

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

556E0650

## HOUSE BILL NO. 1150

Introduced by: Representatives Holbeck, Begalka, Derby, Garnos, Juhnke, Kloucek, and Wick and Senators Duxbury, Brosz, Ham, McIntyre, Munson, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the criminal  
2 background investigations of school employees.

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

4 Section 1. That § 13-10-12 be amended to read as follows:

5 13-10-12. Each person, over eighteen years of age, hired by a school district who has  
6 regularly scheduled, unsupervised, individual contact with children shall submit to a criminal  
7 background investigation, by means of fingerprint checks by the Division of Criminal  
8 Investigation and the Federal Bureau of Investigation. The school district shall submit completed  
9 fingerprint cards to the Division of Criminal Investigation before the prospective new employee  
10 enters into service. If no disqualifying record is identified at the state level, the fingerprints shall  
11 be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation  
12 for a national criminal history record check. Any person whose employment is subject to the  
13 requirements of this section may enter into service on a temporary basis pending receipt of  
14 results of the criminal background investigation. The employing school district may, without

1 liability, withdraw its offer of employment or terminate the temporary employment without  
2 notice if the report reveals a disqualifying record. Any person whose employment is subject to  
3 the requirements of this section shall pay any fees charged for the criminal record check.  
4 However, the school board or governing body may reimburse the person for the fees. Any person  
5 hired to officiate, judge, adjudicate, or referee an event conducted under the authority of the  
6 South Dakota High School Activities Association is not required to submit to a criminal  
7 background investigation as required in this section.

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

10 Each school district shall require any organization or person providing services to the district  
11 which involve employees of the service provider having regularly scheduled, individual,  
12 unsupervised contact with children to subject such employee to the same criminal background  
13 investigation as provided for in § 13-10-12.

14 Section 3. That § 13-10-13 be amended to read as follows:

15 13-10-13. A school district may refuse to employ a person, either directly or by contract,  
16 who has been convicted of a crime involving moral turpitude as defined in subdivision  
17 22-1-2(25).

18 No person may be employed by a school district, either directly or by contract, if the person  
19 has been convicted of a crime of violence as defined in subdivision 22-1-2(9), a sex offense as  
20 defined in § 22-22-30, ~~or trafficking in narcotics~~ or any sex offense involving a minor, or any  
21 violation of chapter 22-42 punishable as a felony.

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

24 Section 4. That § 13-10-14 be amended to read as follows:

1        13-10-14. Any person employed by a South Dakota school district on July 1, 2000, who  
2 remains continuously employed by the same South Dakota school district for consecutive school  
3 years and who has submitted to a criminal background check within the preceding five years, is  
4 not required to submit to a criminal background check as provided in § 13-10-12. A criminal  
5 background check conducted by one district may be relied upon by another district so long as  
6 the individual remains employed by the original district.

7        Section 5. That § 13-10-16 be amended to read as follows:

8        13-10-16. For purposes of §§ 13-10-12 to 13-10-16, inclusive, the term, conviction, means  
9 a plea or verdict of guilty ~~or,~~ a conviction following a plea of nolo contendere, or a suspended  
10 or deferred imposition of sentence, including dismissal of a charge to which a plea of guilty had  
11 been entered, or similar procedure regardless of whether the record has been sealed, in this state  
12 or any other state. A duly certified copy of the court record, or the admission of the employee,  
13 is proof of the conviction and sentence.