

Committee: Senate Judiciary

Thursday, February 11, 2021 8:00 AM

Roll Call

Present: Sen. Diedrich, Sen. Duhamel, Sen. Johns, Sen. Rusch, Sen. Schoenbeck, Sen. Wheeler, and Sen. Rohl

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Senator Rusch**

**MOTION: TO APPROVE THE MINUTES OF TUESDAY, FEBRUARY 09<sup>TH</sup>**

Moved by: Wheeler  
Second by: Diedrich  
Action: Prevailed by voice vote

**SB 141 : provide for the automatic removal of certain marijuana convictions from a background check record.**

Proponents: Senator Michael Rohl, Aberdeen

**MOTION: AMEND SB 141**

141A

On page 1, line 1, of the Introduced bill, after "to " delete "provide for"  
On page 1, line 1, of the Introduced bill, after "for " insert "revise "  
On page 1, line 1, of the Introduced bill, after "certain " delete "marijuana "  
On page 1, line 14, of the Introduced bill, delete "A" and insert " Beginning July 1, 2022, a"  
On page 1, line 14, of the Introduced bill, after "misdemeanor " insert "charged prior to July 1, 2021 "  
On page 1, line 16, of the Introduced bill, after "case." insert "Following the automatic removal of any charge or conviction under this section, no person shall be held thereafter under any provision of any law to be guilty of perjury or of giving a false statement by reason of the person's failure to recite or acknowledge the person's arrest, indictment or information, or trial in response to any inquiry made of the person for any purpose."  
On page 1, line 16, of the Introduced bill, after "personnel" insert ", law enforcement,"

Moved by: Rohl  
Second by: Johns  
Action: Prevailed by voice vote

**MOTION: DO PASS SB 141 AS AMENDED**

Moved by: Johns  
Second by: Wheeler  
Action: Prevailed by Majority Members Elect (5-1-1-0)

Voting Yes: Diedrich, Johns, Rusch, Wheeler, and Rohl

Voting No: Duhamel

Excused: Schoenbeck

**HB 1068 : revise the requirement for written findings of fact and conclusions in certain judicial proceedings involving a child.**

Proponents: Greg Sattizahn, State Court Administrator, United Judicial System

**MOTION: DO PASS HB 1068**

Moved by: Johns

Second by: Diedrich

Action: Prevailed by Majority Members Elect (6-0-1-0)

Voting Yes: Diedrich, Duhamel, Johns, Rusch, Wheeler, and Rohl

Excused: Schoenbeck

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1068 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**SB 126 : establish the crime of possession, manufacturing, or distribution of obscene dolls.**

Proponents: Senator Jessica Castleberry  
Carrie Sanderson, Director, Center of the Prevention of Child Maltreatment, Sioux Falls, South Dakota  
Lisa Gennaro, Concerned Woman For America, Alexandria  
Katie Hruska, Deputy General Counsel, Governor's Office  
Chris Motz, South Dakota Catholic Conference, Sioux Falls  
Aaron Scheibe, Lobbyist, States Attorney Association, Pierre, South Dakota  
Staci Ackerman, South Dakota Sheriffs Association, Eureka

Opponents: Justin Bell, South Dakota Association of Criminal Defense Lawyers, Rapid City

**MOTION: AMEND SB 126**

126A

On page 1, line 21, of the Introduced bill, after "any " insert "obscene "

On page 1, line 21, of the Introduced bill, after "doll, " insert "obscene "

On page 1, line 21, of the Introduced bill, after "or " insert "obscene "

On page 1, line 22, of the Introduced bill, delete "minor " and insert "child "

On page 1, line 23, of the Introduced bill, after "acts" delete ", or intended for simulation of any such act"

Moved by: Diedrich

Second by: Duhamel

Action: Prevailed by voice vote

**MOTION: DO PASS SB 126 AS AMENDED**

Moved by: Diedrich

Second by: Johns

Action: Failed by Majority Members Elect (3-3-1-0)

Voting Yes: Diedrich, Duhamel, and Rusch

Voting No: Johns, Wheeler, and Rohl

Excused: Schoenbeck

**MOTION: DEFER SB 126 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Wheeler

Action: Died for lack of a second

**THE CHAIR DEFERRED SB 126 UNTIL FEBRUARY 16TH, 2021**

**SB 166 : revise provisions regarding hate crimes.**

Proponents: Red Dawn Foster, Senator  
 Monique Mousseaux, self, Rapid City  
 Isaiah "Shaneequa" Brokenleg, self, Sioux Falls (Handout(s) 1)  
 Alicia Mousseaux, self, Porcupine  
 Elliot Vogue, self, Hartford  
 Xavier Persad, Senior Legislative Counsel, SD Human Rights Campaign  
 Beverly LittleThunder, self, Standing Rock

Opponents: Norman Woods, Family Heritage Alliance Action, Rapid City

**MOTION: AMEND SB 166**

166A

On page 1, line 6, of the Introduced bill, after "persons" insert " in whole or in part"

On page 1, line 7, of the Introduced bill, after "persons' " insert "actual or perceived "

On page 1, line 7, of the Introduced bill, after "race, " insert "color, "

On page 1, line 8, of the Introduced bill, after "origin" insert ", disability, sex"

On page 1, after line 17, of the Introduced bill, insert "

**Section 2.** That a NEW SECTION be added:

23-6-4.1. Bias-motivated crime reporting requirements.

All law enforcement agencies of the state and political subdivisions thereof shall record suspected bias-motivated crimes, including the basis or bases upon which the suspected bias-motivated crime occurred. In a manner prescribed by the director, all law enforcement agencies in the state shall report suspected bias-motivated crime data on a quarterly basis to the bureau. The director shall ensure that bias-motivated crime data from all law enforcement agencies within the state is submitted annually to the Federal Bureau of Investigation for inclusion in the hate crime statistics report. The director shall issue a detailed annual report on statewide bias-motivated crimes, including data on prosecutions under § 22-19B-1. A violation of this section is a Class 2 misdemeanor.

For purposes of this section, bias-motivated crime means a criminal act committed against a person or a person's property in whole or in part because of actual or perceived race, color, ethnicity, religion, ancestry, national origin, disability, sex, sexual orientation, gender identity, or identification as a Native American Two-Spirit, or which is committed for the purpose of restraining that person from exercising the person's rights under the Constitution or laws of this state or of the United States in whole or in part because of actual or perceived race, color, ethnicity, religion, ancestry, national origin, disability, sex, sexual orientation, gender identity, or identification as a Native American Two-Spirit.

"

On page 1, after line 17, of the Introduced bill, insert "

**Section 3.** That a NEW SECTION be added:

23-3-39.9. Bias-motivated crime training requirements.

The initial training of a law enforcement officer shall include training on the proper identification, investigation, documentation, and reporting of bias-motivated crimes as defined in § 23-6-4.1. This training shall include instruction on all relevant state and federal bias-motivated crime laws, including mandatory reporting of bias-motivated crimes under § 23-6-4.1. After initial training, each law enforcement officer shall receive annual training on bias-motivated crime.

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Moved by: Johns  
Second by: Rohl  
Action: Prevailed by voice vote

**THE CHAIR DEFERRED SB 166 AND 193 UNTIL FEBRUARY 16TH, 2021**

**MOTION: ADJOURN**

Moved by: Duhamel  
Second by: Wheeler  
Action: Prevailed by voice vote

Courtney Merchant, Committee Secretary

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/s/ HELENE DUHAMEL  
Helene Duhamel, Vice-Chair