#) Duty of institutions to inform convicted sex offenders of registration requirements and community safety zone restrictions.
- O. SDCL § [22-24B-14](#) Duty of court to inform sexual offenders of registration requirement and community safety zone restrictions.
- P. SDCL § [24-15A-32](#) Department's establishment of initial parole date--Calculation of parole date--Certain crimes deemed violent for purposes of parole--Minimum time to be served--Parole eligibility.
- Q. SDCL § [24-15A-32.1](#) Withholding of parole eligibility of sex offender based upon history, treatment, and risk factors.

VII. HISTORY

January 2025
January 2024
May 2021
April 2020
July 2019

ATTACHMENTS

1. Notification For Warden Review Form
2. DOC Implementation / Adjustments

NOTIFICATION FOR WARDEN REVIEW FORM

Sex Offender Management Program Recommendation:

<i>Offender's Name</i>	<i>Number(s)- List All</i>	<i>Next Parole Date</i>
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Please check if available and indicate status:

- | | | |
|---|--|---|
| <input type="checkbox"/> SOMP Program Status | <input type="checkbox"/> Pre-Release Evaluation (attach copy if available) | <input type="checkbox"/> Pre-Sentence Psychosexual Available (attach copy if available) |
| <input type="checkbox"/> Polygraph Report (attach if available) | <input type="checkbox"/> MnSOST-R | <input type="checkbox"/> Static 99 |

Recommendation (attach additional sheet(s) if needed):

<i>SOMP Staff's Signature</i>	<i>Date</i>
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Warden's Review:

Based upon the following (attach additional sheet(s) if needed):

There is not sufficient cause to recommend the withholding of the offender's parole eligibility.

- *Original to Digital File*
- *Copy to Sex Offender Management Program.*

There is sufficient cause to recommend the withholding of the offender's parole eligibility.

- *Original to Executive Director of the Board of Pardons and Paroles.*
- *Copy to Sex Offender Management Program*
- *Copy to Associate Director of Offender Services*
- *Copy to Risk Reduction Manager*
- *Copy to Director of Prisons*
- *Copy to offender*

Warden's Signature

Date