

Roll Call

Present: Rep. Bahmuller, Rep. Emery, Rep. Gosch, Rep. Hansen, Rep. Healy, Rep. Heinemann, Rep. Jamison, Rep. Lems, Rep. Reisch, Rep. Schaeffbauer, Rep. Soye, Rep. Overweg, and Rep. Odenbach

The meeting was called to order by Representative Odenbach

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 12TH

Moved by: Lems
Second by: Bahmuller
Action: Prevailed by voice vote

HJR 5006 : Proposing and submitting to the voters at the next general election amendments to the Constitution of the State of South Dakota, requiring an intervening general election before consideration of an initiated constitutional amendment or initiated measure having the same subject as a previously rejected initiated amendment or measure.

Presented by: Representative Karla J. Lems

Proponents: Brian Gosch, National Rifle Association of America, Fairfax, VA
Dale Allen Bartscher, South Dakota Right to Life, Rapid City
Lisa Gennaro, Protecting South Dakota Kids Inc., Rapid City

Opponents: Zebadiah N. Johnson, Voter Defense Association of South Dakota, Sioux Falls
Chase Jensen, Dakota Rural Action, Brookings
Reynold Nesiba, self, Sioux Falls
Samantha Chapman, American Civil Liberties Union Foundation Inc., NY

MOTION: DO PASS HJR 5006

Moved by: Overweg
Second by: Gosch
Action: Prevailed by Majority Members Elect (11-2-0-0)

Voting Yes: Bahmuller, Gosch, Hansen, Heinemann, Jamison, Lems, Reisch, Schaeffbauer, Soye, Overweg, and Odenbach

Voting No: Emery and Healy

HB 1256 : require the inclusion of certain information on a candidate's nominating petition or on a ballot question petition.

Presented by: Representative Jon Hansen

MOTION: AMEND HB 1256

1256A

On page 2, line 30, of the Introduced bill, remove the overstrikes from " An"
On page 2, line 30, of the Introduced bill, after "An" delete " The"

Moved by: Gosch
Second by: Soye
Action: Prevailed by voice vote

MOTION: DO PASS HB 1256 AS AMENDED

Moved by: Bahmuller
Second by: Soye
Action: Prevailed by Majority Members Elect (12-1-0-0)

Voting Yes: Bahmuller, Emery, Gosch, Hansen, Heinemann, Jamison, Lems, Reisch, Schaeftbauer, Soye, Overweg, and Odenbach

Voting No: Healy

HB 1164 : revise the process for nominating candidates for lieutenant governor.

Presented by: Representative Tim Goodwin
Proponents: Jon Kotilnek, Governor's Office

MOTION: DEFER HB 1164 TO THE 41ST LEGISLATIVE DAY

Moved by: Hansen
Second by: Lems
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DO PASS HB 1164

Moved by: Reisch
Second by: Bahmuller
Action: Failed by Majority Members Elect (5-8-0-0)

Voting Yes: Bahmuller, Emery, Healy, Jamison, and Reisch

Voting No: Gosch, Hansen, Heinemann, Lems, Schaeftbauer, Soye, Overweg, and Odenbach

Revert to previous motion

MOTION: DEFER HB 1164 TO THE 41ST LEGISLATIVE DAY

Moved by: Hansen
Second by: Lems
Action: Prevailed by Majority Members Elect (8-5-0-0)

Voting Yes: Gosch, Hansen, Heinemann, Lems, Schaeftbauer, Soye, Overweg, and Odenbach

Voting No: Bahmuller, Emery, Healy, Jamison, and Reisch

HB 1260 : require that birth certificates and certain official documents reflect biological sex.

