

Committee: Senate Judiciary

Tuesday, February 11, 2020 8:00 AM

Roll Call

Present: Sen. Blare, Sen. Klumb, Sen. Schoenbeck, Sen. Stalzer, Sen. Kennedy,  
Sen. Rusch, and Sen. Russell

OTHERS PRESENT: See Original Minutes

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

**MOTION: TO APPROVE THE MINUTES OF THURSDAY, FEBRUARY 06<sup>TH</sup>**

Moved by: Kennedy  
Second by: Klumb  
Action: Prevailed by voice vote

**DAVID GIENAPP OF LAKE COUNTY, MADISON, SOUTH DAKOTA, TO THE GOVERNMENT ACCOUNTABILITY BOARD**

Proponents: TOM HART, Governor's Office

**MOTION: THAT THE SENATE ADVISE AND CONSENT TO THE APPOINTMENT OF DAVID GIENAPP OF LAKE COUNTY, MADISON, SOUTH DAKOTA, TO THE GOVERNMENT ACCOUNTABILITY BOARD**

Moved by: Rusch  
Second by: Schoenbeck  
Action: Prevailed by Majority Members Elect (7-0-0-0)

Voting Yes: Blare, Klumb, Schoenbeck, Stalzer, Kennedy, Rusch, and Russell

**SB 46 : revise provisions related to the restoration of competency of criminal defendants.**

Proponents: Laura Ringling, Department of Social Services  
Staci Ackerman, SD Sheriffs Association  
Greg Sattizahn, Unified Judicial System  
Terry Dosch, SD Council of Community Behavioral Health  
Opponents: Justin Bell, SD Association of Criminal Defense Lawyers (Handout(s) 1,2,3)

**MOTION: AMEND SB 46**

46A

On page 1, line 11, of the Introduced bill, delete " treatment" and insert " restoration to competency"  
On page 1, line 14, delete " treatment" and insert " restoration to competency"  
On page 2, line 17, delete " treatment" and insert " restoration to competency"  
On page 2, line 18, delete " treatment" and insert " restoration to competency"  
On page 2, line 22, delete "Treatment" and insert " Restoration to competency"  
On page 2, line 23, delete " treatment" and insert " restoration to competency"  
On page 2, line 26, delete " treatment" and insert " restoration to competency"  
On page 3, line 7, delete " treatment" and insert " restoration to competency"  
On page 3, line 8, delete " treatment" and insert " restoration to competency"  
On page 3, line 14, delete " treatment" and insert " restoration to competency"

On page 3, line 16, delete " treatment" and insert " restoration to competency"  
 On page 3, line 22, delete " treatment" and insert " restoration to competency"  
 On page 3, line 23, delete " treatment" and insert " restoration to competency"  
 On page 4, line 3, delete " treatment" and insert " restoration to competency"  
 On page 4, line 5, delete " treatment" and insert " restoration to competency"  
 On page 4, line 6, delete " treatment" and insert " restoration to competency"  
 On page 4, line 11, delete " treatment" and insert " restoration to competency"  
 On page 4, line 12, delete " treatment" and insert " restoration to competency"

Moved by: Rusch  
 Second by: Stalzer  
 Action: Prevailed by voice vote

**MOTION: AMEND SB 46**

46B

On page 1, line 14, of the Introduced bill, after "if " insert "the court makes a written finding that "  
 On page 1, line 15, of the Introduced bill, after "others" insert " and is otherwise eligible for bond"  
 On page 2, line 19, of the Introduced bill, after "if" insert " the court makes a written finding that"  
 On page 2, line 20, of the Introduced bill, after "others" insert " and is otherwise eligible for bond"  
 On page 4, line 6, of the Introduced bill, delete the comma and insert " or"  
 On page 4, line 6, of the Introduced bill, after "facility" delete ", or on outpatient status for treatment"  
 On page 4, line 11, of the Introduced bill, delete the comma and insert " or"  
 On page 4, line 12, of the Introduced bill, after "detention" delete ", or on outpatient status for  
 treatment"

Moved by: Stalzer  
 Second by: Rusch  
 Action: Prevailed by voice vote

**MOTION: AMEND SB 46**

46C

On page 2, line 25, of the Introduced bill, delete the comma and insert " or"  
 On page 2, line 25, of the Introduced bill, after "outpatient" delete ", or jail-based"  
 On page 2, line 25, of the Introduced bill, after "setting. " delete "The term includes a county jail upon  
 the concurrence of the county sheriff to provide treatment in the jail under the  
 direction of an approved facility."

