



2021 South Dakota Legislature

Senate Bill 141

SENATE ENGROSSED

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. Automatic removal of certain charges or convictions from**
 6 **background check record--Case record available to authorized personnel.**

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

- 10 (1) A petty offense, municipal ordinance violation, or a Class 2 misdemeanor was the
 11 highest charged offense shall be automatically removed from a defendant's public
 12 record after ten years if all court ordered conditions on the case have been
 13 satisfied in the case and five years have passed since the charge or conviction; or
 14 (2) Beginning July 1, 2022, a misdemeanor charged prior to July 1, 2021, for the use
 15 or possession of marijuana or any derivative of marijuana was the highest charged
 16 offense in the case.

17 Following the automatic removal of any charge or conviction under this section, no
 18 person shall be held thereafter under any provision of any law to be guilty of perjury or of
 19 giving a false statement by reason of the person's failure to recite or acknowledge the
 20 person's arrest, indictment or information, or trial in response to any inquiry made of the
 21 person for any purpose. However, the case record will remain remains available to court
 22 personnel, law enforcement, or as authorized by order of the court.