Presented by: Representative Brandei Schaeftbauer (Handout(s) #1)

Proponents: Representative Logan Manhart
 Lisa Gennaro, Protecting South Dakota Kids Inc., Rapid City
 Norman Woods, SD Family Voice Action, Rapid City
 Tonchi Weaver, SD Citizens for Liberty, Rapid City

Opponents: Miranda Gohn, self, Aberdeen
 Samantha Chapman, American Civil Liberties Union Foundation Inc., NY
 Melissa McCauley, South Dakotans for Equity, Sioux Falls
 Representative Eric E. Emery
 Ben Sherman, self, Rapid City
 Cole Mashek, self, Sioux Falls

MOTION: AMEND HB 1260

1260A

On page 1, line 10, of the Introduced bill, delete "Biological sex" and insert "Sex"

On page 1, line 10, of the Introduced bill, after "34-25-1.1" delete ", listed on the applicant's birth certificate"

On page 2, line 2, of the Introduced bill, after "holder's" delete " biological"

On page 2, line 2, of the Introduced bill, after "34-25-1.1" delete ", listed on the holder's birth certificate"

On page 3, line 26, of the Introduced bill, after "holder's" delete " biological"

On page 3, line 26, of the Introduced bill, after "34-25-1.1" delete ", listed on the holder's birth certificate"

On page 4, line 6, of the Introduced bill, after "weeks;" delete "(3) "Biological sex," the physical condition of being female or male, as determined by chromosomes and anatomy at birth, or as provided in section 8 of this Act;"

On page 4, line 8, of the Introduced bill, delete "(4)" and insert "(3)"

On page 4, line 10, of the Introduced bill, delete "(5)" and insert "(4)"

On page 4, line 12, of the Introduced bill, delete "(6)" and insert "(5)"

On page 4, line 15, of the Introduced bill, delete "(7)" and insert "(6)"

On page 4, line 18, of the Introduced bill, delete "(8)" and insert "(7)"

On page 4, line 19, of the Introduced bill, delete "(9)" and insert "(8)"

On page 4, line 23, of the Introduced bill, delete "(10)" and insert "(9)"

On page 4, line 24, of the Introduced bill, after "information;" insert "
 (10) "Female," an individual who naturally has, had, will have, or would have, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that produces, transports, and utilizes eggs for fertilization;"

On page 5, line 13, of the Introduced bill, after "death.;"
 (15)(17)" insert " "Male," an individual who naturally has, had, will have, or would have, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that produces, transports, and utilizes sperm for fertilization;"

(18) "Sex," an individual's biological sex, either female or male;"

On page 5, line 13, of the Introduced bill, after "death.;"
 (15)(17)" insert "
 (19) "

On page 5, line 15, of the Introduced bill, delete "(18)" and insert "(20)"

On page 5, line 28, of the Introduced bill, delete " biological sex" and insert ":

- (1) Date of birth;
- (2) Place of birth; and
- (3) Sex"

On page 6, line 14, of the Introduced bill, delete "Except as provided in section 8 of this Act, the biological sex listed on a birth certificate may only be amended in accordance with a court order upon a finding that the individual's biological sex is inaccurate.

This section does not apply to" and insert "

The date of birth, place of birth, or sex listed on a birth certificate may only be amended in the following manners:

- (1) To correct"

On page 6, line 19, of the Introduced bill, after "documentation" insert ";

(2) Upon a finding of a court, by clear and convincing evidence, that the information listed on the birth certificate was factually incorrect at the time it was recorded; or

(3) To correct the sex of a child born with a congenital anomaly, if additional testing is required to accurately identify the sex. The sex may be corrected, within one year from the date of birth, upon submission by the child's attending physician of a notarized affidavit, together with supporting documentation, identifying the child's sex as male or female"

On page 6, line 20, of the Introduced bill, after "documentation." delete "Section 8. That a NEW SECTION be added to chapter 34-25:

"

On page 6, line 21, of the Introduced bill, after "34-25:" delete "If a child is born with a physiological disorder that renders the child's biological sex not identifiable at birth as male or female, based upon externally observable reproductive anatomy, the attending physician must make a presumptive determination of the child's biological sex. That determination may be amended, at any time, based on genetic analysis and an evaluation of the child's naturally occurring internal and external reproductive anatomy."

