

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

938R0006

## HOUSE JUDICIARY ENGROSSED NO. **HB 1117** - 2/3/2010

Introduced by: Representative Lucas and Senator Bradford

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the hiring by school  
2 districts of persons convicted of felony drug distribution.

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

4 Section 1. That § 13-10-13 be amended to read as follows:

5 13-10-13. A school district may refuse to employ a person, either directly or by contract,  
6 who has been convicted of a crime involving moral turpitude as defined in subdivision 22-1-  
7 2(25).

8 No person may be employed by a school district, either directly or by contract, if the person  
9 has been convicted of a crime of violence as defined in subdivision 22-1-2(9), or a sex offense  
10 as defined in § 22-24B-1, ~~or trafficking in narcotics~~.

11 Nothing in this section prohibits a school district from considering any criminal conviction  
12 in making a hiring decision.

13 Section 2. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 No person may be employed by a school district, either directly or by contract, if the person



1 has been convicted of felony distribution of drugs. However, the prohibition is waived for any  
2 person employed in an education support position if:

- 3 (1) The person has been pardoned pursuant to chapter 24-13; or
- 4 (2) At least seven years have elapsed since the person was released from custody, and the  
5 school district employing the person determines that the person is rehabilitated.

6 In determining whether the person is rehabilitated, the school district shall consider the  
7 following factors:

- 8 (1) The nature and seriousness of the offense;
- 9 (2) The circumstances under which the offense occurred;
- 10 (3) The date of the offense and the age of the person at the time the offense was  
11 committed;
- 12 (4) If the offense was an isolated event or repeated;
- 13 (5) Any social conditions which may have contributed to the offense; and
- 14 (6) Any evidence of rehabilitation including the person's good conduct in prison or in the  
15 community, any counseling or psychiatric treatment the person may have received,  
16 any further education obtained by the person, or the person's subsequent work history  
17 or character references.

18 For purposes of this section, persons employed in education support positions are  
19 paraprofessionals and other persons including school nurses with less than a four-year degree,  
20 interns, teacher aides and assistants, secretaries, clerks, custodians, and cafeteria employees who  
21 are engaged in educational service in a public school district.