

## LEGISLATIVE UPDATE

HB 1183 Spring Meeting, Zoom Meeting ID: 872 3609 1212

April 4, 2020

### SYNOPSIS

**HB 1105**      **An Act to allow for a good cause exception to the time for an involuntary commitment hearing.**

Description:      The bill amended SDCL 27A-10-8 to allow the continuance of an involuntary commitment hearing for good cause prior to the running of the applicable time period.

Source:              Introduced by the Committee on Judiciary at the request of the Chief Justice.

Status:              First Hearing 1/21; Referred to House Judiciary. 1/24 Judiciary Do Pass, Passed, 13-0. Certified Uncontested, Placed on Consent Calendar. 1/25 House of Representatives Do Pass, Passed, 68-1. First Reading 1/26; Referred to Senate Judiciary. 2/1 Senate Judiciary Do Pass, Passed, 6-0. Certified Uncontested, Placed on Consent Calendar. 2/2 Senate Do Pass, Passed, 34-0. 2/3 Signed by the Speaker. 2/4 Signed by the President. 2/7 Delivered to the Governor. 2/23 Signed by the Governor.

Comment:            The bill was brought forward at the request of the Chairperson of the Yankton County Board of Mental Illness to provide the flexibility of a continuance under certain circumstances, such as adverse travel conditions and other similar situations, comprising “good cause”. It was intended to align legal authorities with current practice. The SDCCBH passively supported the bill.

Disposition:      **Measure Passed**

**HB 1121**      **An Act to revise certain provisions related to advanced life support personnel.**

Description:      The bill amended SDCL Chapter 36-4B to modify the definition of “emergency medical services” to allow expanded utilization of advance life support personnel outside of the current limitations, which include: Health care provided at the scene, during transport to a medical facility, between medical facilities and upon entry at the medical facility.

Source:              Sponsored by Rep. Reyfeldt.

Status:              First Reading 1/25; Referred to House Health and Human Services. 2/3 Health and Human Services Do Pass, Passed, 13-0. Certified Uncontested, Placed on Consent Calendar. 2/4 House of Representatives Do Pass, Passed, 64-0. First Reading 2/7; Referred to Senate Health and Human Services. 2/25 Health and Human Services Do Pass, Passed, 5-0. Certified Uncontested; Placed on Consent Calendar. 2/28 Senate Do Pass, Passed, 35-0. 3/2 Signed by the Speaker. 3/3

Signed by the President. 3/3 Delivered to the Governor. 3/10 Signed by the Governor.

Comment: The bill expanded the utilization of advance life support personnel to allow their employment in other settings to overcome workforce limitations/issues, such as at The Link in Sioux Falls and at the Crisis Care Center in Pennington County. The legislation will, therefore, also permit the use of advance life support personnel, such as paramedics, in regional crisis care facilities and crisis reception centers. The measure was supported by SD Emergency Medical Services Association, Avera Health, and SD Association of Healthcare Organization. The SDCCBH passively supported this legislation.

Disposition: **Measure Passed**

**HB 1232 An Act to establish mandatory sentences for certain driving while under the influence violations.**

Description: The bill would have amended SDCL Chapter 32-23 to impose mandatory, non-suspendable prison sentences on offenders for conviction of certain 4<sup>th</sup>, 5<sup>th</sup> (and subsequent), and aggravated DUI violations.

Source: Sponsored by Rep. Karr.

Status: First Reading 1/27; Referred to House Judiciary. 2/16 Judiciary Do Pass Amended, Passed, 10-3. 2/23 House of Representatives Do Pass Amended, Passed, 63-7. First Reading 2/23; Referred to Senate Judiciary. 3/3 Judiciary Deferred to the 41<sup>st</sup> Legislative Day, Passed, 5-0.

Comment: The bill was brought by the prime sponsor based on the recent loss of his grandmother in an accident caused by a driver with a history of multiple DUI violations. It was intended to enhance enforcement by increasing penalties to a level to avert such situations. The bill was supported by the Office of the Attorney General, SD States Attorney's Association, and SD Police Chiefs Association. It was opposed by the Unified Judicial System, Department of Corrections, Department of Public Safety, SD Association of Criminal Defense Lawyers, and SD Trial Lawyers Association. The SDCCBH opposed the bill on the basis that imposition of mandatory prison sentences would compromise and curtail referral of offenders to DUI Courts.

Disposition: **Measure Failed**

**HB 1244 An Act to make an appropriation to develop and create a residency program for psychologists and to declare an emergency.**

Description: The bill would have appropriated from the general fund the sum of \$175,000 to the Department of Social Services for the purpose of developing and creating the criteria for a residency program for psychologists and the first-year operation of the program.

