

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

477X0393

HOUSE BILL NO. 1193

Introduced by: Representatives McCleerey, Bartling, Feickert, Kirschman, Ring, and Schrempp and Senator Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to prohibit certain inquiries about criminal records during
2 any initial employment application process and to provide a penalty for a violation thereof.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 No private employer, public entity, or governing body may require an applicant for
6 employment to complete any application that makes inquiries regarding an applicant's criminal
7 record, or make any verbal or written inquiry about the applicant's criminal record, during the
8 initial employment process. Once the initial employment process is complete and the applicant
9 is further considered for employment, the employer may make inquiries about the employee's
10 criminal record, as necessary for the position.

11 Section 2. That the code be amended by adding a NEW SECTION to read:

12 The terms of this Act do not apply if the employment being considered is a position for law
13 enforcement, corrections, the judiciary, homeland security, emergency management; if an arrest
14 or conviction would preclude the applicant; or if the position requires a criminal background
15 check by law.



1 Section 3. That the code be amended by adding a NEW SECTION to read:

2 Any private employer, public entity, or governing body who violates this Act shall be liable

3 for a civil penalty in an amount not to exceed one thousand dollars for the first violation, five

4 thousand dollars for the second violation, and ten thousand dollars for any subsequent violation.