2022 South Dakota Legislature

Senate Bill 151

SENATE JUDICIARY ENGROSSED

Introduced by: ***Senator*** *Rohl*

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

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

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

23A-3-34. Any ~~charge or conviction resulting from a case where a~~ case consisting of the following charges or convictions must be automatically removed from a defendant's public record five years after disposition if all court-ordered conditions on the case have been satisfied and the defendant has not been convicted of any further offenses within those five years:

(1) A case in which all charges are petty ~~offense~~ offenses, municipal ordinance ~~violation~~ violations, or ~~a~~ Class 2 ~~misdemeanor was the highest charged offense shall be automatically removed from a defendant's public record after five years if all court-ordered conditions on the case have been satisfied and the defendant has not been convicted of any further offenses within those five years.~~ misdemeanors; or

(2) A case in which all charges are petty offenses, municipal ordinance violations, Class 2 misdemeanors, and Class 1 misdemeanors for the use or possession of marijuana or any derivative of marijuana.

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