Source: Sponsored by Rep. Tidemann.

Status: First Reading 1/27; Referred to House Health and Human Services. 2/8 Health and Human Services Motion to Amend, Passed, 8-4. 2/8 Health and Human

Services Referred as Amended to House Committee on Appropriations, Passed, 8-4. 2/17 House Appropriations Deferred to the 41<sup>st</sup> Legislative Day, Passed, 6-2. 2/23 Recalled from Committee (Rule 7-7), Passed. 2/23 House Committee on Appropriations Report out of Committee Without Recommendation as Amended, Passed. 2/23 Placed on calendar pursuant to JR 6F-6, Passed, 44-24. 2/23 House of Representatives Do Pass Amended, Failed, 46-21.

Comment: The bill originated as a WICHE model that has been successfully implemented in other states to develop psychology residency programs. The measure would have been helpful towards addressing behavioral health workforce issues. It was supported by Avera, SD Association of Healthcare Organizations, and SD Psychological Association. The SDCCBH supported this legislation. **Although this measure technically failed, funding to support the residency program at the originally requested level was built into the FY22 Supplemental Bill.**

Disposition: **Measure Failed**

**HB 1272** **An Act to revise provisions related to counseling for domestic abuse requirements.**

Description: The bill amended SDCL 25-10-5.1 to require that defendants placed on probation upon receiving a verdict or plea of guilty for a crime of domestic abuse attend domestic abuse counseling. Domestic abuse counseling includes issues of power and control, accountability, emotional regulation and cognitive work addressing errors in thinking. A court may recommend group counseling meeting the requirements of domestic abuse counseling, where available. Failure to attend domestic abuse counseling is a violation of the defendant's probation.

Source: Sponsored by Rep. Reimer.

Status: First Reading 1/31; Referred to House Judiciary. 2/14 Judiciary Do Pass, Passed, 10-1. 2/16 House of Representatives Do Pass Amended, Passed, 65-4. First Reading 2/17; Referred to Senate Judiciary. 3/1 Judiciary Do Pass, Passed, 7-0. Certified Uncontested, Placed on Consent Calendar. 3/2 Senate Do Pass, Passed, 35-0. 3/3 Signed by the Speaker. 3/7 Signed by the President. 3/8 Delivered to the Governor. 3/18 Signed by the Governor.

Comment: The bill was brought at the behest of the Missouri Valley Crisis Center in Chamberlain SD. It was supported by SD Network Against Family Violence, Lutheran Social Services, and the Unified Judicial System.

Disposition: **Measure Passed**

**HB 1282** **An Act to allow inpatient psychiatric facility placement alternatives for certain patients.**

Description: The bill amended SDCL 27A-15-3 to allow a patient who does not meet the definition of a minor, as set forth in [SDCL 27A-15-1](#), but is less than nineteen years of age to be placed in a separate unit with minors if the patient is enrolled in a high school or pursuing high school equivalency and consents to the placement.

Source: Sponsored by Rep. Miskimins.

Status: First Reading 2/1; Referred to House Health and Human Services. 2/15 Health and Human Services Do Pass, Passed, 13-0. Certified Uncontested; Placed on Consent Calendar. 2/16 House of Representatives Do Pass, Passed, 68-0. First Reading 2/17; Referred to Senate Health and Human Services. 2/25 Health and Human Services Do Pass, Passed, 5-0. Certified Uncontested; Placed on Consent Calendar. 2/28 Senate Do Pass, Passed, 35-0. 3/2 Signed by the Speaker. 3/3 Signed by the President. 3/7 Delivered to the Governor. 3/9 Signed by the Governor.

Comment: The bill was introduced at the behest of Avera Behavioral Health. The population referred to includes 18 year olds, who are most likely still enrolled in high school, to put them in a more suitable placement environment. The measure was supported by Avera Behavioral Health and Avera Health. The SDCCBH supported this legislation.

Disposition: **Measure Passed**

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**SB 33** **An Act to authorize the Department of Corrections to make healthcare improvements at the South Dakota Women’s Prison, to make an appropriation therefor, and to declare an emergency.**

Description: The bill appropriated the sum of \$5,750,000 in federal fund expenditure authority to the Department of Corrections for the purpose of design, renovation, construction furnishing, and equipping the expansion of the healthcare services areas in the South Dakota Women’s Prison, including heating, air conditioning, plumbing, water, sewer, electric facilities, architectural and engineering services, and other services and improvements as may be required. The bill contained an emergency clause which placed the Act into full force and effect upon its passage and approval.

