

Committee: Senate Judiciary

Thursday, February 24, 2022 7:45 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 22ND

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

Chairman Rusch stated HB1160 would be moved to Tuesday, March 1, 2022.

HB 1099 : revise provisions related to courtroom modifications for child witnesses.

Presented by: Representative Tim Reed, District 7
Proponents: Tifanie Petro, Children's Home Society, Sioux Falls
Dianna Miller, South Dakota Network Against Family Violence, Sioux Falls
Rachel Oglesby, Governor's Office
Carrie Sanderson, Center for the Prevention of Child Maltreatment, Sioux Falls
Tom Holmes, Call to Freedom, Inc., Sioux Falls
Opponents: Justin Bell, South Dakota Association of Criminal Defense Lawyers, Rapid City

MOTION: AMEND HB 1099

1099B

On page 1, line 4, of the House Judiciary Engrossed bill, remove the overstrikes from " twelve, or a child twelve years of age or older who is developmentally disabled as defined in § 27B-1-18,"

On page 1, line 6, of the House Judiciary Engrossed bill, after "§ 27B-1-18, " delete "eighteen "

Moved by: Wheeler
Second by: Johns
Action: Failed by roll call vote (3-3-1-0)

Voting Yes: Johns, Wheeler, and Rusch

Voting No: Diedrich, Stalzer, and Duhamel

Excused: Rohl

MOTION: AMEND HB 1099

1099C

On page 1, line 6, of the House Judiciary Engrossed bill, delete "eighteen " and insert " sixteen "

Moved by: Duhamel
 Second by: Diedrich
 Action: Prevailed by roll call vote (5-1-1-0)

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

Voting No: Johns

Excused: Rohl

MOTION: DO PASS HB 1099 AS AMENDED

Moved by: Diedrich
 Second by: Duhamel
 Action: Prevailed by Majority Members Elect (6-0-1-0)

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

Excused: Rohl

HB 1100 : revise provisions related to the video recording of certain victim testimony at a preliminary hearing or deposition.

Presented by: Representative Tim Reed, District 7

Proponents: Tifanie Petro, Children's Home Society, Sioux Falls
 Dianna Miller, South Dakota Network Against Family Violence, Sioux Falls
 Rachel Oglesby, Governor's Office
 Carrie Sanderson, Center for the Prevention of Child Maltreatment, Sioux Falls
 Tom Holmes, Call to Freedom, Inc., Sioux Falls

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

MOTION: AMEND HB 1100

1100B

On page 1, line 5, of the House Judiciary Engrossed bill, after "than" delete " eighteen"
 On page 1, line 5, of the House Judiciary Engrossed bill, after "eighteen " insert "sixteen "

Moved by: Johns
 Second by: Wheeler
 Action: Prevailed by roll call vote (6-0-1-0)

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

Excused: Rohl

MOTION: DO PASS HB 1100 AS AMENDED

Moved by: Duhamel
 Second by: Stalzer
 Action: Prevailed by Majority Members Elect (6-0-1-0)

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

Excused: Rohl

HB 1110 : revise a provision related to the appointment of a guardian ad litem or a special advocate to represent an abused or neglected child.

Presented by: Greg Sattizahn, Unified Judicial System (Handout(s) 1,2)

Opponents: Ross B Garelick Bell, Oglala Sioux Tribe, Pine Ridge
Ross B Garelick Bell, CCST - Crow Creek Sioux Tribe, Fort Thompson
Ross B Garelick Bell, Yankton Sioux Tribe, Wagner
Senator Troy Heinert, District 26

Chairman Rusch stated final decision on HB1110 would be deferred to the end of the calendar to allow remote testifiers with connectivity issues the opportunity to call in.

HB 1115 : allow succession to real property by an affidavit.

Presented by: Senator Timothy Johns, District 31

Proponents: Representative Ryan Cwach, District 18
David Larson, self, Chamberlain
Grace Beck, South Dakota Land Title Association, Miller

MOTION: DO PASS HB 1115

Moved by: Johns
Second by: Duhamel
Action: Prevailed by Majority Members Elect (6-0-1-0)

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

Excused: Diedrich

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1115 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

HB 1213 : clarify the Corrections Commission's ability to obtain criminal justice information.

