



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 400-06	PAGE NUMBER 1 OF 7
		DISTRIBUTION:	Public
		SUBJECT:	Offender Release Procedure
RELATED STANDARDS:	None	EFFECTIVE DATE:	January 15, 2024
		SUPERSESSION:	01/18/2022
DESCRIPTION: Offender Services	REVIEW MONTH: December	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to ensure appropriate authority to release offenders from Department of Corrections (DOC) custody or supervision, that adult units will use a standard, uniform release process when preparing to release an offender.

II. PURPOSE

The purpose of this policy is to provide guidance in releasing of offenders from DOC custody.

III. DEFINITIONS

None.

IV. PROCEDURES

1. Types of Releases:

- A. Each offender shall be under the jurisdiction of the DOC, either in custody or under parole release, or a combination thereof, for the entire term of the offender's total sentence length.
- B. Offenders are considered released from DOC custody through the following actions:
 1. Expiration of sentence (including granting of early final discharge).
 2. Release to parole supervision, release to suspended sentence, or extension of confinement (EC).
 3. By order of the U.S. Marshal Service (for Federal prisoners only), or
 4. Death.
- C. Offenders may be temporarily released from DOC custody to the custody of another authorized authority.
 1. The DOC central records office must receive an official order from the authorized authority/agency intending to take custody of the offender. Central records staff shall verify the order, including the time and day when custody shall be transferred.
 - a. U.S. Marshals may transport federal prisoners assigned to the U.S. Marshal Service outside of the secure perimeter of the DOC facility as deemed necessary, including but not limited to, escorting the prisoner to required court appearances.
 2. Central records will update the court transport list sent by e-mail to unit staff and security staff. This list tracks offenders who must be transported to court for court-ordered appearance.
 - a. Updates to the list are made as necessary, or at the end of each workday.

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3. Security staff will use the court transport list to verify any transfer of custody to another agency responsible for transporting the offender to court or supervising the offender while at court or not in the custody of the DOC.
 - a. If an offender identified for release is not included on the court transport list, staff must contract central records directly to verify the release, prior to the offender being released.
 - 1) If the request for verification is not within normal business hours, security staff must contact either the records administrator or associate director of offender services.
4. Procedures to account for the temporary absence (TAP) of an offender to the temporary custody of another jurisdiction, are contained in DOC policy 300-05 – *Offender Counts*.

2. Expiration of Sentence, Suspended or Commuted Sentence, or Release by Order of the Court:

- A. The DOC shall establish a sentence discharge date for each offender based on the offender’s total sentence length, minus court ordered jail time credit. The total sentence length is the sum of imprisonment time and any suspended time.
- B. Offenders with a scheduled release date that falls on a weekend, will be released the preceding Friday. Offenders scheduled for release on a state or federal holiday will be released the business day preceding the holiday. If the holiday falls on a Monday, the offender will be released on the preceding Friday.
- C. Each month, central records staff will prepare an initial release list for the following month. The list contains the names of offenders scheduled to release for that month. The list will be updated with additions once offender credits are processed. If the offender is currently incarcerated the offender will be released within seven (7) calendar days if the applied early discharge credit (EDC) moves the offender to their sentence discharge date.
 1. The initial release list will be distributed or made available to transition case managers (TCM) and Sex Offender Management Program (SOMP) staff by the 25th day of the preceding month.
 2. Release information for each offender is available in the Comprehensive Offender Management System (COMS).
 - a. The release schedule will be available in COMS – Legal >> Schedule >> Release Schedules. This list includes only those offenders releasing from custody and does not include those releasing from parole supervision.
- D. Central records staff is responsible for the following when preparing the initial release list:
 1. Re-calculation of all offender release dates by at least two (2) staff members. Any discrepancies in the dates must be resolved prior to the scheduled release date.
 - a. If there is any change to the offender’s release date, central records staff will promptly notify the offender’s unit staff or parole agent, after confirming the changes are correct. Unit staff or the parole agent will inform the offender of the change.
 - 1) A memo explaining the change will be sent by central records to the offender’s unit staff or parole agent.
 - 2) Offenders may utilize the grievance process to grieve their release date or date calculations. Parolees must contact the Board of Pardons and Paroles with questions about their sentence.
 - b. Central records staff will complete an updated NCIC III background check for each offender on the initial release list to check for any holds or pending charges in which an entity wishes to take custody of the offender/offender upon release from DOC custody.
 2. Notification of pending release will be made to all authorities with active/current holds or detainers noted in the offender’s digital file or identified through the NCIC III.
 - a. If an agency has an active hold or detainer for an offender, central records staff will attempt to contact the agency at least five (5) business days prior to the release by telephone or e-mail to determine the agency’s intent. Prior to the offender’s scheduled release, the agency issuing the hold must notify the DOC if they intend to take custody of the offender. If the agency intends

