

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

715E0774

SENATE BILL NO. 247

Introduced by: Senator Dennert

1 FOR AN ACT ENTITLED, An Act to require criminal background checks of employees of
2 community service providers and to prohibit employment of certain persons by community
3 service providers.

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

5 Section 1. That chapter 27B-2 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Each person hired by a community service provider shall submit to a criminal background
8 investigation, by means of fingerprint checks by the Division of Criminal Investigation and the
9 Federal Bureau of Investigation. The community service provider shall submit completed
10 fingerprint cards to the Division of Criminal Investigation before the prospective new employee
11 enters into service. If no disqualifying record is identified at the state level, the fingerprints shall
12 be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation
13 for a national criminal history record check. Any person whose employment is subject to the
14 requirements of this section may enter into service on a temporary basis pending receipt of
15 results of the criminal background investigation. The employing community service provider

1 may, without liability, withdraw its offer of employment or terminate the temporary employment
2 without notice if the report reveals a disqualifying record. Any person whose employment is
3 subject to the requirements of this section shall pay any fees charged for the criminal record
4 check. However, the community service provider may reimburse the person for the fees.

5 Section 2. That chapter 27B-2 be amended by adding thereto a NEW SECTION to read as
6 follows:

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

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

13 Nothing in this section prohibits a community service provider from considering any criminal
14 conviction in making a hiring decision.

15 Section 3. That chapter 27B-2 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any person employed by a community service provider on the effective date of this Act who
18 remains continuously employed by the same community service provider for consecutive years
19 is not required to submit to a criminal background check as provided in section 1 of this Act.

20 Section 4. That chapter 27B-2 be amended by adding thereto a NEW SECTION to read as
21 follows:

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