

Committee: House Health and Human Services

Thursday, February 17, 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 15TH

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

HB 1315 : clarify provisions related to foster care.

MOTION: TO TABLE HB 1315

Moved by: Wiese
Second by: Perry
Action: Prevailed by Majority Members Elect (12-0-1-0)

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

Excused: St. John

HB 1293 : limit liability for certain child welfare agency licensees.

Presented by: Representative Erin Healy, District 14
Proponents: Jennifer Stalley, Children's Home Society, Sioux Falls
Terrance Lee Dosch, South Dakota Council of Community Behavioral Health, Pierre
Justin G. Smith, South Dakota Association of Youth Care Providers, Sioux Falls
Steve Siegel, South Dakota Trial Lawyers Association, Sioux Falls

MOTION: DO PASS HB 1293

Moved by: Rehfeldt
Second by: Davis
Action: Prevailed by Majority Members Elect (9-3-1-0)

Voting Yes: Davis, Healy, Keintz, Miskimins, Perry, Rehfeldt, Wiese, Deutsch, and Kevin Jensen

Voting No: Aylward, Phil Jensen, and Weis

Excused: St. John

HB 1223 : authorize the provision of informed consent by a pregnant minor.

Presented by: Representative Erin Healy, District 14 (Handout(s) #1)

Proponents: Deb Fischer-Clemens, Avera Health, Sioux Falls
Lindsey Riter-Rapp, South Dakota Section of the American College of
Obstetricians and Gynecologists, Rapid City
Sister Kathleen Bierne, Presentation Sisters of Aberdeen, Aberdeen
Mitchell Rave, Sanford Health, Sioux Falls
Justin Bell, South Dakota State Medical Association, Sioux Falls
Paul Knecht, South Dakota Dental Association, Pierre
Hannah Sammons, Self, Sioux Falls

Opponents: Debbie Pease, Family Heritage Alliance Action, Rapid City

MOTION: AMEND HB 1223

1223C

On page 1, line 7, of the Introduced bill, delete "a reasonable" and insert " an"

On page 1, line 9, of the Introduced bill, after "or " delete "unreasonably "

Moved by: Perry

Second by: Deutsch

Action: Prevailed by voice vote

MOTION: AMEND HB 1223

1223D

On page 1, line 7, of the Introduced bill, delete "a reasonable" and insert " an"

On page 1, line 9, of the Introduced bill, after "is " delete "either "

On page 1, line 9, of the Introduced bill, after "unavailable " delete "or unreasonably withholds
consent"

Moved by: Weis

Second by: Aylward

Action: Failed by roll call vote (6-6-1-0)

Voting Yes: Aylward, Phil Jensen, Keintz, Perry, Weis, and Wiese

Voting No: Davis, Healy, Miskimins, Rehfeldt, Deutsch, and Kevin Jensen

Excused: St. John

MOTION: DO PASS HB 1223 AS AMENDED

Moved by: Rehfeldt

Second by: Davis

Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER HB 1223 TO THE 41ST LEGISLATIVE DAY

Moved by: Deutsch

Second by: Phil Jensen

Action: Failed by Majority Members Elect (3-9-1-0)

Voting Yes: Weis, Wiese, and Deutsch

Voting No: Aylward, Davis, Healy, Phil Jensen, Keintz, Miskimins, Perry, Rehfeldt, and Kevin Jensen

Excused: St. John

Revert to previous motion

MOTION: DO PASS HB 1223 AS AMENDED

Moved by: Rehfeldt

Second by: Davis

Action: Prevailed by Majority Members Elect (8-4-1-0)

Voting Yes: Aylward, Davis, Healy, Keintz, Miskimins, Perry, Rehfeldt, and Kevin Jensen

Voting No: Phil Jensen, Weis, Wiese, and Deutsch

Excused: St. John

HB 1161 : create a registration requirement for sober living homes.

