

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

687H0319

## SENATE BILL NO. 63

Introduced by: Senators McIntyre, Daugaard, de Hueck, Hagen, Ham, Hutmacher, Koetzle, McCracken, Moore, Reedy, Sutton (Dan), and Whiting and Representatives Hennies (Thomas), Clark, Frost, Hargens, Hennies (Don), Hunhoff, Jensen, Kooistra, McCoy, Nachtigal, Nesselhuf, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to repeal the restrictions placed on persons who have  
2 possessed, used, or distributed controlled substances or marijuana from participation in  
3 certain extracurricular activities or financial aid assistance.

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

5 Section 1. That § 13-32-9 be repealed.

6 ~~—13-32-9. Any person adjudicated, convicted, or the subject of a suspended imposition of~~  
7 ~~sentence for possession, use, or distribution of controlled substances or marijuana as defined in~~  
8 ~~chapter 22-42 is ineligible to participate in any extracurricular activity at any secondary school~~  
9 ~~accredited by the Department of Education and Cultural Affairs for one year. Upon a subsequent~~  
10 ~~adjudication, conviction, or suspended imposition of sentence for possession, use, or distribution~~  
11 ~~of controlled substances or marijuana by a court of competent jurisdiction, that person is~~  
12 ~~ineligible to participate in any extracurricular activity while that person is attending any school~~  
13 ~~accredited by the Department of Education and Cultural Affairs. Upon such a determination in~~  
14 ~~any juvenile proceeding the Unified Judicial System shall give notice of that determination to the~~



1 ~~South Dakota High School Activities Association and the chief administrator of the school in~~  
2 ~~which the person is enrolled.~~

3 ~~—As used in this section, the term, extracurricular activity, means any activity sanctioned by~~  
4 ~~the South Dakota High School Activities Association.~~

5 Section 2. That § 13-53-42 be repealed.

6 ~~—13-53-42. Any person who has been determined by a court of competent jurisdiction to have~~  
7 ~~possessed, used, or distributed controlled substances or marijuana as defined in chapter 22-42~~  
8 ~~under circumstances which would constitute a felony under South Dakota law while enrolled at~~  
9 ~~a South Dakota state supported institution of higher education is ineligible to participate in any~~  
10 ~~form of intercollegiate extracurricular competition at any South Dakota state supported~~  
11 ~~institution of higher education. Upon receiving a request from the chief administrator of the~~  
12 ~~postsecondary educational institution, the Unified Judicial System shall send notice of whether~~  
13 ~~the person who is the subject of the request was adjudicated in a juvenile proceeding of~~  
14 ~~possessing, using, or distributing controlled substances or marijuana as defined in chapter 22-42~~  
15 ~~under circumstances which would constitute a felony under South Dakota law if that person~~  
16 ~~were an adult.~~

17 Section 3. That § 13-55-29 be repealed.

18 ~~—13-55-29. Any person adjudicated, convicted, or the subject of a suspended imposition of~~  
19 ~~sentence for possession, use, or distribution of controlled substances or marijuana as defined in~~  
20 ~~chapter 22-42 under circumstances which would constitute a felony under South Dakota law is~~  
21 ~~ineligible for any scholarship for attendance at a postsecondary institution to the extent such~~  
22 ~~scholarship is funded by the State of South Dakota. Upon receiving a request from the chief~~  
23 ~~administrator of the postsecondary educational institution, the Unified Judicial System shall send~~  
24 ~~notice of whether the person who is the subject of the request was adjudicated in a juvenile~~

1 ~~proceeding of possessing, using, or distributing controlled substances or marijuana as defined in~~  
2 ~~chapter 22-42 under circumstances which would constitute a felony under South Dakota law if~~  
3 ~~that person were an adult.~~

4 Section 4. That § 26-11-5.1 be amended to read as follows:

5 26-11-5.1. Notwithstanding any other provision of law, a law enforcement agency ~~may~~ shall  
6 provide notice, in writing, of an incident within its jurisdiction to public or nonpublic school  
7 officials and to the parent or guardian of a school student if the incident is one in which the  
8 agency has probable cause to believe the school student has violated any provision of state law  
9 involving alcohol, illegal drugs, firearms, or bomb threats, or has made any threat of violence  
10 relating to any school or its students, employees, or property. However, if there is a prolonged  
11 criminal investigation and revealing information would jeopardize a successful conclusion to the  
12 case, the law enforcement agency may provide the notice at some later appropriate time. ~~The~~  
13 ~~notice shall be in writing.~~

14 Section 5. That chapter 26-11 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 If any law enforcement agency has probable cause to believe that a school student has  
17 violated any provision of state law involving alcohol or illegal drugs, the law enforcement agency  
18 shall notify, in writing, the public or private school at which the student is enrolled if the alleged  
19 violation resulted in a court petition.