

Committee: House Health and Human Services

Thursday, February 03, 2022 7:45 AM

Roll Call

Present: Rep. Aylward, Rep. Davis, Rep. Healy, Rep. Phil Jensen, Rep. Keintz, Rep. Miskimins, Rep. Perry, Rep. Rehfeldt, Rep. St. John, Rep. Weis, Rep. Wiese, Rep. Deutsch, and Rep. Kevin Jensen

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Kevin Jensen

MOTION: TO APPROVE THE MINUTES OF TUESDAY, FEBRUARY 01ST

Moved by: Phil Jensen
Second by: Wiese
Action: Prevailed by voice vote

THE CHAIR DEFERRED HB 1133 UNTIL NEXT WEEK

HB 1121 : revise certain provisions related to advanced life support personnel.

Presented by: Representative Taylor Rehfeldt, District 14
Proponents: Deb Fischer-Clemens, Avera Health, Sioux Falls
Maynard Konechne, South Dakota Emergency Medical Services Asso, Kimball
Tim Rave, South Dakota Association of Healthcare Organizations, Sioux Falls

MOTION: DO PASS HB 1121

Moved by: Davis
Second by: Healy
Action: Prevailed by Majority Members Elect (13-0-0-0)

Voting Yes: Aylward, Davis, Healy, Phil Jensen, Keintz, Miskimins, Perry, Rehfeldt, St. John, Weis, Wiese, Deutsch, and Kevin Jensen

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1121 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

HB 1122 : require criminal background checks for emergency medical technicians and advanced life support personnel.

Presented by: Representative Taylor Rehfeldt, District 14
Proponents: Maynard Konechne, South Dakota Emergency Medical Services Asso, Kimball
Lynne Valenti, Department of Health
Tim Rave, South Dakota Association of Healthcare Organizations, Sioux Falls

MOTION: DO PASS HB 1122

Moved by: Deutsch
Second by: Perry
Action: Prevailed by Majority Members Elect (13-0-0-0)

Voting Yes: Aylward, Davis, Healy, Phil Jensen, Keintz, Miskimins, Perry, Rehfeldt, St. John, Weis, Wiese, Deutsch, and Kevin Jensen

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1122 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

HB 1129 : prohibit forms of discrimination in access to organ transplantation.

Presented by: Representative Kirk Chaffee, District 29

Proponents: Dale Allen Bartscher, South Dakota Right to Life, Rapid City
Mitchell Rave, Sanford Health, Sioux Falls
Melissa Klemann, Governor's Office
Deb Fischer-Clemens, Avera Health, Sioux Falls
Lisa Gennaro, Concerned Woman For America, Alexandria, VA
Debbie Pease, Family Heritage Alliance Action, Rapid City

Opponents: Tim Neyhart, Disability Rights South Dakota, Pierre

MOTION: AMEND HB 1129

1129B

On page 1, after line 2, of the Introduced bill, insert: "

Section 1. That chapter 34-26 be amended with a NEW SECTION:

No person may discriminate against an individual at any point in the organ transplant process, solely on the basis of an individual's mental or physical disability, unless the disability has been determined to be medically significant to the provision of an anatomical gift.

A violation of this statute is an unfair or discriminatory practice under chapter 20-13."

On page 1, line 3, of the Introduced bill, after "Dakota:" delete "Section 1. That a NEW SECTION be added to title 20:

"

On page 1, line 4, of the Introduced bill, after "20:" delete "Terms used in this chapter mean:

(1) "Auxiliary aids and services,":

- (a) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
- (b) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
- (c) Provision of information in a format that is accessible for individuals with cognitive, neurological, developmental, or intellectual disabilities;
- (d) Provision of supported decision making services;
- (e) Acquisition or modification of equipment or devices; and
- (f) Other similar services and actions;

(2) "Anatomical gift," a donation of all or part of a human body, to take effect after the donor's death, for the purpose of transplantation or transfusion;

(3) "Covered entity,":

- (a) Any licensed health care practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities, prison health centers, and any other licensed providers of health care services, as that term is defined in § 21-68-1; or
- (b) Any entity responsible for matching anatomical gift donors to potential recipients;

(4) "Disability," as defined in 42 U. S. C. § 12102 (2021);

(5) "Organ transplant," the transplantation or transfusion of a part of a human body into the body of another for the purpose of treating or curing a medical condition;

- (6) "Qualified individual," a person who, with or without a support network, provision of auxiliary aids and services, or reasonable modifications to policies or practices, meets the essential eligibility requirements for the receipt of an anatomical gift;
- (7) "Reasonable modification to policies or practices":
 - (a) Communication with individuals responsible for supporting an individual with post-surgical and post-transplantation care, including medication; and
 - (b) Consideration of support networks available to the individual in determining whether the individual can comply with post-transplant medical requirements;
- (8) "Supported decisionmaking," use of a support person to assist an individual in making medical decisions, communicate information to the individual, or ascertain an individual's wishes by:
 - (a) Including the individual's attorney-in-fact, health care proxy, or any person of the individual's choice in communications about the individual's medical care;
 - (b) Permitting the individual to assign a person of their choice for the purposes of supporting that individual in communicating, processing information, or making medical decisions;
 - (c) Providing of auxiliary aids and services to facilitate the individual's ability to communicate and process health-related information, including use of assistive communication technology;
 - (d) Providing information to persons designated by the individual, consistent with the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U. S. C. § 1301 et seq. , as effective January 1, 2022, and other applicable laws and regulations governing disclosure of health information;
 - (e) Providing health information in a format that is readily understandable by the individual;
 - (f) If the individual has a court-appointed guardian or other individual responsible for making medical decisions on behalf of the individual, taking measures to ensure that the individual is included in decisions involving the individual's health care and that medical decisions are in accordance with the individual's own expressed interests."