Moved by: Overweg
 Second by: Hansen
 Action: Prevailed by voice vote

MOTION: DO PASS HB 1260 AS AMENDED

Moved by: Hansen
 Second by: Soye
 Action: Prevailed by Majority Members Elect (9-4-0-0)

Voting Yes: Bahmuller, Gosch, Hansen, Heinemann, Lems, Schaeffbauer, Soye, Overweg, and Odenbach

Voting No: Emery, Healy, Jamison, and Reisch

HB 1259 : prohibit unauthorized access to certain multi-occupancy rooms and to provide a penalty therefor.

Presented by: Representative Brandei Schaeffbauer (Handout(s) #2)
 Proponents: Cody Grace, self, Huron
 Linda Schauer, Concerned Women for America Legislative Action Committee, Leola
 Michael G. Pauley, South Dakota Catholic Conference, Rapid City
 Norman Woods, SD Family Voice Action, Rapid City
 Amy Bruner, Self, Sioux Falls
 Annika Bruner, self, Sioux Falls

Representative Phil Jensen
 Opponents: Mike Phelan, self, Vermillion (Handout(s) #3)
 Miranda Gohn, self, Aberdeen
 Ben Sherman, self, Rapid City

MOTION: AMEND HB 1259

1259A

On page 1, line 6, of the Introduced bill, after "mean:

(1)" insert ""Changing room," a room or area in which an individual may be in a state of undress in the presence of others;

(2) "

On page 1, line 6, of the Introduced bill, delete " an individual who, at the time of birth, belonged to the biological sex that has the specific reproductive role of producing eggs" and insert " an individual who naturally has, had, will have, or would have, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that produces, transports, and utilizes eggs for fertilization"

On page 1, line 8, of the Introduced bill, delete "(2)" and insert "(3)"

On page 1, line 8, of the Introduced bill, delete " an individual who, at the time of birth, belonged to the biological sex that has the specific reproductive role of producing sperm" and insert " an individual who naturally has, had, will have, or would have, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that produces, transports, and utilizes sperm for fertilization"

On page 1, line 9, of the Introduced bill, after "sperm;" insert "

(4) "Public school," a school under the authority of the board of a school district; "

On page 1, line 10, of the Introduced bill, delete "(3)" and insert "(5)"

On page 1, line 12, of the Introduced bill, after "or

(b) A" insert " single-occupancy"

On page 1, line 12, of the Introduced bill, delete ", rest room, or shower room," and insert " or restroom"

On page 1, line 15, of the Introduced bill, after "and" insert "(6) "Restroom," a room that includes one or more toilets or urinals;

(7) "Sleeping quarters," a room that contains a bed and in which more than one individual is housed overnight;

(8) "Sex," an individual's biological sex, either male or female; and

"

On page 1, line 15, of the Introduced bill, delete "(4)" and insert "(9)"

On page 1, line 15, of the Introduced bill, delete the comma and insert " or"

On page 1, line 15, of the Introduced bill, after "restroom" delete ", or shower room"

On page 1, line 22, of the Introduced bill, delete "The administrator of a " and insert "A "

On page 1, line 22, of the Introduced bill, delete " shall" and insert " must"

On page 1, line 22, of the Introduced bill, after "multi-occupancy" delete " student"

On page 1, line 23, of the Introduced bill, delete " shower room, located in the school," and insert " sleeping quarters"

On page 2, line 3, of the Introduced bill, after "school" delete " administrator or the administrator's designee"

On page 2, line 4, of the Introduced bill, delete " shower room" and insert " sleeping quarters"

On page 2, line 8, of the Introduced bill, delete " shower room" and insert " sleeping quarters"

On page 2, line 10, of the Introduced bill, delete " must" and insert " may"

On page 2, line 13, of the Introduced bill, delete " exceed" and insert ":

(1) Exceed"

On page 2, line 13, of the Introduced bill, after "year" insert "; or

(2) Include access to a facility designated for use exclusively by members of the opposite sex"

On page 2, line 15, of the Introduced bill, delete " student who does not meet the definition of a female" and insert " male"

On page 2, line 16, of the Introduced bill, delete " shower room" and insert " sleeping quarters"

On page 2, line 17, of the Introduced bill, delete " student who does not meet the definition of a male" and insert " female"

On page 2, line 19, of the Introduced bill, after "males." insert "A public school must take reasonable steps to provide individuals with privacy in changing rooms, restrooms, and sleeping quarters for members of the opposite sex.

