

Criminal Statutes of Limitations

South Dakota

Last Updated: March 2020

Rape

| Question | Answer |
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| <p>What is the statute of limitations for this crime?</p> | <ul style="list-style-type: none"> • Rape in the first degree is a Class C felony if sexual penetration occurs with a victim under 13. • Rape in the second degree is a Class 1 felony if sexual penetration occurs through the use of force, coercion, or threats of immediate and great bodily harm against victim or other persons within victim's presence, accompanied by apparent power of execution. • Rape in the third degree is a Class 2 felony if sexual penetration occurs and victim is incapable of giving consent to such act because of physical or mental incapacity, or any intoxicating, narcotic, or anesthetic agent or hypnosis. • Rape in the fourth degree is a Class 3 felony if sexual penetration occurs and victim is at least 13 but under 16, and offender is at least three years older than victim. <p>The statute of limitation depends on the degree and class of the crime:</p> <ol style="list-style-type: none"> 1. No time limit for first or second degree rape. 2. No time limit for a Class C felony. 3. For third or fourth degree rape, within seven years after commission of the offense or any time prior to the date victim reaches 25, whichever period is longer. |
| <p>Statutory citation(s):</p> | <ol style="list-style-type: none"> 1. Citation for the crime: S.D. Codified Laws § 22-22-1. 2. Citation for the statute of limitations: S.D. Codified Laws § 22-22-1; S.D. Codified Laws § 23A-42-2. |

Sexual contact with person under 16

| Question | Answer |
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| What is the statute of limitations for this crime? | <p>This crime is a: (a) Class 1 misdemeanor if victim is at least 13 years of age and offender is less than five years older than victim; and (b) Class 3 felony if victim is under 16 and offender is 16 years of age or older and knowingly engages in sexual contact with the victim.</p> <p>1. The time limit is within seven years after commission of the offense or any time prior to the date victim reaches 25, whichever period is longer.</p> |
| Statutory citation(s): | <p>1. Citation for the crime: S.D. Codified Laws § 22-22-7. 2. Citation for the statute of limitations: S.D. Codified Laws § 22-22-7.</p> |

Sexual contact with person incapable of consent

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| Question | Answer |
| What is the statute of limitations for this crime? | <p>Sexual contact with person incapable of consent is a Class 4 felony.</p> <p>1. The time limit is within seven years after commission of the offense.</p> |
| Statutory citation(s): | <p>1. Citation for the crime: S.D. Codified Laws § 22-22-7.2. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2.</p> |

Sexual contact with person under 16 by person under 16

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| Question | Answer |
| What is the statute of limitations for this crime? | <p>Sexual contact with a person under 16 by a person under 16 is a Class 1 misdemeanor.</p> <p>1. The time limit is within seven years after commission of the offense.</p> |
| Statutory citation(s): | <p>1. Citation for the crime: S.D. Codified Laws § 22-22-7.3. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2.</p> |

Sexual contact without consent

| Question | Answer |
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| What is the statute of limitations for this crime? | Sexual contact without consent is a Class 1 misdemeanor and the offender must be at least 15. 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22-7.4. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Sexual contact or penetration by correctional facility employee with inmate

| Question | Answer |
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| What is the statute of limitations for this crime? | Sexual contact or penetration by a correctional facility employee with an inmate that does not otherwise constitute a felony under chapter 22-22 is a Class 6 felony if victim is an adult and a Class 4 felony if the victim is a juvenile. 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22-7.6. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Subsequent conviction of rape of or sexual contact with a child under 16

| Question | Answer |
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| What is the statute of limitations for this crime? | Class 2 felony if offender has a previous conviction for violation of § 22-22-1(5) (sexual penetration occurs and victim is at least 13 but under 16 and offender is at least three years older than victim) or § 22-22-7 (sexual contact with person under 16). 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22-7.7. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Sexual exploitation of a minor

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| Question | Answer |
| What is the statute of limitations for this crime? | This crime is a Class 6 felony, or a Class 5 felony if the offender is convicted of a second or subsequent violation within 15 years of the prior conviction. 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22-24.3. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Sexual contact by psychotherapist

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| Question | Answer |
| What is the statute of limitations for this crime? | Sexual contact with emotionally dependent patient by psychotherapist at the time of contact is a Class 5 felony. 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22-28. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Sexual penetration by psychotherapist

| Question | Answer |
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| What is the statute of limitations for this crime? | Sexual penetration of emotionally dependent patient by psychotherapist at the time that penetration is committed is a Class 4 felony. 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22-29. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Incest

| Question | Answer |
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| What is the statute of limitations for this crime? | Incest is a Class 5 felony. 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22A-2. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Aggravated incest—Related Child

| Question | Answer |
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| What is the statute of limitations for this crime? | Aggravated incest is a Class 3 felony. 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22A-3. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Aggravated incest—Foster Child

| Question | Answer |
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| What is the statute of limitations for this crime? | Aggravated incest is a Class 3 felony. 1. The time limit is within seven years after commission of the offense. |
| Statutory citation(s): | 1. Citation for the crime: S.D. Codified Laws § 22-22A-3.1. 2. Citation for the statute of limitations: S.D. Codified Laws § 23A-42-2. |

Are there any exceptions to the statute of limitations laws?

| Question | Answer |
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| Exceptions | None specified. |

Anything else I should know?

| Question | Answer |
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| Anything else I should know? | <ul style="list-style-type: none">• S.D. Codified Laws § 23A-42-5 Tolling of limitation period while defendant is out of state:<ul style="list-style-type: none">• If when or after the offense is committed the defendant is out of the state, the statute of limitations is tolled during the time the defendant is not an inhabitant within the state. |