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to take custody of the offender, such arrangements must be made by the agency with the DOC in advance of the offender's release date.

- 1) Contact made with the agency, including any response or details concerning transfer of the offender to the agency's custody, will be logged in the discharge list.
 - 2) Court service officers will be notified by central records staff via e-mail of the scheduled release of an offender releasing to probation or suspended sentence.
 3. Notification to facility staff.
 - a. The release schedule will be available in COMS – Legal >> Schedule >> Release Schedules. This list includes only those offenders releasing from custody and does not include offenders releasing/discharging from parole supervision.
- E. Immediate releases by commuted sentence or by order of the court require central records staff to telephone **AND** email all necessary information to DOC staff.

3. Releases to Parole:

- A. On the first of each month, central records staff will prepare a list of offenders with an initial parole release date for that month. Upon completion of the Board of Pardons and Paroles hearings, central records will run an NCIC III warrant check on all offenders granted parole.
 1. Offenders with an initial parole release date during the month will be included on the list, regardless of the offender's compliance status at the time the list is composed.
 2. Central records staff will run a NCIC III on each offender identified on the list. Staff will check for any new warrants or holds not already noted in COMS for the offender.
 3. The actual parole release date for offenders identified on the list will be determined by the offender's TCM.
 4. One central records staff member will re-calculate the release dates for offenders on the initial parole release list by the 15th of the preceding month. The release dates will be re-calculated by a second staff member after the date of release is set by the TCM.
 - a. If there is a change in the initial or discretionary parole date or change in the date the offender will discharge from parole supervision, central records staff will immediately notify the TCM who will inform the offender of the change.
 - 1) A memo explaining the change will be sent by central records staff to unit staff.
- B. Once a parole release date has been set for the offender and the results of new system compliance or a discretionary parole decision factored in, the TCM will send a parole slip to central records.
 1. The parole release slip must be received at least five (5) working days in advance of date an offender is approved to release to parole. Any scheduled release with less than five (5) days advance notice must be approved by the associate director of offender services or the records administrator.
 2. As part of the release planning process, the TCM will address any holds or detainers noted by contacting the requesting agency and informing them of the offender's scheduled and pending release.
 - a. Before a parole release slip is sent to central records, holds and detainers must be resolved or addressed in the offender's approved parole plan. This should be noted on the release slip.
 - b. The TCM will note any special instructions pertaining to any holds, detainers, or pending charge, including resolution of the hold, detainer, or charge(s).
 3. During the release planning process, the case manager will determine if the offender is a high-risk release.
 4. One (1) central records staff member will re-calculate offender release dates on discretionary parole once they are granted by the parole board.
 - a. If there is any change to the calculated parole date that would affect an offender's release to parole, or a change to the date the offender will discharge from supervision, central records staff will promptly notify the TCM, who will in turn inform the offender of the change.
 - 1) A memo explaining the change will be sent by central records staff to the unit staff.
 5. Central records staff will enter the release dates into the release schedule.
 - a. The release schedule will be maintained in COMS.

