

Committee: House Judiciary

Wednesday, February 26, 2020 10:00 AM

Roll Call

Present: Rep. Borglum, Rep. Diedrich, Rep. Hammock, Rep. Latterell, Rep. Pischke, Rep. Rasmussen, Rep. Reimer, and Rep. Johns

Excused: Rep. Barthel, Rep. St. John, Rep. Cwach, Rep. Pourier, and Rep. Hansen

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Representative Johns**

**MOTION: TO APPROVE THE MINUTES OF MONDAY, FEBRUARY 24<sup>TH</sup>**

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

**HB 1101 : provide for the reinstatement of a driver license under certain conditions.**

Presented by: Representative Jensen

**MOTION: TO TABLE HB 1101**

Moved by: Pischke  
Second by: Hammock  
Action: Prevailed by Majority Members Elect (8-0-5-0)

Voting Yes: Barthel, Borglum, Hammock, Latterell, Pischke, Rasmussen, Reimer, and Johns

Excused: Diedrich, St. John, Cwach, Pourier, and Hansen

**HB 1266 : prohibit collective bargaining by employees of the Board of Regents.**

Presented by: Representative Scyller Borglum  
Opponents: Jeremiah Murphy, South Dakota Education Association

**MOTION: DO PASS HB 1266**

Moved by: Pischke  
Second by: Reimer  
Action: Failed by roll call vote (5-6-2-0)

Voting Yes: Borglum, Latterell, Pischke, Reimer, and St. John

Voting No: Barthel, Diedrich, Hammock, Rasmussen, Pourier, and Johns

Excused: Cwach and Hansen

**MOTION: DEFER HB 1266 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Pourier  
Second by: Rasmussen  
Action: Failed by roll call vote (6-5-2-0)

Voting Yes: Barthel, Diedrich, Hammock, Rasmussen, Reimer, and Pourier

Voting No: Borglum, Latterell, Pischke, St. John, and Johns

Excused: Cwach and Hansen

**HB 1212 : add certain persons to the list of mandatory reporters of suspected child abuse or neglect.**

Presented by: Representative Erin Healy

Proponents: Carrie Sanderson, Center for Prevention of Child Mel treatment, Sioux Falls, SD  
Joel Allen, self, Mitchell, SD (Handout(s) 6)  
Tia Myer, SD Dental Hygiene Asso. Call-in  
Alisha Vincent, self, Brookings

Opponents: Brett Koenecke, ELCA, Pierre  
Pastor Craig Wexler, ELCA, Pierre, SD  
Norman Woods, Family Heritage Alliance Action  
Representative Borglum, self, Rapid City, SD

Others: Representative Weis

**MOTION: Amend HB 1212**

Moved by: Diedrich  
Action: Died for lack of a second

**MOTION: AMEND HB 1212**

1212B

On page 1, line 20, of the Introduced bill, after "26-8A-8." delete "Section 2. That § 26-8A-15 be AMENDED:

"

On page 1, line 21, of the Introduced bill, after "AMENDED:" delete "26-8A-15. "

On page 1, line 21, of the Introduced bill, after "26-8A-15. " delete "Communications not privileged. "

On page 1, line 21, of the Introduced bill, after "privileged. " delete "

The privilege of confidentiality set forth in §§ 19-2-3, 19-19-503, 19-19-504, 19-19-505, 19-19-508. 1, and 36-26-30 may not be claimed in any judicial proceeding involving an alleged abused or neglected child or resulting from the giving or causing the giving of a report concerning abuse or neglect of a child pursuant to §§ 26-8A-3 to 26-8A-8, inclusive."

