

Senate Bill 146, 2023 Legislative Session

A new law was passed during the 2023 legislative session that impacts parole eligibility for those convicted of and sentenced to prison for a crime committed on or after July 1, 2023.

The first section of the law states that an offender who committed any of the following offenses (Class C, Class 1 and Class 2 violent felonies) after July 1, 2023, and was sentenced to prison, is not eligible for parole and shall serve the full term of imprisonment imposed by the court:

first-degree manslaughter;

first-degree kidnapping;

first-degree and or second-degree rape;

torture of a human trafficking victim;

commission of a felony while armed with a firearm;

aggravated assault against a law enforcement officer, firefighter, ambulance personnel, Department of Corrections employee or contractor, health care personnel or other public officer;

aggravated battery of an infant;

assault with intent to cause serious permanent disfigurement;

first-degree robbery;

first-degree burglary;

first-degree arson; and

first-degree human trafficking.

The court retains the discretion to suspend a portion of the prison sentence. If they do so, the Board of Pardons and Paroles shall supervise the offender and has the authority to revoke the suspended portion of the sentence for failing to follow the conditions set by the court or the conditions of release.

An offender incarcerated in the state prison system may earn credits for which they are eligible, but the credits can only be used for increased privileges and may not be used to reduce the sentence imposed by the court.

The second section of the law states that an offender who committed any of the following offenses (Class 3 violent felonies) after July 1, 2023, and was sentenced to prison, is not eligible for parole and shall serve the full term of imprisonment imposed by the court:

vehicular homicide;

aggravated assault;

aggravated criminal battery of an unborn child;

second-degree kidnapping;

second-degree burglary;

riot;

second-degree manslaughter;

second-degree human trafficking;

felony child abuse; or

attempting to commit, or a conspiracy to commit, or a solicitation to commit any offense in the first section of the law.

The court retains the discretion to suspend a portion of the prison sentence. If they do so, the Board of Pardons and Paroles shall supervise the offender and has the authority to revoke the suspended portion of the sentence for failing to follow the conditions set by the court or the conditions of release.

For those convicted of a crime in the second section, discharge credits earned by the offender while incarcerated may be used to reduce an inmate's sentence by up to fifteen percent of the sentence imposed by the court that the offender must serve before becoming eligible for release to suspended sentence, but discharge credits may not be used to alter the offender's sentence expiration date.

The third section of the law creates changes to the sentencing grid found in South Dakota Codified Law 24-15A-32, making the following offenses, or any attempt to commit, a conspiracy to commit, or a solicitation to commit, to be considered as violent crimes for the purpose of setting an initial parole date:

felony stalking;

felony assault;

felony simple assault;

discharging a firearm at an occupied structure or motor vehicle;

discharging a firearm from a moving vehicle;

threatening to commit a sexual offense;

abuse or neglect of a disabled adult; and

aggravated incest.