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4. Discharges from Supervision:

- A. EDC granted while on supervision are deducted from the parolee's sentence discharge date.
- B. Each month, central records staff will prepare a discharge from supervision list from the date EDC is applied to the date EDC will be applied the following month.
- C. After EDC are applied the list will be sent out to the parole division. The parole agents will close community bookings for the parolee.
- D. Release information for each offender is available in COMS.

5. Release by Order of the U.S. Marshal Service:

- A. When an order is received by DOC staff from the U.S. Marshal Service to release a federal prisoner, the order will be communicated to central records staff.
- B. Central records staff will include the name of the federal prisoner on the notice to release offenders for the applicable date.

6. DOC Notice to Release Offenders:

- A. The release schedule will be maintained in COMS.
 - 1. This list will include all releases from the facility scheduled for the month, releases from parole supervision for the following week. This is for informational purposes only.
 - 2. Staff will reference the release schedule in COMS when making preparations for offender releases; e.g. gathering payroll information, arranging for medications to be sent with the offender, verifying shuttle requests.
 - 3. Unit staff will review the release schedule and determine if any system risk Level 2 or Level 3 offenders are scheduled for release.
 - a. High risk release packets will be completed for Level 3 offenders a minimum of forty-five (45) days prior to the offender's release date.
 - b. Law enforcement and media notification will be completed.
 - c. Level 2 and 3 offenders releasing to parole or suspended sentence will be placed on the Absconder Direct Notification list by the risk reduction manager.
 - 4. The release schedule does not apply to parolees discharging their sentences from the community.
- B. The notice to release offenders list will be completed by central records staff.
- C. The afternoon prior to scheduled release, the central records administrator, or designee, will complete and publish the list.
 - 1. Offenders scheduled to release on a Monday or state, or federal holiday will be published the afternoon of the preceding business day.
 - 2. The list will be e-mailed to the business offices and control rooms at Mike Durfee State Prison (MDSP), South Dakota Women's Prison (SDWP) and South Dakota State Penitentiary (SDSP). The list may be provided to contract facilities.
 - 3. Any discrepancies noted by staff must be immediately brought to the attention of central records staff and the staff person with authority to release an offender.
 - 4. No offender will be released until the staff person with authority to release an offender has been advised by central records staff that all discrepancies have been resolved.
- D. Designated facility staff will receive updated notices to release.
 - 1. Central records staff will keep the original notice to release.

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- E. Releases from DOC facilities:
 - 1. Releases will normally occur after 8:00 a.m. central time, unless otherwise noted on the notice to release.
- F. Prior to releasing an offender, the OIC will confirm the release via telephone call to the central records administrator.
 - 1. The OIC will contact the respective control room to ensure there are no changes to the Notice to Release.
 - 2. If the offender is not included on the Notice to Release or other information is known that contradicts the release, OIC will terminate the offender's release until central records has been contacted and all discrepancies or conflicting information has been resolved or addressed.
- G. Central records may be contacted between 7:00 AM- 5:00 PM Monday- Friday, excluding state or federal holidays.
- H. All questions regarding release of any offender shall be directed to central records staff.
- I. The original final notice to release offenders form and release list will be maintained by central records staff.
- J. The final notice to release offenders confirming release of the offender must be received by the DOC facility or contract facility prior to releasing the offender.