Moved by: Cwach  
Second by: St. John  
Action: Prevailed by voice vote

**MOTION: DO PASS HB 1212 AS AMENDED**

Moved by: Cwach

Second by: Borglum  
Action: Prevailed by Majority Members Elect (9-2-2-0)

Voting Yes: Barthel, Borglum, Diedrich, Hammock, Reimer, St. John, Cwach, Pourier, and Johns

Voting No: Pischke and Rasmussen

Excused: Latterell and Hansen

**HB 1128 : modify the penalty for causing a child to be present during methamphetamine use, distribution, or manufacture.**

Presented by: Representative Tim Reed

Proponents: Dan Nelson, Brookings States Attorney, Brookings, SD  
Paul Bachand, South Dakota State's Attorneys Association  
Staci Ackerman, SD Sheriffs Association

Opponents: Doug Abraham, SD Association of Criminal Defense Lawyers

**MOTION: DO PASS HB 1128**

Moved by: Barthel  
Second by: Hammock  
Action: Failed by roll call vote (5-7-1-0)

Voting Yes: Barthel, Diedrich, Hammock, Reimer, and Hansen

Voting No: Borglum, Pischke, Rasmussen, St. John, Cwach, Pourier, and Johns

Excused: Latterell

**MOTION: DEFER HB 1128 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Cwach  
Second by: Hammock  
Action: Prevailed by Majority Members Elect (10-2-1-0)

Voting Yes: Borglum, Diedrich, Hammock, Pischke, Rasmussen, Reimer, St. John, Cwach, Pourier, and Johns

Voting No: Barthel and Hansen

Excused: Latterell

**HB 1216 : revise certain provisions regarding sexual harassment.**

Presented by: Representative Kelly Sullivan

Proponents: Dianna Miller, SD Network Against Family Violence

**MOTION: AMEND HB 1216**

1216A

On page 3, line 24, of the Introduced bill, delete "one year " and insert "three hundred days "

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

**MOTION: DO PASS HB 1216 AS AMENDED**

Moved by: Borglum  
Second by: Pischke  
Action: Prevailed by Majority Members Elect (11-0-2-0)

Voting Yes: Barthel, Borglum, Diedrich, Pischke, Rasmussen, Reimer, St. John, Cwach, Pourier, Johns, and Hansen

Excused: Hammock and Latterell

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1216 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**HB 1119 : include certain offenses committed in another state for purposes of an enhanced penalty.**

Presented by: Representative Doug Barthel  
Proponents: Paul Bachand, States Attorney Association

**MOTION: DO PASS HB 1119**

Moved by: Johns  
Second by: Hammock  
Action: Prevailed by Majority Members Elect (12-0-1-0)

Voting Yes: Barthel, Borglum, Diedrich, Hammock, Pischke, Rasmussen, Reimer, St. John, Cwach, Pourier, Johns, and Hansen

Excused: Latterell

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1119 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**HB 1275 : revise provisions regarding a judgment not collected from an underinsured motorist.**

Presented by: Representative Ray Ring  
Proponents: Steve Seigel SDTLA, Sioux Falls, SD  
Opponents: Frank Marnell, Department of Labor and Regulation  
Dick Tieszen, Attorney, State Farm Insurance Company, Pierre, SD  
Doug Abraham, Desmet Insurance Company, Pierre, SD  
Randy Moses, Independent Insurance Agents  
Craig Matson, SDIA, Sioux Falls, SD

**MOTION: DO PASS HB 1275**

Moved by: Pischke  
 Second by: Cwach  
 Action: Failed by roll call vote (5-8-0-0)

Voting Yes: Hammock, Pischke, Cwach, Pourier, and Johns

Voting No: Barthel, Borglum, Diedrich, Latterell, Rasmussen, Reimer, St. John, and Hansen

**MOTION: DEFER HB 1275 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Borglum  
 Second by: Latterell  
 Action: Prevailed by Majority Members Elect (10-3-0-0)

Voting Yes: Barthel, Borglum, Diedrich, Hammock, Latterell, Rasmussen, Reimer, St. John, Johns, and Hansen

Voting No: Pischke, Cwach, and Pourier

**MOTION: WITHOUT RECOMMENDATION HB 1266**

Moved by: Johns  
 Second by: Borglum  
 Action: Prevailed by Majority Members Elect (7-6-0-0)

Voting Yes: Borglum, Latterell, Pischke, Reimer, St. John, Johns, and Hansen

Voting No: Barthel, Diedrich, Hammock, Rasmussen, Cwach, and Pourier

**HB 1088 : create a penalty for violation of a vulnerable adult protection order and to revise certain provisions regarding protection orders.**