Presented by: Representative Jess Olson, District 34

Proponents: Senator Julie Frye-Mueller, District 30
Sam Nelson, South Dakota Municipal League

Opponents: Brenda Tidball-Zeltinger, Department of Social Services

MOTION: AMEND HB 1161

1161F

On page 1, line 7, of the Introduced bill, after "disorders;" insert " and"

On page 1, line 8, of the Introduced bill, after "disorders;

(2)" delete "Independent living and life skills development are promoted; and"

On page 1, line 9, of the Introduced bill, after "and" delete "(3)"

On page 1, line 9, of the Introduced bill, delete "Medication administration is limited to prescribed medications that are taken, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of " and insert " Persons are provided with one or more methods of treatment for "

On page 1, line 11, of the Introduced bill, after "disorders" insert ", ranging from recovery housing to clinical treatment.

The term does not include an accredited prevention or treatment facility, as defined in § 34-20A-2"

On page 1, line 15, of the Introduced bill, after "is " insert "in compliance with local building codes and zoning requirements, and "

On page 1, line 16, of the Introduced bill, delete "who requires " and insert "residing in a sober living home that provides "

On page 1, line 17, of the Introduced bill, after "treatment, " delete "while residing in the sober living home, "

On page 1, line 19, of the Introduced bill, after "medications;

(2)" delete "That drug and alcohol abstinence is verified through consistent and fair practices;"

On page 1, line 20, of the Introduced bill, after "practices;" delete "(3) That the activities of persons who reside in the sober living home promote the safety and well-being of the neighborhood and the community at large;

(4) That discharge planning for persons residing in the sober living home does not negatively impact the neighborhood or community at large;"

On page 1, line 24, of the Introduced bill, delete "(5) That any neighborhood concerns or complaints are immediately and thoroughly addressed" and insert " That the sober living home develops and enforces rules to maintain an alcohol and drug-free environment, with an exception for prescribed or over-the-counter drugs that are taken as directed;

(3) That any complaints received by a municipality regarding the sober living home are addressed in accordance with applicable ordinances"

On page 2, line 1, of the Introduced bill, delete "(6)" and insert "(4)"

On page 2, line 4, of the Introduced bill, after "home;

(b) A " insert "list of each person's medications; and

(c) In the case of a clinical treatment sober living home, a "

On page 2, line 4, of the Introduced bill, after "condition; " delete "and"

On page 2, line 5, of the Introduced bill, after "and" delete "(c) A list of each person's medications;"

On page 2, line 6, of the Introduced bill, delete "(7)" and insert "(5)"

On page 2, line 9, of the Introduced bill, delete "(8) That standard accounting practices govern the collection of rent payments and the payment of all shared costs and other expenses;

(9)" and insert "(6)"

On page 2, line 13, of the Introduced bill, delete "(10)" and insert "(7)"

On page 2, line 13, of the Introduced bill, delete "functioning " and insert "single or multi-station "

On page 2, line 13, of the Introduced bill, delete " detectors" and insert " alarms"

On page 2, line 14, of the Introduced bill, delete "available" and insert " installed and maintained"

On page 2, line 14, of the Introduced bill, after "with " delete "recommendations of the fire department having jurisdiction over the home."

On page 2, line 16, of the Introduced bill, delete "Any person who owns a dwelling and allows that dwelling to be used as a sober living home, without meeting the registration requirements of this section, is guilty of a Class 1 misdemeanor and may be subject to a civil penalty, by the department, in the amount of one thousand dollars for each day the dwelling is not registered. The department shall forward any amount received as a civil penalty under this section to the state treasurer for deposit in the general fund" and insert " local ordinances"

On page 2, line 22, of the Introduced bill, after "fund." delete "Section 3. That a NEW SECTION be added to title 34:

"

On page 2, line 23, of the Introduced bill, after "34:" delete "The Department of Social Services shall charge a registration fee in the amount of one thousand dollars and an annual renewal fee in the amount of five hundred dollars. The department shall forward any fees collected under this section to the state treasurer for deposit in the general fund."

