

Committee: Senate Judiciary

Thursday, February 29, 2024 7:45 AM

Roll Call

Present: Sen. Hoffman, Sen. Mehlhaff, Sen. Rohl, Sen. Wheeler, Sen. Walsh,  
Sen. Stalzer, and Sen. Duhamel

OTHERS PRESENT: See Original Minutes

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

**MOTION: TO APPROVE THE MINUTES OF THURSDAY, FEBRUARY 22<sup>ND</sup>**

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

**HB 1245 : revise provisions related to the custody of an alleged delinquent child before and after a temporary custody hearing.**

Presented by: Representative Rebecca Reimer  
Proponents: Steve Smith, Self, Lyman County States Attorney (Handout(s) 1)  
Rob L. Monson, School Administrators of South Dakota, Pierre  
Staci Ackerman, South Dakota Sheriffs' Association, Eureka  
Dianna Miller, Large School Group (Aberdeen), Aberdeen  
Jenna R. Severyn, South Dakota Police Chiefs Association, Fort Pierre

**MOTION: AMEND HB 1245**

1245B

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

"

**Section 1. That § 26-8C-3 be AMENDED:**

**26-8C-3.** An apparent or alleged delinquent child taken into temporary custody by a law enforcement officer prior to a temporary custody hearing shall be released to the child's parents, guardian, or custodian unless the parents, guardian, or custodian cannot be located, or in the judgment of the intake officer, are not suitable to receive the child, in which case the child shall be placed in shelter. A child may not be placed in detention unless the intake officer finds that the parents, guardian, or custodian are not available or are not suitable to receive the child, and finds at least one of the following circumstances exists:

- (1) The child is a fugitive from another jurisdiction;
- (2) The child is charged with a violation of § 22-22-7, a crime of violence under subdivision 22-1-2(9), or a serious property crime, which, if committed by an adult, would be a felony;
- (3) The child is already held in detention or on conditional release in connection with another delinquency proceeding;
- (4) The child has a demonstrable recent record of willful failures to appear for juvenile court proceedings;
- (5) The child has a demonstrable recent record of violent conduct;
- (6) The child has a demonstrable recent record of adjudications for serious property offenses;

- (7) The child is under the influence of alcohol, inhalants, or a controlled drug or substance and detention is the least restrictive alternative in view of the gravity of the alleged offense and is necessary for the physical safety of the child, the public, and others;~~or~~
- (8) The child has failed to comply with court services or a court ordered program;  
or
- (9) There are specific, articulated circumstances that justify detention, not to exceed five days, for the protection of the child from potentially immediate harm to the child or to others.

The shelter or detention authorized ~~shall~~ must be the least restrictive alternative available.

**Section 2. That § 26-7A-21 be AMENDED:**

**26-7A-21.** If the child is an apparent, alleged, or adjudicated delinquent child, after the temporary custody hearing the court shall release the child from temporary custody to the child's parents, guardian, or custodian, with or without restriction or condition or upon written promise of the child's parents, guardian, or custodian regarding the custody and supervision of the child and the subsequent appearance of the child in court at a time, date, and place to be determined by the court, unless the court finds that the child should continue to be held in temporary custody of court services for any of the following reasons:

- (1) The child is a fugitive from another jurisdiction;
- (2) The child is charged with a violation of § 22-22-7, a crime of violence under subdivision 22-1-2(9),~~z~~ or a property crime, which, if committed by an adult, would be a felony;
- (3) The child is already held in detention or on conditional release in connection with another delinquency proceeding;
- (4) The child has a demonstrable recent record of willful failures to appear at juvenile court proceedings;
- (5) The child has a demonstrable recent record of violent conduct;
- (6) The child has a demonstrable recent record of adjudications for serious property offenses;
- (7) The child is still under the influence of alcohol, inhalants, or a controlled drug or substance;~~or~~
- (8) The child has failed to comply with court services or a court ordered program;  
or
- (9) There are specific, articulated circumstances that justify detention, not to exceed five days, for the protection of the child from potentially immediate harm to the child or to others."

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

**MOTION: DO PASS HB 1245 AS AMENDED**

Moved by: Wheeler  
Second by: Rohl  
Action: Prevailed by Majority Members Elect (7-0-0-0)

Voting Yes: Hoffman, Mehlhaff, Rohl, Wheeler, Walsh, Stalzer, and Duhamel

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1245 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**HB 1039 : provide for the payment of legal expenses originating from crime committed at a facility maintained by the Department of Corrections.**

Presented by: Representative Ernie Otten

Proponents: Eric Erickson, South Dakota Association of County Commissioners, Pierre  
Staci Ackerman, South Dakota Sheriffs' Association, Eureka

**MOTION: DO PASS HB 1039**

Moved by: Mehlhaff

Second by: Wheeler

Action: Prevailed by Majority Members Elect (7-0-0-0)

Voting Yes: Hoffman, Mehlhaff, Rohl, Wheeler, Walsh, Stalzer, and Duhamel

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1039 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**HB 1257 : require age verification by websites containing material harmful to minors.**

Presented by: Representative Bethany Soye

Proponents: Holly Strand, Self, Hermosa  
Jon Schweppe, Self, Ashburn, VA  
David Mason, Self, Wildwood MO  
Lisa Gennaro, Concerned Women for America, Alexandria, VA  
Tamara R Grove, Protecting South Dakota Kids Inc., Rapid City  
Norman Woods, SD Family Voice Action, Rapid City  
Michael G. Pauley, South Dakota Catholic Conference, Rapid City  
Senator Red Dawn Foster  
Shannon Stulde, Self, Sioux Falls

Opponents: Samantha Chapman, American Civil Liberties Union Foundation Inc., NY  
Ben Sherman, Self, Rapid City

**MOTION: DO PASS HB 1257**

Moved by: Mehlhaff

Second by: Hoffman

Action: Was not acted on.

**MOTION: SUBSTITUTE MOTION: DEFER HB 1257 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Rohl

Second by: Wheeler

Action: Prevailed by Majority Members Elect (4-3-0-0)

Voting Yes: Rohl, Wheeler, Walsh, and Duhamel

Voting No: Hoffman, Mehlhaff, and Stalzer

**MOTION:    ADJOURN**

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

Doug Mortenson, Committee Secretary

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/s/ HELENE DUHAMEL  
Helene Duhamel, Chair