Source: Introduced by the Senate Committee on Appropriations at the request of the Department of Corrections.

Status: First Reading 1/11; Referred to Senate Committee on Appropriations. 2/22 Senate Committee on Appropriations Do Pass, Passed, 8-0. 2/23 Senate Do Pass, Passed, 34-1. First Reading 2/24; Referred to House Committee on Appropriations. 3/2 House Committee on Appropriations Do Pass, Passed, 7-0. 3/3 House of Representatives Do Pass, Passed, 65-3. 3/7 Signed by the President. 3/8 Signed by the Speaker. 3/9 Delivered to the Governor. 3/28 Signed by the Governor.

Comment: The bill will utilize federal ARPA Coronavirus Capital Expenditure Funds to remodel existing healthcare facilities at the Women’s Prison in Pierre to provide for more efficient medical services and enhanced care. The expansion includes an updated infirmary, additional exam rooms, laboratory, pharmacy, dental suite, and waiting area. The bill will also support construction of a special behavioral health housing unit to support the needs of offenders with mental health needs that are

transitioning to the general population. It was supported by Department of Corrections, Department of Health, and Department of Social Services.

Disposition: **Measure Passed**

**SB 102 An Act to create the Medicaid expansion fund and to provide for the receipt of monies received as a result of expanding Medicaid eligibility.**

Description: The bill would have established the Medicaid Expansion Fund in the state treasury. Any general fund savings realized from a temporary increase in the federal medical assistance percentage, as authorized by the American Rescue Plan Act of 2021, Public Law 117-2, Section 9814 as a result of medical expansion would have been required to be deposited into the fund. Expenditures out of the fund would have been by appropriation of the Legislature and would have been required to be used to cover current and future Medicaid costs.

Source: Sponsored by Sen. Steinhauer.

Status: First Reading 1/25; Referred to Senate Health and Human Services. 2/4 Health and Human Services Do Pass Amended, Passed, 5-1. 2/8 Senate Do Pass Amended, Passed, 21-14. First Reading House 2/9. 2/15 Referred to House Committee on Appropriations. 2/28 House Committee on Appropriations Do Pass, Failed for Lack of a Second. 2/28 House Committee on Appropriations Tabled, Passed, 7-1.

Comment: The bill anticipated passage of either a statewide ballot measure or an Act of the Legislature to expand eligibility for Medicaid benefits to include any person over age eighteen and under sixty-five whose income was at or below one hundred thirty-three percent of the federal poverty level adjusted for the applicable family size. The measure was supported by a broad base of proponents including SD Association of Healthcare Organizations, SD Medical Association, SD Nurses Association, Community Health of the Dakotas, Farmers Union, SD Municipal League, SD Chamber of Commerce & Industry, Avera Health, SD Education Association, and Presentation Sisters of Aberdeen. It was opposed by the Bureau of Finance and Management and Americans for Prosperity. Cross-reference SB 186. In the end, the idea of Medicaid expansion ran across the political grain of both the majority of the Legislature and the Administration.

Disposition: **Measure Failed**

**SB 136 An Act to revise and clarify certain processes for emergency detainment related to drug and alcohol abuse.**

Description: The bill amended SDCL Chapter 34-20A to revise processes related to emergency commitment of an intoxicated person and to change references from commitment to detainment.

Source: Sponsored by Sen. Steinhauer.

Status: First Reading 1/27; Referred to Senate Health and Human Services. 2/9 Health and Human Services Do Pass, Passed, 7-0. Certified Uncontested, Placed on Consent Calendar. 1/14 Senate Do Pass, Passed, 35-0. First Reading 2/15;

Referred to House Health and Human Services. 3/1 Health and Human Services Do Pass, Passed, 13-0. Certified Uncontested, Placed on Consent Calendar. 3/2 House of Representatives Do Pass, Passed, 68-1. 3/3 Signed by the President. 3/3 Signed by the Speaker. 3/7 Delivered to the Governor. 3/15 Signed by the Governor.

Comment: The measure was brought forward on behalf of The Link in Sioux Falls to avert abuses of the SUD emergency commitment process. The bill was supported by Avera McKennan. The SDCCBH supported the legislation.

