



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 1400-01	PAGE NUMBER 1 OF 3
		DISTRIBUTION: Public	
		SUBJECT: Withholding of Parole Eligibility for Sex Offenders	
RELATED STANDARDS:	None	EFFECTIVE DATE: January 01, 2024	
		SUPERSESSION: 05/10/2021	
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 §24-15A-32.1, 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.

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2. This includes any offender released on parole/suspended sentence, who subsequently violated the terms of parole/suspended sentence and was returned to prison.

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), P-Scan score (greater than 30), the offender's response to treatment/treatment status, treatment history / compliance / participation and whether the offender was assessed as not benefiting from group programming. Offenders scoring five (5) or more on the SOMP Screening Instrument will be referred by staff to the warden for possible withholding of parole.
 2. The 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.
- B. 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.
 1. 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.
 2. 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.
- C. 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* (see 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.

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- B. The offender will be forwarded a copy.
- C. The Board will schedule a hearing to consider the facts and recommendation. The offender, warden, SOMP staff, risk reduction manager, and offender services 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 (see 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

SDCL §22-24B-1 through 22-24B-14 inclusive, §24-15A-32, §24-15A-32.1

VII. HISTORY

December 2023
 May 2021
 April 2020
 July 2019
 May 2018
 April 2017
 April 2016
 April 2015
 April 2014
 August 2013

ATTACHMENTS *(*Indicates document opens externally)*

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*
- *Director of Prisons*
- *Copy to offender*

Warden's Signature

Date