

2021 South Dakota Legislature

Senate Bill 141**AMENDMENT 141C FOR THE SENATE JUDICIARY BILL**

1 **An Act to revise the automatic removal of certain convictions from a background**
2 **check record.**

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

4 **Section 1.** That § 23A-3-34 be AMENDED.

5 **23A-3-34. Automatic removal of certain charges or convictions from**
6 **background check record--Case record available to authorized personnel.**

7 Any charge or conviction resulting from ~~a case where a~~ the following shall be
8 automatically removed from a defendant's public record if all court-ordered conditions on
9 the case have been satisfied:

- 10 (1) A petty offense, municipal ordinance violation, or a Class 2 misdemeanor was the
11 highest charged offense shall be automatically removed from a defendant's public
12 record after ten years if all court-ordered conditions on the case have been
13 satisfied. in the case and ~~ten~~ **five** years have passed since the charge or conviction;
14 or
15 (2) Beginning July 1, 2022, a misdemeanor charged prior to July 1, 2021, for the use
16 or possession of marijuana or any derivative of marijuana was the highest charged
17 offense in the case.

18 Following the automatic removal of any charge or conviction under this section, no
19 person shall be held thereafter under any provision of any law to be guilty of perjury or of
20 giving a false statement by reason of the person's failure to recite or acknowledge the
21 person's arrest, indictment or information, or trial in response to any inquiry made of the
22 person for any purpose. However, the case record ~~will remain~~ remains available to court
23 personnel, law enforcement, or as authorized by order of the court.