

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

529C0640

## SENATE BILL NO. 195

Introduced by: Senators Albers, Daugaard, Hainje, and Lawler and Representatives Peterson, Brown (Richard), and Patterson

1 FOR AN ACT ENTITLED, An Act to require criminal record checks of certain school  
2 employees.

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

4 Section 1. That § 23-5-12.1 be amended to read as follows:

5 23-5-12.1. The ~~superintendent of any public school or nonpublic school or the owner or~~  
6 operator of any child welfare agency as defined in § 26-6-1 may submit the name of any person  
7 being considered for employment ~~by the school or agency~~, either directly or by contract, to the  
8 Division of Criminal Investigation for a criminal record check. ~~If the division determines the~~  
9 ~~person has a record of criminal convictions, the division shall notify the superintendent, owner,~~  
10 ~~or operator of the criminal offenses.~~ The division shall notify the owner or operator of the results  
11 of the criminal record check.

12 Section 2. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Any person being considered for employment by a school district, either directly or by  
15 contract, for a position that does not require certification pursuant to chapter 13-42 shall submit  
16 to a criminal record check as provided in § 23-5-12 as a condition of employment. The

1 prospective employee shall sign the waiver set forth in § 23-5-12, be fingerprinted, and sign a  
2 declaration under penalty of perjury regarding any prior criminal conviction and military history.  
3 The prospective employee shall submit the fingerprints to the South Dakota Division of Criminal  
4 Investigation and the Federal Bureau of Investigation Identification Division. A report that  
5 contains information on the person's criminal history shall be made to the superintendent and the  
6 prospective employee. Any fees charged as part of the record check shall be borne by the  
7 prospective employee. A school board or governing body may employ a person conditionally  
8 while results of the check are pending.

9 Section 3. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 No person may be employed by a school district, either directly or by contract, if the person  
12 has been convicted of:

- 13 (1) Murder;
- 14 (2) Manslaughter;
- 15 (3) Vehicular homicide;
- 16 (4) Killing an unborn child by injury to the mother;
- 17 (5) Assault;
- 18 (6) Child abuse or neglect;
- 19 (7) Kidnaping;
- 20 (8) A sex offense as defined by chapter 22-22 or similar statutes from another state;
- 21 (9) Indecent exposure;
- 22 (10) Arson;
- 23 (11) Robbery;
- 24 (12) Abuse, neglect, or exploitation of an aged or disabled person; or
- 25 (13) Possession or distribution of marijuana or a controlled substance.

1 Section 4. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 A superintendent may deny employment to a person who has been convicted of any crime  
4 involving moral turpitude or who has been convicted of any crime involving harmful behavior  
5 toward children. For purposes of this Act, conviction means a plea or verdict of guilty, a  
6 suspended sentence, or a conviction following a plea of nolo contendere in this state or any other  
7 state. In reviewing a misdemeanor conviction of an applicant, the superintendent may take into  
8 consideration, prior to denial, any information submitted by the applicant regarding the facts and  
9 circumstances surrounding a conviction, the type of offense and the sentence imposed, whether  
10 the act resulting in the conviction would constitute a crime in South Dakota, the date of the  
11 offense, the age of the applicant at the time of the offense, and the applicant's conduct and  
12 positive social contributions since the offense.