



2022 South Dakota Legislature

Senate Bill 151

Introduced by: **Senator Rohl**

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

8 (1) A case in which a petty offense, municipal ordinance violation, or a Class 2
 9 misdemeanor was the highest charged offense ~~shall be automatically removed~~
 10 ~~from a defendant's public record after five years if all court-ordered conditions on~~
 11 ~~the case have been satisfied~~, five years have passed since the charge or
 12 conviction, and the defendant has not been convicted of any further offenses within
 13 those five years; or

14 (2) A Class 1 misdemeanor for the use or possession of marijuana or any derivative of
 15 marijuana was the highest charged offense in the case, five years have passed
 16 since the charge or conviction, and the defendant has not been convicted of any
 17 further offenses within those five years.

18 Following the removal of any charge or conviction under this section, no person
 19 may be held under any provision of law to be guilty of perjury or of giving a false statement
 20 by reason of the person's failure to recite or acknowledge the person's arrest, indictment
 21 or information, or trial in response to any inquiry made of the person for any purpose.
 22 However, the case record remains available to court personnel, law enforcement, or as
 23 authorized by order of the court and may be used as an enhancement in the prosecution
 24 of subsequent offenses as provided by law.