

Committee: Senate Judiciary

Thursday, February 10, 2022 8:00 AM

Roll Call

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

OTHERS PRESENT: See Original Minutes

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

**MOTION: TO APPROVE THE MINUTES OF TUESDAY, FEBRUARY 08<sup>TH</sup>**

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

**Chairman Rusch stated SB151 would be added to today's agenda.**

**MOTION: TO INVOKE RULE 7-1.5. CONSIDERATION OF MATTERS NOT POSTED.**

Moved by: Duhamel  
Second by: Diedrich  
Action: Prevailed by Two-Thirds Majority (7-0-0-0)

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

**Chairman Rusch stated SB164 would be added to today's agenda.**

**MOTION: TO INVOKE RULE 7-1.5. CONSIDERATION OF MATTERS NOT POSTED.**

Moved by: Duhamel  
Second by: Diedrich  
Action: Prevailed by Two-Thirds Majority (7-0-0-0)

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

**Chairman Rusch stated a request had been made to allow testimony on bill SB172 to accommodate an out-of-town testifier.**

**MOTION: TO INVOKE RULE 7-1.5. CONSIDERATION OF MATTERS NOT POSTED.**

Moved by: Wheeler  
Second by: Stalzer  
Action: Prevailed by Two-Thirds Majority (7-0-0-0)

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

**Chairman Rusch passed the gavel to Vice Chair Duhamel.**

**SB 173 : establish standards for live or photographic lineups conducted by law enforcement.**

Presented by: Senator Arthur Rusch, District 17

Proponents: Andrew Markquart, Great North Innocence Project, Minneapolis, MN  
William Brooks, Chief of Police Norwood Massachusetts, self, Norwood MA  
Michael Smathers, Deputy Chief of Police Albuquerque New Mexico, self  
Justin Bell, South Dakota Association of Criminal Defense Lawyers, Rapid City

Opponents: Richard Tieszen, South Dakota Sheriffs' Association, Eureka (Handout(s) 1)  
Lori Martinec, South Dakota Police Chiefs Association, Pierre  
Grant M. Flynn, South Dakota State's Attorneys Association, Pierre  
Jon Bierne, Department of Public Safety

**MOTION: AMEND SB 173**

173A

On page 1, line 7, of the Introduced bill, after "or" delete " photogenic"  
On page 1, line 7, of the Introduced bill, after "photogenic " insert "photographic "  
Moved by: Rusch  
Second by: Stalzer  
Action: Prevailed by voice vote

**MOTION: DO PASS SB 173 AS AMENDED**

Moved by: Johns  
Second by: Wheeler  
Action: Prevailed by Majority Members Elect (4-3-0-0)

Voting Yes: Johns, Rohl, Wheeler, and Rusch

Voting No: Diedrich, Stalzer, and Duhamel

**Senator Duhamel passed the gavel back to Senator Rusch.**

**KENNETH D. ALBERS OF LINCOLN COUNTY, CANTON, SOUTH DAKOTA, TO THE BOARD OF PARDONS AND PAROLES**

Presented by: Doug Clark, Department of Corrections

**MOTION: THAT THE SENATE ADVISE AND CONSENT TO THE REAPPOINTMENT OF KENNETH D. ALBERS OF LINCOLN COUNTY, CANTON, SOUTH DAKOTA, TO THE BOARD OF PARDONS AND PAROLES**

Moved by: Stalzer  
Second by: Duhamel  
Action: Prevailed by Majority Members Elect (7-0-0-0)

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

**SB 207 : enact the uniform electronic recordation of custodial interrogations act.**

Presented by: Senator David Wheeler, District 22

Proponents: Andrew Markquart, Great North Innocence Project, Minneapolis, MN  
Michael Smathers, Deputy Chief of Police Albuquerque New Mexico, self  
James Trainum, Washington DC Police Department, self  
Elizabeth Regalado, Pennington County Public Defender, self  
Justin Bell, South Dakota Association of Criminal Defense Lawyers, Rapid City  
Opponents: Grant M. Flynn, South Dakota State's Attorneys Association, Pierre  
Richard Tieszen, South Dakota Sheriffs' Association, Eureka  
Lori Martinec, South Dakota Police Chiefs Association, Pierre  
Jon Bierne, Department of Public Safety

**MOTION: AMEND SB 207**

207A

On page 2, line 27, of the Introduced bill, after "interrogated" delete " but shall inform the individual that an electronic recording is being made of the interrogation"

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

**MOTION: DO PASS SB 207 AS AMENDED**

Moved by: Johns  
Second by: Rohl  
Action: Prevailed by Majority Members Elect (4-2-1-0)

Voting Yes: Johns, Rohl, Wheeler, and Rusch

Voting No: Stalzer and Duhamel

Excused: Diedrich

**SB 172 : revise provisions regarding eligibility for parole for certain persons sentenced to life imprisonment.**

Proponents: Sam Lopez, self, Crooks

**Chairman Rusch stated bills not addressed today would be heard next week.**

**MOTION: ADJOURN**

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

Lorna Shell, Committee Secretary

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/s/ ARTHUR RUSCH  
Arthur Rusch, Chair