"

On page 2, line 20, of the Introduced bill, delete " students" and insert " an individual"

On page 2, line 26, of the Introduced bill, after "assistance;" insert " or"

On page 2, line 28, of the Introduced bill, after "unoccupied" delete "; or"

On page 2, line 29, of the Introduced bill, after "or" delete "(6) A student who was born with a medically verifiable genetic disorder of sexual development, which resulted in:

(a) External biological characteristics that are unresolvably ambiguous; or

(b) An abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or a female, as applicable"

On page 3, line 2, of the Introduced bill, after "13-32:

Any" insert " multi-occupancy"

On page 3, line 2, of the Introduced bill, delete the comma and insert " or"

On page 3, line 2, of the Introduced bill, after "restroom" delete ", or shower room"

On page 3, line 7, of the Introduced bill, after "school" delete " administrator"

On page 3, line 8, of the Introduced bill, delete " each multi-occupancy room used for such purpose" and insert " all sleeping quarters"

On page 3, line 9, of the Introduced bill, delete ", and must assign students accordingly" and insert ". A student may not be required to share sleeping quarters with a member of the opposite sex, unless the individuals are members of the same family"

On page 3, line 9, of the Introduced bill, after "accordingly." insert "

In any other setting in a public school where an individual may be in a state of undress in the presence of others, the school must provide separate, private areas designated for use by individuals based on the individual's sex. Except as otherwise provided in section 3 of this Act, no individual may enter private areas unless the individual is a member of the designated sex."

On page 3, line 10, of the Introduced bill, after "a" delete " multi-occupancy"

On page 3, line 11, of the Introduced bill, delete " accommodations" and insert " quarters"

On page 3, line 13, of the Introduced bill, after "to" delete " a"

On page 3, line 15, of the Introduced bill, delete "Nothing in this section precludes the use of a room for overnight accommodations by members of the same immediate family." and insert "

An individual who encountered member of the opposite sex in a restroom or changing room while making use of a restroom or changing room designated for use by the individual's sex, has a private cause of action for declaratory and injunctive relief against the school district that:

(1) Provided the member of the opposite sex permission to use a restroom or changing room of the individual's sex; or

(2) Failed to take reasonable steps to prohibit the member of the opposite sex from using the restroom or changing room of the individual's sex.

An individual who is assigned by a public school to share sleeping quarters with an individual of the opposite sex has a private cause of action for declaratory and injunctive relief against the school district.

Any civil action brought pursuant to this section must be initiated within two years of the violation. An individual who is aggrieved under this section and prevails in court may recover reasonable attorney fees and costs from the offending school district. "

On page 3, line 19, of the Introduced bill, after "mean:

(1)" insert ""Changing room," a room or area in which an individual may be in a state of undress in the presence of others;

(2) "

On page 3, line 19, of the Introduced bill, delete " an individual who, at the time of birth, belonged to the biological sex that has the specific reproductive role of producing eggs" and insert " an individual who naturally has, had, will have, or would have had, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that produces, transports, and utilizes eggs for fertilization"

On page 3, line 20, of the Introduced bill, delete "(2)" and insert "(3)"

On page 3, line 20, of the Introduced bill, delete " an individual who, at the time of birth, belonged to the biological sex that has the specific reproductive role of producing sperm" and insert " an individual who naturally has, had, will have, or would have had, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that produces, transports, and utilizes sperm for fertilization"

On page 3, line 22, of the Introduced bill, after "sperm;" delete " and"

On page 3, line 23, of the Introduced bill, after "and" insert "(4) "Restroom," a room that includes at least one toilet or urinal;

(5) "Sleeping quarters," a room that contains a bed and in which more than one individual is housed overnight;

(6) "Sex," an individual's biological sex, either male or female; and

"

On page 3, line 23, of the Introduced bill, delete "(3)" and insert "(7)"

On page 3, line 23, of the Introduced bill, delete the comma and insert " or"

On page 3, line 23, of the Introduced bill, after "restroom" delete ", or shower room"

