

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

436Z0787

## SENATE JUDICIARY ENGROSSED NO. **HB 1209** 2/28/2018

Introduced by: Representatives Peterson (Sue), Bordeaux, Haugaard, Howard, Marty, May, Qualm, and Rasmussen and Senators Langer, Curd, Greenfield (Brock), Klumb, Maher, Monroe, and Netherton

1 FOR AN ACT ENTITLED, An Act to require a National Instant Criminal Background Check  
2 for certain concealed carry permits.

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

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

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~~ For  
8 purposes of verifying the qualifications of an applicant, prior to issuing a permit, the sheriff shall  
9 execute, and the applicant shall pass, a background investigation, including ~~a criminal history~~  
10 ~~check, of every applicant for the purposes of verifying the qualifications of the applicant~~  
11 ~~pursuant to the requirements of § 23-7-7.1. For the purposes of this section, a background~~  
12 ~~investigation is defined as a computer check of available on-line records~~ a computer check of  
13 available on-line records and the National Instant Criminal Background Check.

14 Section 2. That § 23-7-7.1 be amended to read:



1 23-7-7.1. A temporary permit to carry a concealed pistol shall be issued within five days of  
2 application to a person if the applicant:

- 3 (1) Is eighteen years of age or older;
- 4 (2) Has never pled guilty to, nolo contendere to, or been convicted of a felony or a crime  
5 of violence;
- 6 (3) Is not habitually in an intoxicated or drugged condition;
- 7 (4) Has no history of violence;
- 8 (5) Has not been found in the previous ten years to be a "danger to others" or a "danger  
9 to self" as defined in § 27A-1-1 or is not currently adjudged mentally incompetent;
- 10 (6) Has physically resided in and is a resident of the county where the application is  
11 being made for at least thirty days immediately preceding the date of the application;
- 12 (7) Has had no violations of chapter 23-7, 22-14, or 22-42 constituting a felony or  
13 misdemeanor in the five years preceding the date of application or is not currently  
14 charged under indictment or information for such an offense;
- 15 (8) Is a citizen or legal resident of the United States; ~~and~~
- 16 (9) Is not a fugitive from justice; and
- 17 (10) Is not otherwise prohibited by state law, 18 U.S.C. § 922(g) as amended to  
18 October 26, 2005, or 18 U.S.C. § 922(n) as amended to October 26, 2005, from  
19 receiving, possessing or transporting a firearm, and passes a National Instant  
20 Criminal Background Check.

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

22 Section 3. That § 23-7-8.11 be amended to read:

23 23-7-8.11. The holder of the regular permit to carry a concealed pistol may renew the permit  
24 through the sheriff of the county where the holder resides for a period beginning ninety days

1 before the permit expires. The holder shall pay a ~~ten-dollar~~ ten-dollar renewal fee and pass a  
2 background investigation, including a ~~criminal history~~ a computer check of available online  
3 records and the National Instant Criminal Background Check, ~~pursuant to~~ required under § 23-  
4 7-7 prior to the renewal of the permit. The renewal fee shall be distributed as set forth in § 23-7-  
5 8.2.

6 Section 4. That § 23-7-8.12 be amended to read:

7 23-7-8.12. If a South Dakota resident holds a regular concealed carry permit issued in  
8 accordance with § 23-7-7, and is a member of a state National Guard unit, the Armed Forces  
9 of the United States, or the Armed Forces Reserves of the United States, and the holder's permit  
10 expires during an active duty military assignment or deployment outside of the holder's state of  
11 residence, the holder may request a renewal form application from the Office of the Secretary  
12 of State. The ~~Office of the Secretary of State~~ secretary shall prescribe the contents of the  
13 application form and any accompanying materials. The application ~~must~~ shall be accompanied  
14 by documentation of the deployment, including dates and location of the deployment if available  
15 for disclosure; an affidavit signed by the holder's commanding officer or unit commander  
16 attesting to the identity of the holder and the fact the holder is unable to return to the state to  
17 renew; and a copy of a current, valid, government-issued identification card with a photograph  
18 of the holder. The ~~Office of the Secretary of State~~ secretary shall specify the contents of the  
19 affidavit. The holder shall mail the application, containing original signatures in ink, to the  
20 sheriff in the holder's county of residence. The sheriff ~~will~~ shall conduct the background  
21 investigation, including a ~~criminal history~~ computer check of available online records ~~pursuant~~  
22 to and the National Instant Criminal Background Check required under § 23-7-7, within five  
23 days of receipt of the military application renewal form. The original signature of the applicant  
24 on the renewal form shall serve as the applicant's signature for the temporary permit.