7. Transportation, Money, and Clothing at Release:

- A. Qualifying offenders (does not include suspended execution of sentence or suspended imposition of sentence) releasing from a DOC institution or contract facility to discharge, parole, or extension of confinement, may be provided suitable clothing (not to exceed one hundred dollars (\$100) in actual cost), a sum of money for travel expenses (minimum of fifty dollars (\$50)), and means of transportation to the county of commitment or place of equivalent distance. May be limited to a single release on the same booking.
 - 1. Offenders may be permitted to have appropriate, personal clothing (dress-outs) sent to the facility via U.S. Mail, UPS, or Federal Express one (1) week prior to discharge, release to parole, or suspended sentence.
 - a. Limits to the type of clothing and amount of clothing allowed to be sent shall be set by the facility. All clothing received shall be searched.
 - b. The clothing will be held until the day and time set for the offender's discharge/release.
 - c. Offenders who receive personal clothing will not be issued clothing by the DOC upon release.
 - 2. Unit staff will assist with transportation of the offender and make this information available to the institution's business office. If shuttle transportation is required, central records and the transfer office will be notified.
- B. The offender's account within the offender banking system will be closed upon release to parole, suspended sentence, extension of confinement, or final discharge. The balance of the subaccounts, after credit obligations owed, will be issued to the offender or parole agent in a debit card and/or check.
- C. For offenders releasing to parole supervision, any unsatisfied obligations, including restitution owed, will be included in the offender's release plan.
- D. Each offender discharging from DOC who owes court-ordered obligations/restitution on the sentence or sentences he/she is discharging, shall have the outstanding amount transferred by the DOC to the administrative financial accountability system.

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- E. Offenders discharging with a credit obligation owed to the DOC are responsible for repayment of the obligation amount within six (6) months of discharge. The warden has authority to close accounts with a negative balance as he/she deems appropriate.

8. Sex Offenders:

- A. Offenders convicted of a sex offense will be informed of their duty to register and community safety zone restrictions.

9. Offender Identification (ID) Documents and Photo ID:

- A. Reentry staff will determine if the releasing offender has a social security card, birth certificate, driver license, tribal ID, state issued ID, or other official forms of personal identification. All ID documents will be released to the offender. Documents for offenders releasing to supervision will be given the offender or mailed to the parole agent. Documents for those discharging will be mailed to the releasing facility to be placed with debit card or discharge check prior to discharge. Offenders who receive EDC and are immediately discharged will leave a forwarding address for certificates and ID documents to be mailed.
- B. Each facility will designate a staff person who shall be responsible for ensuring each offender releasing from custody is photographed prior to release.
- C. All releasing offenders must have a current (updated) photo including in their booking summary in COMS.
- D. All offenders must be issued a DOC photo ID at the time of release.

10. Discharge Certificates:

- A. Offenders discharging from the jurisdiction of the DOC will receive a *Certificate of Discharge* (see attachment #1) from the secretary of corrections (SOC) stating all rights withheld in accordance with SDCL § 23A-27-35 are restored.
- B. Central records staff will prepare and issue the discharge certificate.
- C. If an offender is on parole supervision at the time he/she discharges, central records staff will mail the original discharge certificate to the offender at the last known address listed in COMS.

V. RESPONSIBILITY

The director of Prisons is responsible for the annual review and revision of this policy.

VI. AUTHORITY

ARSD: 17:50:13:01

SDCL:

§§ 23A-27-35, 23A-47-2, §§ 24-5-1 through 24-5-3, inclusive, 24-5-5 through 24-5-7, inclusive.
§§ 24-15A-6 through 24-15A-8.1, inclusive, and 24-15A-50.

VII. HISTORY

January 2023
January 2022
February 2020
December 2018
December 2017

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June 2017
August 2015
October 2010
October 2009

REPORTS

1. Pre-Release List (Generated in COMS)

ATTACHMENTS *(*Indicates document opens externally)*

1. Certificate of Discharge*
2. DOC Policy Implementation / Adjustments

STATE OF SOUTH DAKOTA



Kristi Noem
Governor

Kellie Wasko
DOC Secretary

Department of Corrections

Administration Office

Kellie Wasko, Secretary

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Pierre, SD 57501

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STATE OF SOUTH DAKOTA DEPARTMENT OF CORRECTIONS

CERTIFICATE OF DISCHARGE

Kellie Wasko, Secretary of the Department of Corrections, hereby certifies that on this

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was discharged from the South Dakota Department of Corrections and is hereby restored to the full rights of citizenship subject to the provisions of:

(1) SDCL 12-4-18 and SDCL 23A-27-35 (voting rights)

Any questions regarding voter registration should be directed to your county auditor.