On page 2, line 32, of the Introduced bill, after "Act." insert "

No home may hold itself out to be a sober living home or accept residents for purposes of sober living unless that home is registered, as required by section 2 of this Act. "

Moved by: Perry

Second by: Rehfeldt

Action: Prevailed by voice vote

MOTION: DO PASS HB 1161 AS AMENDED

Moved by: Davis

Second by: Miskimins

Action: Prevailed by Majority Members Elect (9-3-1-0)

Voting Yes: Davis, Healy, Keintz, Miskimins, Perry, Rehfeldt, Wiese, Deutsch, and Kevin Jensen

Voting No: Aylward, Phil Jensen, and Weis

Excused: St. John

HB 1134 : accommodate legislation related to medical cannabis.

Presented by: Representative Rhonda Milstead, District 9

Opponents: Deb Peters, MISD Property Holdings 1, Yankton

MOTION: AMEND HB 1134

1134A

On page 1, line 1, of the Introduced bill, delete "accommodate legislation related to medical cannabis" and insert " revise provisions related to medical cannabis for the protection of youth"

On the Introduced bill, delete everything after the enacting clause and insert:

Section 1. That § 34-20G-18 be AMENDED:

34-20G-18. This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalty for engaging in, the following conduct:

- (1) Undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice;
- (2) Possessing cannabis or otherwise engaging in the medical use of cannabis in ~~any~~ any correctional facility;
- (a) In or on any preschool property, public or nonpublic school property, or at any public or nonpublic school-sanctioned event or activity located off school grounds, unless authorized pursuant to sections 6 and 7 of this Act;
- (b) At any outdoor facility, including any appurtenant parking lot, intended for recreation, open to the public, any portion of which contains apparatus intended for the recreation of children;
- (c) At any recreational facility or gymnasium and any appurtenant parking lot, intended primarily for use by persons under eighteen years of age that regularly provides athletic, civic, or cultural activities; or
- (d) On the grounds of any correctional facility;
- (3) Smoking or vaping cannabis:
 - (a) On any form of public transportation; or
 - (b) In any public place or any place that is open to the public;
- (4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of cannabis, except that a registered qualifying patient or nonresident cardholder is not considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

Section 2. That § 34-20G-19 be AMENDED:

34-20G-19. ~~No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person~~ A cardholder may not be refused enrollment by a public school or a lease by a landlord, or otherwise be penalized by a public school or landlord solely for the person's status as a cardholder, unless failing to do so would violate federal law or regulations or cause the public school or landlord to lose a monetary or licensing-related benefit under federal law or regulation.

Section 3. That § 34-20G-55 be AMENDED:

34-20G-55. Not later than ninety days after receiving an application for a medical cannabis establishment, the department shall register the prospective medical cannabis establishment and issue a registration certificate and a random ten-digit

alphanumeric identification number if all of the following conditions are satisfied:

- (1) The prospective medical cannabis establishment has submitted all of the following:
 - (a) The application fee;
 - (b) An application, including:
 - (i) The legal name of the prospective medical cannabis establishment;
 - (ii) The physical address of the prospective medical cannabis establishment that is not within one thousand feet of a preschool, public or private nonpublic school, public or private postsecondary institution, or any land owned by a preschool, public or nonpublic school, or public or private postsecondary institution existing before the date of the medical cannabis establishment application;
 - (iii) The name and date of birth of each principal officer and board member of the proposed medical cannabis establishment; and
 - (iv) Any additional information requested by the department;
 - (c) Operating procedures consistent with rules for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate record keeping and adequate security measures;
 - (d) If the city or county where the proposed medical cannabis establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical cannabis establishment does not violate the restrictions;
 - (e) If the city or county where the proposed medical cannabis establishment requires a local registration, license, or permit, a copy of the registration, license, or permit;
- (2) None of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked;
- (3) None of the principal officers or board members is under twenty-one years of age; and
- (4) At least one principal officer is a resident of this state.

