

## 2022 South Dakota Legislature

**Senate Bill 151****AMENDMENT 151A FOR THE INTRODUCED 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.** Any ~~charge or conviction resulting from~~ a case where a case consisting  
6 of the following charges or convictions must be automatically removed from a defendant's  
7 public record five years after disposition if all court-ordered conditions on the case have  
8 been satisfied and the defendant has not been convicted of any further offenses within  
9 those five years:

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

16 (2) A case in which all charges are petty offenses, municipal ordinance violations, Class  
17 2 misdemeanors, and Class 1 misdemeanor misdemeanors for the use or  
18 possession of marijuana or any derivative of marijuana ~~was the highest charged~~  
19 offense in the case, five years have passed since the charge or conviction, and the  
20 defendant has not been convicted of any further offenses within those five years.

21 Following the removal of any charge or conviction under this section, no person  
22 may be held under any provision of law to be guilty of perjury or of giving a false statement  
23 by reason of the person's failure to recite or acknowledge the person's arrest, indictment  
24 or information, or trial in response to any inquiry made of the person for any purpose.  
25 However, the case record remains available to court personnel, ~~law enforcement the~~

- 1 Division of Criminal Investigation, or as authorized by order of the court and may be used
- 2 as an enhancement in the prosecution of subsequent offenses as provided by law.

AMENDED