Presented by: Greg Sattizahn, Unified Judicial System

**MOTION: AMEND HB 1088**

1088C

On page 1, line 1, of the Introduced bill, after "order" insert " and to revise certain provisions regarding protection orders"

On page 1, line 6, of the Introduced bill, after "person " delete "to be "

On page 1, line 7, of the Introduced bill, delete "any " and insert "the acts constituting a "

On page 1, line 7, of the Introduced bill, delete "constitutes " and insert "also constitute "

On page 1, line 7, of the Introduced bill, after "assault " insert "as defined "

On page 1, line 8, of the Introduced bill, after "violation " insert "under this section "

On page 1, line 8, of the Introduced bill, after "person " delete "to be "

On page 1, line 9, of the Introduced bill, after "more " insert "prior "

On page 1, line 10, of the Introduced bill, after "§ 25-10-13" insert " within ten years of committing the current offense"

On page 1, line 10, of the Introduced bill, after "§ 25-10-13, " insert "and "

On page 1, line 10, of the Introduced bill, delete "which " and insert " the current offense "

On page 1, line 11, of the Introduced bill, delete "and occurred within ten years of committing the current offense" and insert " or guilty plea"

On page 1, line 12, of the Introduced bill, after "person " delete "to be "

On page 1, line 15, of the Introduced bill, after "remedies." insert "

**Section 2.** That § 22-19A-16 be AMENDED:

22-19A-16. Violation of protection order--Penalties.

If a temporary protection order or a protection order is granted pursuant to §§ 22-19A-8 to 22-19A-16, inclusive, and the respondent or person ~~to be~~ restrained knows of the order, violation of the order is a Class 1 misdemeanor. If any the acts constituting a violation of this section constitutes also constitute an assault as defined pursuant to § 22-18-1.1, the violation under this section is a Class 6 felony. If a respondent or person ~~to be~~ restrained has been convicted of, or entered a plea of guilty to, two or more prior violations of this section or § 25-10-13 within ten years of committing the current offense, and the factual basis for which the current offense occurred after the date of the second conviction or guilty plea, and occurred within ten years of committing the current offense, the respondent or person ~~to be~~ restrained is guilty of a Class 6 felony for any third or subsequent offense. Any proceeding under §§ 22-19A-8 to 22-19A-16, inclusive, is in addition to other civil or criminal remedies.

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On page 1, line 15, of the Introduced bill, after "remedies." insert "

**Section 3.** That § 25-10-13 be AMENDED:

25-10-13. Violation of protection order or no contact order as misdemeanor or felony.

If a temporary protection order or a protection order is granted pursuant to this chapter or a foreign protection order recognized pursuant to § 25-10-25 or 25-10-12.1, or if a no contact order is issued pursuant to § 25-10-23 or 25-10-25, and the respondent or person ~~to be~~ restrained knows of the order, ~~the~~ violation of the order is a Class 1 misdemeanor. If any the acts constituting a violation of this section constitutes also constitute a violation of § 22-18-1, 22-18-1.1, or 22-19A-1, the violation under this section is a Class 6 felony. If a respondent or person ~~to be~~ restrained has been convicted of, or entered a plea of guilty to, two or more prior violations of this section or § 22-19A-16 within ten years of committing the current offense, and the factual basis for which the current offense occurred after the date of the second conviction or guilty plea, and occurred within ten years of committing the current offense, the respondent or person ~~to be~~ restrained is guilty of a Class 6 felony for any third or subsequent offense. Any proceeding under this chapter is in addition to other civil or criminal remedies.

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Moved by: Reimer

Second by: Hammock

Action: Prevailed by voice vote

**MOTION: DO PASS HB 1088 AS AMENDED**

Moved by: Cwach

Second by: Borglum

Action: Prevailed by Majority Members Elect (13-0-0-0)

Voting Yes: Barthel, Borglum, Diedrich, Hammock, Latterell, Pischke, Rasmussen, Reimer, St. John, Cwach, Pourier, Johns, and Hansen

**MOTION:      ADJOURN**

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

Nancy Bugay, Committee Secretary

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/s/ JON HANSEN  
Jon Hansen, Chair