



# South Carolina

## STATE LAW ENFORCEMENT DIVISION

P.O. Box 21398  
Columbia, South Carolina  
29221-1398

*Henry D. McMaster, Governor*

*Mark A. Keel, Chief*

WWW.SLED.SC.GOV

(803) 737-9000

### **2025 UPDATED SLED GUIDANCE ON THE SOUTH CAROLINA SEX OFFENDER REGISTRY ACT Adult Tier I Offenders – South Carolina Conviction**

On May 23, 2022, Governor Henry D. McMaster signed Act former House Bill 4075 into law. On May 22, 2025, Governor McMaster also signed former Senate Bills 28 and 29 into law. H. 4075 afforded all sex offenders in South Carolina a mechanism to seek removal from South Carolina's lifetime sex offender registry in response to the South Carolina Supreme Court's decision in *Powell v. Keel*. This Act also created state tiers for offenders and provides reasonable avenues for removal based on the offender's applicable state tier. S.28 and S.29 added additional offenses to Tier I and amended the criteria for when a Tier I offender can apply for removal.

Moving forward, Adult Tier I Offenders in South Carolina are offenders convicted of the following offenses:

- (a) criminal sexual conduct in the third degree (Section 16-3-654);
- (b) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;
- (c) incest (Section 16-15-20);
- (d) buggery (Section 16-15-120) – [However, this provision does not apply to consensual sexual conduct between consenting adults in accordance with the 2022 federal settlement in *Doe v. Wilson*, which is C/A 3:21-04108-MGL].
- (e) peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);
- (f) a person, regardless of age, who has been convicted or pled guilty or nolo contendere in this State, ... in a comparable court in the United States, or ... in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that, based on the circumstances of the case, the convicted person should register as a sex offender;
- (g) sexual intercourse with a patient or trainee (Section 44-23-1150);
- (h) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny;
- (i) any other offense as described in Section 23-3-430(D),
- (j) any other offense required by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA).

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- (k) obscene visual representation of child sexual abuse (Section 16-15-390). If the person is under eighteen years of age and was adjudicated in the family court, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article.
- (l) sexual exploitation of a minor, first degree (Section 16-15-395), provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article;
- (m) sexual exploitation of a minor, second degree (Section 16-15-405), provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article; or
- (n) sexual exploitation of a minor, third degree (Section 16-15-410); provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article.

**Duration and Frequency of Registration** - Adult Tier I Offenders are still required to register with the same frequency as before the passage of this bill, and this frequency is still dictated by the offender’s applicable federal SORNA tier – not the new state tiers. Specifically, Adult Tier I Offenders in South Carolina are required to “register biannually for life” for all persons who not classified as Tier III offenders pursuant to the federal SORNA or “every ninety days” for life for all persons “classified as Tier III pursuant to Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA).” See S.C. Code Ann. § 23-3-460(A), (B). However, this lifetime registration requirement is now subject to the removal provisions set forth below.

### **Removal Process and Requirements** - For Adult Tier I Offenders:

A Tier I offender may file a request for termination of the requirement of registration with SLED, in a form and process established by SLED if the person:

- (a) has been registered for at least fifteen years; or
- (b) has been discharged from incarceration without supervision for at least fifteen years for the charge requiring registration; or**
- (c) has had at least fifteen years pass since the termination of active supervision of probation, parole, or any other alternative to incarceration for the charge requiring registration;.....**

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The SLED application form and process are attached and can be accessed on SLED’s website – [www.sled.sc.gov](http://www.sled.sc.gov). Currently, SLED is only able to accept paper applications, which must be mailed to: **Application for Removal from Sex Offender Registry, SLED SOR Unit, Post Office Box 21398, Columbia, SC 29221**. The applicant must send the following:

1. Completed **SLED APPLICATION**. (Available on SLED’s website [www.sled.sc.gov](http://www.sled.sc.gov))
2. **2 sets of fingerprints** from the applicant for SLED to conduct a fingerprint-based state and a federal criminal history check on the applicant.