Presented by: Representative Steven Haugaard, District 10

Opponents: Grant Flynn, State's Attorney's Association, Pierre
Richard Tieszen, South Dakota Sheriffs' Association, Eureka

MOTION: DEFER HB 1213 TO THE 41ST LEGISLATIVE DAY

Moved by: Wheeler
Second by: Johns
Action: Prevailed by Majority Members Elect (6-0-1-0)

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

Excused: Diedrich

Chairman Rusch passed the gavel to Senator Duhamel.

HB 1176 : grant immunity from certain liabilities for camping activities.

Presented by: Representative Mike Derby, District 34

Proponents: Mary Arlington, SDCOA, Pierre

Al Johnson, self, Hill City

Justin G. Smith, South Dakota Visitor Industry Alliance, Pierre

Stephen Saint, self, Custer

Opponents: Steve Siegel, South Dakota Trial Lawyers Association, Sioux Falls

MOTION: AMEND HB 1176

1176C

On page 1, line 21, of the House Judiciary Engrossed bill, after "wildlife;

(h)" delete "Animals of other campers or visitors that cause injury, unless the private campground owner or an employee or officer of the private campground owner has accepted responsibility for care of the animal;

(i)"

On page 2, line 1, of the House Judiciary Engrossed bill, delete "(j)" and insert "(i)"

On page 2, line 4, of the House Judiciary Engrossed bill, delete "(k)" and insert "(j)"

On page 2, line 6, of the House Judiciary Engrossed bill, delete "(l)" and insert "(k)"

On page 2, line 8, of the House Judiciary Engrossed bill, delete "(m)" and insert "(l)"

On page 2, line 11, of the House Judiciary Engrossed bill, delete "(n)" and insert "(m)"

Moved by: Rohl

Second by: Wheeler

Action: Prevailed by voice vote

MOTION: DO PASS HB 1176 AS AMENDED

Moved by: Rohl

Second by: Wheeler

Action: Prevailed by Majority Members Elect (4-2-1-0)

Voting Yes: Rohl, Stalzer, Wheeler, and Rusch

Voting No: Johns and Duhamel

Excused: Diedrich

Senator Duhamel passed the gavel back to Chairman Rusch.

Testimony was heard by Senator Heinert on HB1110 and committee action continued on HB1110.

MOTION: DO PASS HB 1110

Moved by: Wheeler

Second by: Duhamel

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

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

Voting No: Rohl

Senator Rusch stated HB1246 would be heard at 3:00 pm or 15 minutes after Senate adjourns.

Sen Rusch reconvened the committee at 3:50

HB 1246 : establish the fundamental right of a parent.

Presented by: Senator Jessica Castleberry, District 35

Proponents: Representative Sue Peterson, District 13

William Anthony Estrada, Parental Rights.org, Lovettsville, VA

Linda Schauer, Concerned Women for America, Alexandria, VA

Debbie Pease, Families for Alternative Instruction Rights SD, Sioux Falls

Debbie Pease, Family Heritage Alliance Action, Rapid City

Chris Motz, South Dakota Catholic Conference, Sioux Falls

Opponents: Rob Monson, School Administrators of South Dakota, Pierre

Dianna Miller, Large School Group, Pierre

Wade Pogany, Associated School Boards of South Dakota, Pierre

Sandra Waltman, South Dakota Education Association, Pierre

Roger Tellinghuisen, Human Rights Campaign, Washington

MOTION: AMEND HB 1246

1246F

On page 1, line 5, of the House Judiciary Engrossed bill, after "parents." insert " This does not change the parental rights as established by South Dakota law as of July 1, 2022."

Moved by: Stalzer

Second by: Diedrich

Action: Failed by roll call vote (2-5-0-0)

Voting Yes: Stalzer and Rusch

Voting No: Diedrich, Johns, Rohl, Wheeler, and Duhamel

MOTION: DO PASS HB 1246

Moved by: Stalzer

Action: Died for lack of a second

MOTION: DEFER HB 1246 TO THE 41ST LEGISLATIVE DAY

Moved by: Wheeler

Second by: Rohl

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

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

Voting No: Stalzer

MOTION: ADJOURN

Moved by: Rohl

Second by: Wheeler

Action: Prevailed by voice vote

Jean Denton, Committee Secretary

/s/ ARTHUR RUSCH
Arthur Rusch, Chair