

2024 South Dakota Legislature

House Bill 1234**AMENDMENT 1234A
FOR THE INTRODUCED BILL**

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 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 letter setting forth the reason for the~~
 29 ~~denial, together with any relevant statutory sections.~~

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

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

35 **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.