**\*\*For SLED to proceed, the applicant “must not have been convicted of failure to register within the previous ten years” and “must not have been convicted of any additional sexual offense after being placed on the registry.” See S.C. Code Ann. § 23-3-462(A)(4), (5).**

3. A filing fee of **\$250.00**, which can only be paid via money order or cashier’s check. (SLED does not accept personal checks).
4. Proof that the applicant **“successfully completed all sex offender treatment programs that were required.”** This proof must be official documentation acknowledging successful completion.

Upon receipt of all the above required documents and information, SLED will review the documentation provided by the offender, and will notify the original prosecuting agency for approval. If all the requirements of this section are verified, SLED shall, within one hundred twenty days of receipt of the request for termination, remove an offender’s name from the registry and notify the offender that the offender is no longer required to comply with the registry requirements of this article. **If it is determined that the offender has been convicted of any prohibiting offenses during the applicable period, has not substantially complied with this section, or an objection has been filed by the original prosecuting agency, SLED shall not remove the offender’s name from the sex offender registry and shall notify the offender that the offender has not been relieved of the provisions in this article.**

### **Challenging SLED’s Determination** – For Adult Tier I Offenders who are denied by SLED:

**THERE IS NO APPEAL TO SLED.**

Rather, an offender whose request for termination of registration requirements is denied by SLED is entitled to appeal the denial **to the general sessions court pursuant to the requirements of Section 23-3-463** for the county in which the conviction occurred if the conviction occurred within the State, or if not, the county in which the offender resides. Individuals placed on the registry as a juvenile should petition the family court that adjudicated them delinquent.

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In addition, in accordance with S.C. Code Ann. § 23-3-463, the State of South Carolina must be named as the respondent to the action and shall be represented by the prosecution office that obtained the underlying conviction for which the offender is required to register, or, if the conviction occurred outside of the State, the Attorney General. All requirements of the Victim's Rights Act, including reasonable notice, must be observed. SLED is not a party to such action and should not be named.

The appeal must be filed in the county in which the underlying conviction occurred if the conviction occurred within the State, or if the conviction occurred outside of the State, the county in which the offender resides. The court must make a determination upon a finding by **clear and convincing evidence** that the offender is no longer a foreseeable risk to reoffend and that it is in the best interest of justice to grant the motion for removal from the requirement of registration.

However, a person requesting a hearing under this section is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel to assist the person.

Also, the court may direct that a qualified evaluator designated by the South Carolina Department of Mental Health conduct an evaluation whether the offender poses a foreseeable risk to reoffend. For any such evaluation, the court must order the offender to comply with all testing and assessments deemed necessary by the evaluator. After the evaluation by the qualified evaluator designated by the department, if the offender or the prosecutor seeks an independent evaluation by an independent qualified evaluator, then that evaluation must be completed within ninety days after receipt of the request by the department evaluator. The court may grant an extension upon the request of the independent qualified evaluator and a showing of extraordinary circumstances. Any qualified evaluator who will be submitted as an expert at a hearing on the motion must submit a written report available to both parties.

### **Re-applying After SLED Denial – For Adult Tier I Offenders:**

If the offender is denied a termination request by SLED, the offender may petition again for termination with SLED **NO SOONER THAN FIVE YEARS AFTER THE PREVIOUS DENIAL**. If an offender is denied a termination request based on conviction of any additional sexual offenses or violent sexual offenses, the offender may not submit a petition to SLED for termination unless the subsequent conviction is overturned or a pardon granted.

However, if an appeal motion is filed and denied, the person may not file for removal from the registry pursuant to this section again until five years after the date of the final order.

### **Other Avenues of Removal – For Adult Tier I Offenders:**

While not part of any recent legislation, S.C. Code Ann. § § 23-3-430(E), (F), and (G) also provide statutory mechanisms of removal for adult Tier I Offenders in South Carolina.