Moved by: Kennedy  
 Second by: Klumb  
 Action: Failed by voice vote

**MOTION: DO PASS SB 46 AS AMENDED**

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

Voting Yes: Blare, Klumb, Schoenbeck, Stalzer, Rusch, and Russell

Voting No: Kennedy

**MOTION: AMEND SB 65**

65A

On page 1, line 3, of the Introduced bill, after "Dakota:" delete "Section 1. That a NEW SECTION be added:

Attorneys' fees and costs.

In a judicial proceeding involving a trust estate, the court, as justice and equity may require, may award costs and expenses, including reasonable attorneys' fees, to any party or to the trust, to be paid by another party or from the trust that is the subject of the controversy. If paid from the trust, the payment may be charged against future distributions to a beneficiary."

Moved by: Schoenbeck  
Second by: Kennedy  
Action: Prevailed by voice vote

**SB 65 : revise certain provisions pertaining to trusts.**

Presented by: Senator Jeff Partridge (Handout(s) 4)  
Proponents: Pat Goetzinger, Trust Task Force, Rapid City, SD  
Terra Fisher, South Dakota Trust Association  
Bret Afdahl, Department of Labor and Regulation

**MOTION: DO PASS SB 65 AS AMENDED**

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

Voting Yes: Blare, Klumb, Schoenbeck, Stalzer, Rusch, and Russell

Voting No: Kennedy

**MOTION: AMEND SB 120**

120A

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

"

**Section 1.** That § 23-7-45 be AMENDED:

23-7-45. Exceptions to prohibition against possession of pistols by minors.

The provisions of § 23-7-44 ~~or to~~ are not applicable to a minor and a criminal prosecution for possession of a pistol brought after transfer pursuant to chapter 26-11, ~~do not apply to any~~ is not applicable to a minor who has if the minor had the prior written consent of the minor's parent or guardian to possess ~~such the~~ pistol, and:

- (1) ~~That the minor was in the presence of the minor's parent or guardian;~~
- (2) ~~That the~~The minor was on premises owned or leased by the minor or the minor's parent, guardian, or immediate family member;
- (3)~~(2)~~ ~~That the~~The minor was in the presence of a licensed or accredited gun safety instructor; or
- (4)~~(3)~~ ~~That the~~The pistol was being used for farming, ranching, hunting, trapping, target shooting, or gun safety instruction.

"

Moved by: Kennedy  
Second by: Klumb  
Action: Prevailed by voice vote

**SB 120 : establish exceptions regarding the possession of a pistol by a minor.**

Presented by: Senator Jim Stalzer

**MOTION: DO PASS SB 120 AS AMENDED**

Moved by: Klumb

Second by: Schoenbeck

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

Voting Yes: Blare, Klumb, Schoenbeck, Stalzer, Kennedy, and Russell

Excused: Rusch

**SB 126 : provide civil remedies for certain construction permits issued by the Public Utilities Commission.**

Presented by: Senator Troy Heinert (Handout(s) 5)

Proponents: Remi Bald Eagle, Cheyenne River Sioux Tribe, Eagle Butte, SD  
Rebecca Terk, Dakota Rural Action

Opponents: Drew Duncan, Trans Canada, Sioux Falls, SD  
Brett Koenecke, SD Electric Utilities, Pierre, SD

**MOTION: DO PASS SB 126**

Moved by: Kennedy

Action: Died for lack of a second

**MOTION: DEFER SB 126 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Schoenbeck

Second by: Klumb

Action: Prevailed by Majority Members Elect (5-1-1-0)

Voting Yes: Blare, Klumb, Schoenbeck, Stalzer, and Russell

Voting No: Kennedy

Excused: Rusch

**MOTION: ADJOURN**

Moved by: Klumb

Second by: Schoenbeck

Action: Prevailed by voice vote

Rachael Person, Committee Secretary

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/s/ LANCE RUSSELL  
Lance Russell, Chair