Committee: House Judiciary
Wednesday, February 26, 2020 10:00 AM

Roll Call

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Johns

MOTION: TO APPROVE THE MINUTES OF MONDAY, FEBRUARY 24TH

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 41ST 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

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 theIntroduced 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 41ST 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 41ST 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

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.

""

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.
MOTION: ADJOURN

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

Nancy Bugay, Committee Secretary

/s/ JON HANSEN
Jon Hansen, Chair