

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0671

CONFERENCE COMMITTEE ENGROSSED NO. **HB1200** - 2/25/00

Introduced by: Representatives Michels, Brown (Richard), Davis, Haley, Hennies, Koetzle, Lockner, Lucas, and Peterson and Senators Albers, Brosz, Brown (Arnold), and Symens

1 FOR AN ACT ENTITLED, An Act to require criminal background checks of school employees
2 and to prohibit employment of certain persons in schools.

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

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

6 Each person hired by a school district shall submit to a criminal background investigation,
7 by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau
8 of Investigation. The school district shall submit completed fingerprint cards to the Division of
9 Criminal Investigation before the prospective new employee enters into service. If no
10 disqualifying record is identified at the state level, the fingerprints shall be forwarded by the
11 Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal
12 history record check. Any person whose employment is subject to the requirements of this
13 section may enter into service on a temporary basis pending receipt of results of the criminal
14 background investigation. The employing school district may, without liability, withdraw its offer
15 of employment or terminate the temporary employment without notice if the report reveals a

1 disqualifying record. Any person whose employment is subject to the requirements of this section
2 shall pay any fees charged for the criminal record check. However, the school board or
3 governing body may reimburse the person for the fees. Any person hired to officiate, judge,
4 adjudicate, or referee an event conducted under the authority of the South Dakota High School
5 Activities Association is not required to submit to a criminal background investigation as
6 required in this section.

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

9 A school district may refuse to employ a person, either directly or by contract, who has been
10 convicted of a crime involving moral turpitude as defined in subdivision 22-1-2(25).

11 No person may be employed by a school district, either directly or by contract, if the person
12 has been convicted of a crime of violence as defined in subdivision 22-1-2(9), a sex offense as
13 defined in § 22-22-30, or trafficking in narcotics.

14 Nothing in this section prohibits a school district from considering any criminal conviction
15 in making a hiring decision.

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

18 Any person employed by a South Dakota school district on the effective date of this Act who
19 remains continuously employed by the same South Dakota school district for consecutive school
20 years is not required to submit to a criminal background check as provided in section 1 of this
21 Act.

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

24 If a school board or governing body of any accredited school suspends an employee or an
25 employee resigns or is terminated as a result of a criminal conviction, the superintendent or chief

1 administrator shall, within ten days of the date of the suspension or the date the employment is
2 severed, report the circumstances and the name of the employee to the Department of Education
3 and Cultural Affairs. Any superintendent or chief administrator who fails to report under this
4 section is subject to sanctions found in § 13-8-48.

5 Section 5. For purposes of this Act, the term, conviction, means a plea or verdict of guilty
6 or a conviction following a plea of nolo contendere in this state or any other state. A duly certified
7 copy of the court record is proof of the conviction and sentence.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 141

3 1/20/00 Referred to Education. H.J. 161

4 2/3/00 Scheduled for Committee hearing on this date.

5 2/3/00 Education Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 382

6 2/7/00 House of Representatives Deferred to another day. H.J. 468

7 2/9/00 Motion to Amend, Passed. H.J. 537

8 2/9/00 House of Representatives Do Pass Amended, Passed, AYES 63, NAYS 3. H.J. 538

9 2/10/00 First read in Senate and referred to Education. S.J. 427

10 2/15/00 Scheduled for Committee hearing on this date.

11 2/15/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 490

12 2/17/00 Senate Deferred to another day. S.J. 559

13 2/18/00 Motion to Amend, Passed. S.J. 579

14 2/18/00 Senate Do Pass Amended, Passed, AYES 23, NAYS 11. S.J. 579

15 2/23/00 House of Representatives failed to concur, appoint Conference Committee. H.J. 805

16 2/24/00 Senate Conference committee report adopted Passed, AYES 29, NAYS 4. S.J. 680

17 2/25/00 House of Representatives Conference Committee Report.