

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

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HOUSE BILL NO. 1147

Introduced by: Representatives Bordeaux, Killer, and McCleerey and Senators Heinert and Bradford

1 FOR AN ACT ENTITLED, An Act to prohibit school districts from using school or athletic
2 team names, mascots, or nicknames that are determined to be racially derogatory or
3 discriminatory.

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

5 Section 1. That the code be amended by adding a NEW SECTION to read:

6 The Legislature finds the following:

7 (1) The use of racially derogatory or discriminatory school or athletic team names,
8 mascots, or nicknames in public schools in South Dakota is antithetical to the
9 Legislature's constitutional duty to provide a uniform system of public schools that
10 is equally open to all;

11 (2) Certain athletic team names, mascots, and nicknames that have been used and remain
12 in use by other teams, including school teams, in other parts of the nation are
13 discriminatory in singling out the Native American community for the derision to
14 which mascots or nicknames are often subjected;

15 (3) Many individuals and organizations interested and experienced in human relations,



1 including the United State Commission on Civil Rights, have concluded that the use
2 of Native American images and names in school sports is a barrier to equality and
3 understanding, and that all residents of the United States would benefit from the
4 discontinuance of their use; and

5 (4) No individual or school has a cognizable interest in retaining a racially derogatory or
6 discriminatory school or athletic team name, mascot, or nickname.

7 Section 2. That the code be amended by adding a NEW SECTION to read:

8 If any resident of the State of South Dakota believes that a school or athletic team name,
9 mascot, or nickname used in a public school district is racially derogatory or discriminatory,
10 the resident shall file a complaint with the South Dakota High School Activities Association on
11 forms provided by the association. The association shall review the complaint and determine
12 if the name, mascot, or nickname is racially derogatory or discriminatory. In making the
13 determination, the association shall consult with officials from the federally recognized Indian
14 tribe with tribal land closest to the school district in which the name, mascot, or nickname is
15 being used. If the tribal officials consulted object to the use of the name, the association shall
16 determine that the name, mascot, or nickname is racially derogatory or discriminatory.

17 Any person aggrieved by a determination pursuant to this section that a school or athletic
18 team name, mascot, or nickname is racially derogatory or discriminatory may appeal to the
19 Office of Hearing Examiners under the provisions of chapter 1-26.

20 Section 3. That the code be amended by adding a NEW SECTION to read:

21 Any public school district using a school or athletic team name, mascot, or nickname that
22 the South Dakota High School Activities Association has determined, as provided in section 2
23 of this Act, is racially derogatory or discriminatory shall discontinue use of the racially
24 derogatory or discriminatory name, mascot, or nickname.

1 Section 4. That the code be amended by adding a NEW SECTION to read:

2 Notwithstanding the provisions of section 3 of this Act, a public school district may continue
3 to use uniforms or other materials bearing the racially derogatory or discriminatory term that
4 were purchased prior to the date of determination as provided in section 2 of this Act if the
5 public school district meets the following requirements:

6 (1) The school selects a new school or athletic team name, mascot, or nickname;

7 (2) The school refrains from purchasing or acquiring, for the purpose of distribution or
8 sale to students or school employees, any uniform that includes or bears the racially
9 derogatory or discriminatory term;

10 (3) The school refrains from purchasing or acquiring, for the purpose of distribution or
11 sale to students or school employees, any yearbook, newspaper, program, or other
12 similar material that includes or bears the racially derogatory or discriminatory term
13 in its logo or cover title; and

14 (4) The school refrains from purchasing or constructing a marquee, sign, or other new
15 or replacement fixture that includes or bears the racially derogatory or discriminatory
16 term, and for any existing facility which bears the racially derogatory or
17 discriminatory term, the school shall remove the prohibited name no later than the
18 next time the associated part of the facility is replaced in the normal course of
19 maintenance.