On page 4, line 1, of the Introduced bill, delete " 1 to 3, inclusive," and insert " 2 and 3"

On page 4, line 1, of the Introduced bill, after "any" insert " multi-occupancy"

On page 4, line 3, of the Introduced bill, after "must" delete the colon

On page 4, line 4, of the Introduced bill, delete "(1) Be designated for the exclusive use of:

(a) Females; or

(b) Males; or

(2) Be designated as a unisex or family room" and insert " be designated for the exclusive use of females or males"

On page 4, line 9, of the Introduced bill, delete " an individual who does not meet the definition of a female" and insert " a male"

On page 4, line 10, of the Introduced bill, delete the comma and insert " or"

On page 4, line 10, of the Introduced bill, after "restroom" delete ", or shower room"

On page 4, line 12, of the Introduced bill, delete " an individual who does not meet the definition of a male" and insert " a female"

On page 4, line 13, of the Introduced bill, delete the comma and insert " or"

On page 4, line 13, of the Introduced bill, after "restroom" delete ", or shower room"

On page 4, line 15, of the Introduced bill, delete "An individual is guilty of a Class 2 misdemeanor if the individual:

(1) Knowingly enters a changing room, restroom, or shower room, in violation of this section; and

(2) Refuses to leave the changing room, restroom, or shower room upon being requested to do so by:

(a) An individual who, acting in an official capacity, is authorized to make the request; or
 (b) An individual who is permitted to be in the changing room, restroom, or shower room, in accordance with sections 6 to 9, inclusive, of this Act." and insert "

The state or a political subdivision shall take reasonable steps to provide an individual with privacy from a member of the opposite sex, in restrooms and changing rooms in any building or facility owned or operated by the state or the political subdivision.

An individual who encounters an member of the opposite sex in a restroom or changing room while making use of a restroom or changing room designated for use by the individual's sex, has a private cause of action for declaratory and injunctive relief against the state or political subdivision that:

(1) Provided the member of the opposite sex permission to use the restroom or changing room of the individual's sex; or

(2) Failed to take reasonable steps to prohibit the member of the opposite sex from using the restroom or changing room of the individual's sex.

An individual who is assigned by the state or a political subdivision to share sleeping quarters with an individual of the opposite sex has a private cause of action for declaratory and injunctive relief against the state or political subdivision.

Any civil action brought pursuant to this section must be initiated within two years of the violation. An individual who is aggrieved under this section and prevails in court may recover reasonable attorney fees and costs from the state or offending political subdivision."

On page 4, line 31, of the Introduced bill, after "assistance;" insert " or"

On page 4, line 33, of the Introduced bill, after "unoccupied" delete "; or"

On page 5, line 1, of the Introduced bill, after "or" delete "(6) An individual born with a medically verifiable genetic disorder of sexual development, which resulted in:

(a) External biological characteristics that are unresolvably ambiguous; or

(b) An abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or a female, as applicable"

Moved by: Hansen
 Second by: Lems
 Action: Prevailed by voice vote

MOTION: DO PASS HB 1259 AS AMENDED

Moved by: Overweg
 Second by: Hansen
 Action: Prevailed by Majority Members Elect (11-2-0-0)

Voting Yes: Bahmuller, Gosch, Hansen, Heinemann, Jamison, Lems, Reisch, Schaeffbauer, Soye, Overweg, and Odenbach

Voting No: Emery and Healy

HJR 5004 : Proposing and submitting to the voters at the next general election amendments to the Constitution to the State of South Dakota, increasing the number of required signatures on a petition to initiate an amendment or measure.

MOTION: TO TABLE HJR 5004

Moved by: Overweg
 Second by: Hansen
 Action: Prevailed by Majority Members Elect (13-0-0-0)

Voting Yes: Bahmuller, Emery, Gosch, Hansen, Healy, Heinemann, Jamison, Lems, Reisch, Schaeftbauer, Soye, Overweg, and Odenbach

MOTION: ADJOURN

Moved by: Emery
Second by: Healy
Action: Prevailed by voice vote

Pam Kean, Committee Secretary

/s/ SCOTT ODENBACH
Scott Odenbach, Chair