Section 4. That § 34-20G-72 be AMENDED:

34-20G-72. ~~Not later than October 29, 2021, the~~ The department shall promulgate rules pursuant to chapter 1-26:

- (1) Governing the manner in which the department shall consider petitions from the public to add a debilitating medical condition or treatment to the list of debilitating medical conditions as defined by this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;
- (2) Establishing the form and content of registration and renewal applications submitted under this chapter;
- (3) Establishing a system to numerically score competing medical cannabis establishment applicants, in cases where more applicants apply than are allowed by the local government, that includes analysis of:
 - (a) The preference of the local government;
 - (b) In the case of dispensaries, the suitability of the proposed location and its accessibility for patients;
 - (c) The character, veracity, background, qualifications, and relevant experience of principal officers and board members; and
 - (d) The business plan proposed by the applicant, that in the case of a cultivation facility or dispensary shall include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patrons and the

- community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients;
- (4) Governing the manner in which the department shall consider applications for and renewals of registry identification cards, that may include creating a standardized written certification form;
 - (5) Governing medical cannabis establishments to ensure the health and safety of qualifying patients and prevent diversion and theft without imposing an undue burden or compromising the confidentiality of a cardholder, including:
 - (a) Oversight requirements;
 - (b) Record-keeping requirements;
 - (c) Security requirements, including lighting, physical security, and alarm requirements;
 - (d) Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;
 - (e) Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by a cultivation facility;
 - (f) Requirements for the transportation and storage of cannabis by a medical cannabis establishment;
 - (g) Employment and training requirements, including requiring that each medical cannabis establishment create an identification badge for each agent;
 - (h) Standards for the safe manufacture of cannabis products, including extracts and concentrates;
 - (i) Restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;
 - (j) Requirements and procedures for the safe and accurate packaging and labeling of medical cannabis; ~~and~~
 - (k) Certification standards for testing facilities, including requirements for equipment and qualifications for personnel; and
 - (l) Restrictions on the marketing of cannabis and cannabis products using names and images that appeal to children;
 - (6) Establishing procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that commit multiple or serious violations of this chapter;
 - (7) Establishing labeling requirements for cannabis and cannabis products, including requiring cannabis product labels to include the following:
 - (a) The length of time it typically takes for a product to take effect;
 - (b) Disclosing ingredients and possible allergens;
 - (c) A nutritional fact panel; and
 - (d) Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that it contains cannabis;
 - (8) Establishing procedures for the registration of nonresident cardholders and the cardholder's designation of no more than two dispensaries, which shall require the submission of:
 - (a) A practitioner's statement confirming that the patient has a debilitating medical condition; and
 - (b) Documentation demonstrating that the nonresident cardholder is allowed to possess cannabis or cannabis preparations in the jurisdiction where the nonresident cardholder resides;

- (9) Establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder may possess; and
- (10) Establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:
 - (a) Application fees for medical cannabis establishments may not exceed five thousand dollars, with this upper limit adjusted annually for inflation;
 - (b) The total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering this chapter;
 - (c) A sliding scale of patient application and renewal fees based upon a qualifying patient's household income;
 - (d) The fees charged to qualifying patients, nonresident cardholders, and caregivers shall be no greater than the costs of processing the application and issuing a registry identification card or registration; and
 - (e) The department may accept donations from private sources to reduce application and renewal fees.

A violation of a required or prohibited action under any rule authorized by this section is a Class 2 misdemeanor.

Section 5. That § 34-20G-95 be REPEALED:

~~The Department of Education and the department shall establish policy to allow students who are medical cannabis cardholders to have their medicine administered in school in accordance with their physician's recommendation. This policy shall be implemented the first day of the new school year following passage of this chapter. The departments shall implement substantively identical provisions to Colorado Revised Statute 22-1-119.3 as of January 1, 2019.~~

Section 6. That chapter 34-20G be amended with a NEW SECTION:

A public school student who is a cardholder may not engage in the medical use of cannabis on school grounds, in a school vehicle, or during a school-related event or activity located off school grounds, unless the school district adopts a policy permitting the medical use of cannabis by students. Any adopted policy must require that cannabis or cannabis products used by a student:

- (1) Is in a form that is not consumed by smoking or vaping;
- (2) Is administered to the student by the parent or legal guardian who agrees to serve as the student's designated caregiver pursuant to § 34-20G-33;
- (3) Is administered in a manner that is not disruptive to the educational environment and does not cause exposure to any other student; and
- (4) Is removed from the school property or school-sanctioned event by the caregiver if any cannabis or cannabis product remains following administration.

