

Committee: Senate Judiciary

Tuesday, February 16, 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 THURSDAY, FEBRUARY 11TH

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

THE CHAIR DEFERRED SB 163 AND 164

SB 174 : revise provisions related to the automatic removal of certain charges or convictions from a defendant's public record.

Proponents: David Wheeler, South Dakota State Senate District 22
Michael Moore, State's Attorney Beadle County
Opponents: Paul Bachand, Attorney, South Dakota State's Attorneys Association
Alexis Tracy, Clay County State's Attorney
Others: Charles McGuigan, Deputy Director, Attorney General Office, Pierre, South Dakota

MOTION: AMEND SB 174

174A

On page 1, line 9, of the Introduced bill, delete " three" and insert " five"
On page 1, line 10, of the Introduced bill, after "satisfied" insert " and the defendant has not been convicted of any further offenses within those five years"
On page 1, line 13, of the Introduced bill, after "satisfied" insert " and the defendant has not been convicted of any further offenses other than petty offenses, municipal ordinance violations, or Class 2 misdemeanors within those ten years"

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

MOTION: AMEND SB 174

174B

On the previously adopted amendment (174A), On page 1, line 11, after "years. " delete "Any charge or conviction resulting from a case where a Class 1 misdemeanor was the highest charged offense shall be automatically removed from a defendant's public record after ten years if all court-ordered conditions on the case have been satisfied and the defendant has not been convicted of any further offenses other than petty offenses, municipal ordinance violations, or Class 2 misdemeanors within those ten years. "

Moved by: Schoenbeck

Second by: Johns
Action: Prevailed by voice vote

MOTION: DO PASS SB 174 AS AMENDED

Moved by: Schoenbeck
Second by: Johns
Action: Prevailed by Majority Members Elect (7-0-0-0)

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

SB 148 : establish the crime of torture of a human trafficking victim and provide a penalty therefor.

Proponents: Michael Diedrich, Senator (Handout(s) 1)
Lisa Gennaro, Concerned Woman For America, Alexandria
Dianna Miller, South Dakota Network Against Family Violence, Sioux Falls
Paul Bachand, Attorney, South Dakota State's Attorneys Association
Kelly Patterson, self, Rapid City
Gina Dvorak, self, Rapid City

MOTION: AMEND SB 148

148A

On page 1, line 8, of the Introduced bill, delete "Class 2" and insert " Class 1"

Moved by: Schoenbeck
Second by: Diedrich
Action: Prevailed by Majority Members Elect (5-2-0-0)

Voting Yes: Diedrich, Duhamel, Schoenbeck, Wheeler, and Rohl

Voting No: Johns and Rusch

THE CHAIR DEFERRED SB 148 UNTIL FEBRUARY 18TH, 2021

SB 176 : adopt the Uniform Faithful Presidential Electors Act.

Proponents: Senator Tim Johns

MOTION: AMEND SB 176

176A

On page 4, after line 24, of the Introduced bill, insert "

Section 10. That § 12-24-1 be AMENDED.

12-24-1. Elector's notice to Governor of readiness to perform duties--Certificate of names presented to electors.

Each elector of President and vice president of the United States shall, before ~~the hour of eleven o'clock in the morning~~ noon of the day fixed by the act of Congress to elect a President and vice president, give notice to the Governor that he is at the seat of government and ready at the proper time to perform the duties of

an elector; and the Governor shall forthwith deliver to the electors present a certificate of all the names of the electors.

"

On page 4, line 27, of the Introduced bill, after "before " delete "nine o'clock in the morning "

On page 4, line 28, of the Introduced bill, after "morning " insert "noon "

Moved by: Johns

Second by: Rohl

Action: Prevailed by voice vote

MOTION: DO PASS SB 176 AS AMENDED

Moved by: Schoenbeck

Second by: Diedrich

Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER SB 176 TO THE 41ST LEGISLATIVE DAY

Moved by: Wheeler

Second by: Duhamel

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

Voting Yes: Wheeler

Voting No: Diedrich, Duhamel, Johns, Rusch, Schoenbeck, and Rohl

Revert to previous motion

MOTION: DO PASS SB 176 AS AMENDED

Moved by: Schoenbeck

Second by: Diedrich

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

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

Voting No: Wheeler

SB 183 : declare certain contract provisions regarding abortion as deceptive acts or practices.

Proponents: Senator Lee Schoenbeck
Dale Allen Bartscher, South Dakota Right to Life, Rapid City (Handout(s) 2)
Debbie Pease, Family Heritage Alliance Action, Rapid City

Opponents: Emilee Gehling, Dakota Surrogacy, Sioux Falls
Mark Papousek, Families From South Dakota Surrogacy, Rapid City
Elizabeth Waltiech, self, Britton
Tara Brandner, Everlasting Hope, Ashley

MOTION: DO PASS SB 183

Moved by: Johns

Second by: Wheeler

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

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

Voting No: Rohl

MOTION: ADJOURN

Moved by: Wheeler

Second by: Rohl

Action: Prevailed by voice vote

Courtney Merchant, Committee Secretary

/s/ ARTHUR RUSCH
Arthur Rusch, Chair