

Minutes: Senate Judiciary

Wednesday, February 12, 2025 3:00 PM

Roll Call

Present: Sen. Blanc, Sen. Duhamel, Sen. Grove, Sen. Mehlhaff, Sen. Pischke, Sen. Hulse, and Sen. Wheeler

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

**MOTION: TO APPROVE THE MINUTES OF TUESDAY, FEBRUARY 11<sup>TH</sup>**

Moved by: Hulse  
Second by: Pischke  
Action: Prevailed by voice vote

**SB 123 : revise provisions related to forensic medical examinations.**

Presented by: Senator Tim Reed

**MOTION: DO PASS SB 123**

Moved by: Mehlhaff  
Second by: Hulse  
Action: Prevailed by Majority Members Elect (7-0-0-0)

Voting Yes: Blanc, Duhamel, Grove, Mehlhaff, Pischke, Hulse, and Wheeler

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 123 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**SB 140 : revise a provision related to the reimbursement of expenses incurred by a county in detaining a parolee.**

Presented by: Senator Helene Duhamel  
Proponents: Eric Erickson, South Dakota State's Attorneys Association, Sioux Falls  
Staci Ackerman, South Dakota Sheriffs' Association, Eureka

**MOTION: DO PASS SB 140**

Moved by: Hulse  
Second by: Pischke  
Action: Prevailed by Majority Members Elect (7-0-0-0)

Voting Yes: Blanc, Duhamel, Grove, Mehlhaff, Pischke, Hulse, and Wheeler

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 140 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**SB 175 : create provisions governing litigation financing.**

Presented by: Senator David Wheeler  
Proponents: Doug Abraham, American Property Casualty Insurance Association, Chicago, IL

Christine Vinateri-Erickson, South Dakota Trucking Association, Sioux Falls  
Christine Vinatieri-Erickson, South Dakota Auto Dealers Association, Sioux Falls

Christine Vinateri-Erickson, Dakota Truck Underwriters/First Dakota Indemnity Company, Sioux Falls

Craig Matson, South Dakota Insurance Alliance, Sioux Falls

Craig Matson, Farmers Mutual, Lincoln, NE

Terra Larson, South Dakota Trust Association, Sioux Falls

Terra Larson, South Dakotans for Legal Clarity, Brookings

Mark Bahrens, Self, American Property & Casualty Insurance, Washington DC

Opponents: Harrison Hosker, Self, American Legal Finance Association, Washington DC

**MOTION: AMEND SB 175**

175B

On page 3, line 14, of the Introduced bill, delete " The" and insert " In addition to the information required pursuant to § 54-4-40, the"

On page 4, line 6, of the Introduced bill, after "to " insert "subdivision (1) of this "

On page 4, line 6, of the Introduced bill, after "section" delete " 5 of this Act"

On page 4, line 9, of the Introduced bill, after "records." delete " The division's duty to file documents is ministerial. The division's filing or refusing to file a document does not create a presumption that:

(1) The document does or does not conform to the requirements of this Act; or

(2) The information contained in the document is correct or incorrect."

On page 5, line 17, of the Introduced bill, after "concern." insert "

Any action arising out of a violation of this section must be brought in a court of competent jurisdiction."

On page 6, line 29, of the Introduced bill, after "attorney."" insert "

The litigation financing contract must also include the disclosures required pursuant to § 54-4-58."

On page 8, line 19, of the Introduced bill, delete " 13" and insert " 11"

Moved by: Pischke

Second by: Mehlhaff

Action: Prevailed by voice vote

**MOTION: DO PASS SB 175 AS AMENDED**

Moved by: Mehlhaff

Second by: Duhamel

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

Voting Yes: Blanc, Duhamel, Grove, Mehlhaff, Pischke, Hulse, and Wheeler

**SB 215 : remove the prohibition against a landowner having an easement on the landowner's property.**

Presented by: Senator Randy Deibert

Proponents: Matthew McCaulley, South Dakota Land Title Association, Miller (Handout(s) HO#1)

Travis Martin, Self, South Dakota Land Title Association, Belle Fourche

Greg Wick, Self, Pennington Title Company, Rapid City

Eric Hansen, Self, Dakota Homestead Title Association, Sioux Falls

**MOTION: AMEND SB 215**

215B

On page 1, after line 3, of the Introduced bill, insert: "  
**Section 1. That § 43-13-6 be AMENDED:**

**43-13-6.** ~~Except as provided in section 2 of this Act, a servitude thereon cannot on a servient tenement may not~~ be held by the owner of the servient tenement. A servitude is extinguished by the vesting of the right to servitude and the right to the servient tenement in the same person."

On page 1, line 5, of the Introduced bill, delete "The common law doctrine of merger does not apply to a servitude held by the owner of the servient tenement" and insert "An easement or servitude created by an owner is valid and effective, notwithstanding the common ownership of the benefited and burdened property, at the time of creation or after reacquisition of the property by the creator of the easement or servitude"

On page 1, line 7, of the Introduced bill, after "tenement." delete "Section 2. That § 43-13-6 be REPEALED."

"

On page 1, line 8, of the Introduced bill, after "REPEALED." delete "A servitude thereon cannot be held by the owner of the servient tenement. A servitude is extinguished by the vesting of the right to servitude and the right to the servient tenement in the same person."

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

**MOTION: DO PASS SB 215 AS AMENDED**

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

Voting Yes: Blanc, Duhamel, Grove, Mehlhaff, Pischke, Hulse, and Wheeler

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 215 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**SB 122 : restrict the deference given by courts to a state agency's interpretation of a state statute, administrative rule, or policy.**

Presented by: Senator Sue Peterson  
Proponents: Taylor Walker, Barry Goldwater Institute for Public Policy Research, Phoenix, AZ  
Daniel Dew, Self, Pacific Legal Foundation, Chagrin Falls OH  
Opponents: Frank Marnell, Division of Insurance, Pierre

**MOTION: DEFER SB 122 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Duhamel

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

Voting Yes: Duhamel, Mehlhaff, Hulse, and Wheeler

Voting No: Blanc, Grove, and Pischke

**MOTION: ADJOURN**

Moved by: Hulse  
Second by: Pischke  
Action: Prevailed by voice vote

Doug Mortenson, Committee Secretary

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/s/ DAVID WHEELER  
David Wheeler, Chair