On page 3, line 1, of the Introduced bill, after "interests." delete "Section 2. That a NEW SECTION be added to title 20:

"

On page 3, line 2, of the Introduced bill, after "20:" delete "With the exception of section 3 of this Act, a covered entity may not, solely on the basis of a qualified individual's mental or physical disability:

- (1) Deem an individual ineligible to receive an anatomical gift or organ transplant;
- (2) Deny evaluation, surgery, counseling, post-operative treatment and services, or any other medical services related to organ transplantation;
- (3) Refuse to refer the individual to a transplant center or other related specialist for the purpose of evaluation or receipt of an organ transplant;
- (4) Refuse to place an individual on an organ transplant waiting list, or placement of the individual at a lower-priority position on the list than the position at which he or she would have been placed if not for his or her disability; or
- (5) Decline insurance coverage for any procedure associated with the receipt of the anatomical gift, including post-transplantation care."

On page 3, line 14, of the Introduced bill, after "care." delete "Section 3. That a NEW SECTION be added to title 20:

"

On page 3, line 15, of the Introduced bill, after "20:" delete "Notwithstanding section 2 of this Act, a covered entity may take an individual's disability into account when making treatment or coverage recommendations or decisions, to the extent that the physical or mental disability has been found by a physician or surgeon, following an individualized evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift. The provisions of this section may not be deemed to require referrals or recommendations for, or the performance of, medically inappropriate organ transplants.

If an individual has the necessary support system to assist the individual in complying with post-transplant medical requirements, an individual's inability to independently comply with those requirements is not medically significant for the purposes of this section."

On page 3, line 26, of the Introduced bill, after "section." delete "Section 4. That a NEW SECTION be added to title 20:

"

On page 3, line 27, of the Introduced bill, after "20:" delete "A covered entity shall:

- (1) Make reasonable modifications in policies, practices, or procedures, when necessary to make services available to qualified individuals with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of such services; and
- (2) Ensure that no qualified individual with a disability is denied service, unless the entity can demonstrate that the qualified individual's request would fundamentally alter the nature of the services offered or would result in an undue burden."

On page 4, line 4, of the Introduced bill, after "burden." delete "Section 5. That a NEW SECTION be added to title 20:

"

On page 4, line 5, of the Introduced bill, after "20:" delete "A violation of this chapter is an unfair or discriminatory practice and is enforced against under chapter 20-13. In addition to the relief provided in § 20-13-42, compensatory, punitive, and liquidated damages may be assessed against the respondent, in the manner remedies are authorized in 42 U. S. C. §§ 12131 et seq. , effective January 1, 2022."

Moved by: Perry
 Second by: Wiese
 Action: Prevailed by voice vote

MOTION: DO PASS HB 1129 AS AMENDED

Moved by: Deutsch
 Second by: Miskimins
 Action: Prevailed by Majority Members Elect (11-2-0-0)

Voting Yes: Aylward, Davis, Phil Jensen, Miskimins, Perry, Rehfeldt, St. John, Weis, Wiese, Deutsch, and Kevin Jensen

Voting No: Healy and Keintz

HB 1123 : establish licensure for rural emergency hospitals.

Presented by: Representative Taylor Rehfeldt, District 14
 Proponents: Lynne Valenti, Department of Health
 Deb Fischer-Clemens, Avera Health, Sioux Falls
 Mitchell Rave, Sanford Health, Sioux Falls
 Tim Rave, South Dakota Association of Healthcare Organizations, Sioux Falls
 Maynard Konechne, South Dakota Emergency Medical Services Asso, Kimball

MOTION: DO PASS HB 1123

Moved by: Davis
 Second by: Perry
 Action: Prevailed by Majority Members Elect (13-0-0-0)

Voting Yes: Aylward, Davis, Healy, Phil Jensen, Keintz, Miskimins, Perry, Rehfeldt, St. John, Weis, Wiese, Deutsch, and Kevin Jensen

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1123 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

SB 9 : revise the definition of a designated caregiver.

Presented by: Representative Taylor Rehfeldt, District 14

MOTION: DO PASS SB 9

Moved by: Healy
Second by: Perry
Action: Prevailed by Majority Members Elect (13-0-0-0)

Voting Yes: Aylward, Davis, Healy, Phil Jensen, Keintz, Miskimins, Perry, Rehfeldt, St. John, Weis, Wiese, Deutsch, and Kevin Jensen

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 9 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

MOTION: ADJOURN

Moved by: Perry
Second by: Rehfeldt
Action: Prevailed by voice vote

Pam Kean, Committee Secretary

/s/ KEVIN D. JENSEN
Kevin D. Jensen, Chair