

**Chapter 163**  
**(Senate Bill 40)**

**An Act to establish a criminal background check requirement for  
licensure as an occupational therapist or occupational therapy  
assistant.**

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

**Section 1. That chapter 36-31 be amended with a NEW SECTION:**

In addition to the requirements in § 36-31-6, an applicant for licensure as an occupational therapist or an occupational therapy assistant shall submit to the board of examiners a full set of the applicant's fingerprints in a form and manner prescribed by the board. The board of examiners shall deliver the fingerprints to the Division of Criminal Investigation to conduct a state and federal criminal background check by the division and the Federal Bureau of Investigation. The applicant shall sign a release of information to the board of examiners and pay any fees for the background check, including fingerprinting.

Upon completion of the background check, the division shall deliver to the board of examiners the applicant's criminal history record information. The board of examiners shall consider this information in determining whether to issue a license to the applicant. The board of examiners may not issue a license to the applicant before receiving this information.

The board of examiners may not disseminate an applicant's criminal history record information to any person outside the board. The board of examiners may require any licensee who is the subject of a disciplinary investigation by the board to submit to a state and federal criminal history record background check.

The board of examiners may deny the issuance of a license or suspend or revoke a license for failure to submit to or cooperate with a criminal background check.

**Signed February 21, 2024**

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