If a school district adopts a policy pursuant to this section, it shall conspicuously post the policy on its website. If the school district does not have a website, it shall make the policy available.

Section 7. That chapter 34-20G be amended with a NEW SECTION:

A nonpublic school student who is a cardholder may not engage in the medical use of cannabis on school grounds, in a school vehicle, or during a school-related event or activity located off school grounds unless the school adopts a policy permitting the medical use of cannabis by students. If a nonpublic school adopts a policy permitting the medical use of cannabis by students, it is permitted discretion in adopting any reasonable policy. If a nonpublic school adopts a policy pursuant to this section, it shall conspicuously post the policy on its website. If a nonpublic school does not have a website, it shall make the policy available upon request.

Section 8. That chapter 34-20G be amended with a NEW SECTION:

If a school district or nonpublic school adopts a policy pursuant to section 6 or 7 of this Act, no school subject to the policy may discipline a student acting in accordance with the policy."

Moved by: Perry
Second by: Weis
Action: Prevailed by roll call vote (7-5-1-0)

Voting Yes: Phil Jensen, Miskimins, Perry, Weis, Wiese, Deutsch, and Kevin Jensen

Voting No: Aylward, Davis, Healy, Keintz, and Rehfeldt

Excused: St. John

MOTION: DO PASS HB 1134 AS AMENDED

Moved by: Deutsch
Second by: Phil Jensen
Action: Prevailed by Majority Members Elect (7-5-1-0)

Voting Yes: Phil Jensen, Miskimins, Perry, Weis, Wiese, Deutsch, and Kevin Jensen

Voting No: Aylward, Davis, Healy, Keintz, and Rehfeldt

Excused: St. John

HB 1133 : provide that the cost of a home study required for an adoption is the responsibility of the Department of Social Services.

Presented by: Representative Jess Olson, District 34

MOTION: DO PASS HB 1133 AS AMENDED

Moved by: Davis
Second by: Rehfeldt
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 1133 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

HB 1208 : prohibit chemical abortion drugs and to provide a penalty therefor.

Presented by: Representative Steven Haugaard, District 10
Proponents: Jaylem Dourousseau, Students for Life Action, Fredericksburg (Handout(s) #2)
Opponents: Justin Bell, South Dakota State Medical Association, Sioux Falls
Jett Jonelis, American Civil Liberties Union Foundation Inc, NY
Amy Kelley. MD., Self, Sioux Falls
Mitchell Rave, Sanford Health, Sioux Falls

MOTION: DO PASS HB 1208

Moved by: Deutsch
Second by: Perry
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER HB 1208 TO THE 41ST LEGISLATIVE DAY

Moved by: Rehfeldt
Second by: Davis
Action: Failed by Majority Members Elect (6-7-0-0)

Voting Yes: Davis, Healy, Keintz, Miskimins, Rehfeldt, and St. John

Voting No: Aylward, Phil Jensen, Perry, Weis, Wiese, Deutsch, and Kevin Jensen

Revert to previous motion

MOTION: DO PASS HB 1208

Moved by: Deutsch
Second by: Perry
Action: Prevailed by Majority Members Elect (7-6-0-0)

Voting Yes: Aylward, Phil Jensen, Perry, Weis, Wiese, Deutsch, and Kevin Jensen

Voting No: Davis, Healy, Keintz, Miskimins, Rehfeldt, and St. John

THE CHAIR DEFERRED HB 1242 UNTIL TUESDAY, FEBRUARY 22ND 2022

MOTION: ADJOURN

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

Pam Kean, Committee Secretary

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