

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

396W0383

## HOUSE ENGROSSED NO. **HB 1096** - 02/05/2015

Introduced by: Representatives Stalzer, Beal, Brunner, Deutsch, DiSanto, Heinemann (Leslie), Kaiser, May, Otten (Herman), Qualm, Rounds, Verchio, Wiik, and Zikmund and Senators Monroe, Buhl O'Donnell, Ewing, Hagggar (Jenna), Jensen (Phil), Olson, and Otten (Ernie)

1 FOR AN ACT ENTITLED, An Act to revise certain procedures for issuing a permit to carry a  
2 concealed pistol.

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

4 Section 1. That § 23-7-7 be amended to read as follows:

5 23-7-7. A permit to carry a concealed pistol shall be issued to any person by the sheriff of  
6 the county in which the applicant resides. The permit shall be valid throughout the state and  
7 shall be issued pursuant to § 23-7-7.1. Prior to issuing the permit, the sheriff shall execute a  
8 background investigation, including a criminal history check, of every applicant for the purposes  
9 of verifying the qualifications of the applicant pursuant to the requirements of § 23-7-7.1. For  
10 the purposes of this section, a background investigation is defined as ~~a computer check of~~  
11 ~~available on-line records~~ an inquiry of the national instant criminal background check system,  
12 and if the applicant is not a United States citizen, an immigration alien query to verify whether  
13 the possession of a firearm by the applicant would violate the laws of this state or of the United  
14 States. If such a prohibition exists, the application for a permit shall be denied.



1 Section 2. That § 23-7-7.1 be amended to read as follows:

2 23-7-7.1. A temporary permit to carry a concealed pistol shall be issued within five days of  
3 application to a person if the applicant:

- 4 (1) Is eighteen years of age or older;
- 5 (2) Has never pled guilty to, nolo contendere to, or been convicted of a felony or a crime  
6 of violence;
- 7 (3) Is not habitually in an intoxicated or drugged condition;
- 8 (4) Has no history of violence;
- 9 (5) Has not been found in the previous ten years to be a "danger to others" or a "danger  
10 to self" as defined in § 27A-1-1 or is not currently adjudged mentally incompetent;
- 11 (6) Has physically resided in and is a resident of the county where the application is  
12 being made for at least thirty days immediately preceding the date of the application;
- 13 (7) Has had no violations of chapter 23-7, 22-14, or 22-42 constituting a felony or  
14 misdemeanor in the five years preceding the date of application or is not currently  
15 charged under indictment or information for such an offense;
- 16 (8) Is a citizen or legal resident of the United States; ~~and~~
- 17 (9) Is not a fugitive from justice; and
- 18 (10) Is not otherwise prohibited by state or federal law from receiving, possessing, or  
19 transporting a firearm.

20 A person denied a permit may appeal to the circuit court pursuant to chapter 1-26.

21 Section 3. That § 23-7-8 be amended to read as follows:

22 23-7-8. The application for a permit to carry a concealed pistol shall be filed either  
23 electronically or in triplicate on a form prescribed by the secretary of state. The application shall  
24 require the applicant's complete name, address, occupation, place and date of birth, physical

1 description, and country of citizenship. If the applicant is not a United States citizen, the  
2 application shall require any alien or admission number issued by the United States Bureau of  
3 Immigration and Customs Enforcement, any applicable basis for an exception to the  
4 prohibitions in federal law on the possession or receipt of firearms by aliens who have been  
5 admitted to the United States under a non immigrant visa, a statement that the applicant has  
6 never pled guilty to, nolo contendere to, or been convicted of a crime of violence, a sworn  
7 statement that the information on the application is true and correct, and the applicant's  
8 signature. If filed in triplicate, the original shall be delivered to the applicant as the temporary  
9 permit, the duplicate shall within seven days be sent by first class mail to the secretary of state  
10 who shall issue the official permit, and the triplicate shall be preserved for four years by the  
11 authority issuing the permit. If the application is filed electronically, two copies shall be made  
12 and each shall be signed by the applicant. One copy shall be delivered to the applicant as the  
13 temporary permit, and the other copy shall be preserved for four years by the authority issuing  
14 the permit.

15 Section 4. That § 23-7-8.1 be amended to read as follows:

16 23-7-8.1. The form of the permit to carry a concealed pistol shall be prescribed by the  
17 secretary of state pursuant to § 23-7-8. The permit shall list the applicant's name, address, ~~and~~  
18 the expiration date, and the issuance date of the permit. The holder of a permit may carry a  
19 concealed pistol anywhere in South Dakota except in any licensed on-sale malt beverage or  
20 alcoholic beverage establishment that derives over one-half of its total income from the sale of  
21 malt or alcoholic beverages. Nothing in this section prevents law enforcement officers, parole  
22 agents, security guards employed on the premises, and other public officials with the written  
23 permission of the sheriff from carrying concealed weapons in the performance of their duties  
24 or prevents home or business owners from carrying concealed weapons on their property

1 pursuant to § 22-14-11.