(2) SDCL 22-14-15 and SDCL 22-14-15.1 (possession of a firearm)

WARNING: Federal law governs ownership or possession of a firearm by persons convicted of a felony under state law. In most cases, it is a federal crime for persons convicted of a felony under state law to own or possess a firearm. Before purchasing or possessing a firearm, you should seek the advice of an attorney or contact the Bureau of Alcohol Tobacco, Firearms, & Explosives to determine whether you may lawfully own or possess a firearm:

Bureau of Alcohol, Tobacco, Firearms & Explosives
325 South 1st Avenue, Suite 201
Sioux Falls, SD 57104
(605) 782-8200

If you have outstanding court ordered restitution, fines, costs, or fees payable to any South Dakota clerk of court, these obligations will remain due and owing after your discharge from Department of Corrections pursuant to SDCL Ch. 23A-47. You are responsible for making arrangements for payment with the clerk of court.

UJS ID #: [Click or tap here to enter text.](#)

In Witness Whereof, I have hereunto set my hand at Sioux Falls, South Dakota, this 8th day of November 2022.

SDCL 12-4-18. Persons declared mentally incompetent, deceased, or serving sentence for felony conviction removed from registration records. The clerk of courts shall, within fifteen days after the close of each month, prepare and deliver to the auditor an abstract from the records of the names of persons declared mentally incompetent in the preceding month. The notice shall be sent to the county auditor of the county in which the person declared incompetent resides. The county auditor shall remove from the master registration list the names of persons identified in accordance with the information provided pursuant to this section and names of those sentenced to imprisonment in the federal penitentiary system and may remove names published in an obituary.

Voter registration records maintained in or transmitted to the statewide voter registration file shall be matched with the death records maintained as vital statistics records by the Department of Health and the records of felony convictions maintained by the Unified Judicial System. Any voter identified as deceased or who is serving a sentence for a felony conviction shall be removed from the voter registration records. The State Board of Elections may promulgate rules, pursuant to chapter 1-26, determining how voter registration records shall be matched.

SDCL 23A-27-35. Suspension of civil rights on sentence to penitentiary--Prisoner as witness--Restoration of rights--Voting rights. A sentence of imprisonment in the state penitentiary for any term suspends the right of the person so sentenced to hold public office, to become a candidate for public office, and to serve on a jury. Any such person so sentenced forfeits all public offices and all private trusts, authority, or power during the term of such imprisonment. Any person who is serving a term in any penitentiary shall be a competent witness in any action now pending or hereafter commenced in the courts of this state, and the person's deposition may be taken in the same manner prescribed by statute or rule relating to taking of depositions. After a suspension of sentence pursuant to § 23A-27-18, upon the termination of the time of the original sentence or the time extended by order of the court, a defendant's rights withheld by this section are restored. However, the voting rights of any person sentenced to imprisonment in the state penitentiary shall be governed by Title 12.

SDCL 22-14-15. Possession of firearm by one with prior violent crime conviction or certain drug-related conviction--Felony--Fifteen-year period. No person who has been convicted in this state or elsewhere of a crime of violence or a felony pursuant to § 22-42-2, 22-42-3, 22-42-4, 22-42-7, 22-42-8, 22-42-9, 22-42-10 or 22-42-19, may possess or have control of a firearm. A violation of this section is a Class 6 felony. The provisions of this section do not apply to any person who was last discharged from prison, jail, probation, or parole more than fifteen years prior to the commission of the principal offense.

SDCL 22-14-15.1. Possession of firearm by one with prior drug conviction--Felony--Exception. No person who has been convicted of a felony under chapter 22-42 or of a felony for a crime with the same elements in another state may possess or have control of a firearm. A violation of this section is a Class 6 felony. The provisions of this section do not apply to any person who was last discharged from prison, jail, probation, or parole, for a felony under chapter 22-42 more than five years prior to the commission of the principal offense and is not subject to the restrictions in § 22-14-15.