Disposition: **Measure Passed**

**SB 159 An Act to exempt any person suffering from a severe mental illness from capital punishment.**

Description: The bill would have amended SDCL 23A-26-3 to authorize a court to render a special verdict of “guilty but severely mentally ill”. The death penalty would not have been imposed upon any person: 1) Who was severely mentally ill at the time of the commission of the offense; 2) Whose severe mental illness was manifested and medically documented prior to the commission of the offense; and, 3) whose offense was a product of the person’s severe mental illness or due to an irresistible impulse that was caused by the person’s severe mental illness. The bill would have defined severely mentally ill to only include schizophrenia with psychotic symptoms, major depression with psychotic features, bipolar disorder with psychotic features, PTSD with psychotic features, or schizoaffective disorder with psychotic features. The term would not have included drug-induced psychosis. The bill would have applied to any offense alleged to have been committed by a defendant after July 1, 2022. If a defendant was found guilty but severely mentally ill of a Class A felony beyond a reasonable doubt, the court would have been required to sentence the defendant to life imprisonment and, at the court’s discretion, to order the defendant to pay relevant fines.

Source: Sponsored by Sen. Johns.

Status: First Reading 1/27; Referred to Senate Judiciary. 2/15 Judiciary Do Pass Amended, Passed, 6-1. 2/22 Senate Do Pass Amended, Passed, 21-14. First Reading 2/23; Referred to House Judiciary. 3/2 Judiciary Motion to Amend, Passed. 3/2 Judiciary Do Pass Amended, Passed, 8-3. 3/7 House of Representatives Do Pass Amended, Failed, 25-43.

Comment: There have been several past unsuccessful attempts along these lines during past legislative sessions. This was probably the most credible piece of legislation introduced up to this point. The bill was supported by Steve Manlove MD, Presentation Sisters of Aberdeen, SD Association of Criminal Defense Lawyers, and SD Trial Lawyers Association. It was opposed by the Office of the Attorney General and SD State’s Attorney’s Association. The SDCCBH generally supported this legislation.

Disposition: **Measure Failed**

**SB 186****An Act to expand Medicaid eligibility by the Legislature.**

**Description:** The bill would have amended SDCL Chapter 28-6 to require, beginning July 1, 2023, the state to provide Medicaid benefits to any person over age eighteen and under age sixty-five whose income was at or below 133% of the federal poverty level adjusted for the applicable family size, as authorized by 42 U.S.C Section 1396a as of March 11, 2021. The Department of Social Services would have been required to submit all state plan amendments necessary to implement the Act to CMS no later than March 1, 2023. The Act would have expired and the state would have ceased to provide the expanded benefits and coverage in the event the federal medical assistance percentage for individuals covered under the expanded income group was less than the 90% commitment in 42 U.S.C. Section 1396(y), as of September 30, 2021.

**Source:** Sponsored by Sen. Steinhauer.

**Status:** First Reading 2/2; Referred to Senate Health and Human Services. 2/14 Health and Human Services Do Pass, Passed, 4-3. 2/15 Senate Do Pass, Failed, 12-23.

**Comment:** This bill constituted an effort to legislatively mandate Medicaid expansion in South Dakota. Cross-reference SB 102. In the end, the idea of Medicaid expansion ran across the political grain of both the majority of the Legislature and the Administration.

**Disposition:** **Measure Failed**

**SB 198****An Act to revise provisions related to juvenile offenders.**

**Description:** The bill would have required the appointment of an interim juvenile placement committee that would have been established to consider and develop alternatives for placement of juvenile offenders, develop findings, report on the findings and recommend legislation.

**Source:** Sponsored by Sen. Smith (V.J.).

**Status:** First Reading 2/2; Referred to Senate State Affairs. 2/16 State Affairs Do Pass, Passed, 8-1. 2/17 Senate Fiscal Note Requested. 2/23 Senate Do Pass Amended, Passed, 22-13. First Reading 2/24; Referred to House State Affairs. 3/2 State Affairs Motion to Amend, Passed. 3/2 State Affairs Do Pass Amended, Passed, 12-0. 3/7 House of Representatives Do Pass Amended, Passed, 61-8. 3/8 Senate Failed to Concur, Appoint Conference Committee, Passed. 3/9 Conference Committee Concurred in Amendments, Passed, 5-1. 3/9 House of Representatives Conference Committee Report Adopted, Passed, 68-1. 3/9 Senate Conference Committee Report Not Adopted, No Committee Appointed, Passed, 18-17.

**Comment:** In its original form, the bill would have reset and repealed the bulk of the Juvenile Justice Public Safety Improvement Act that was enacted by SB 73 in 2015. Sections 2 through 42 of the Act, as introduced, would have become effective on July 1, 2023 in anticipation of the legislative recommendations ensuing from the interim committee to replace these provisions. As amended, only the proposed interim juvenile placement committee would have remained. It was supported in

its original form by Large School Group, Associated School Boards of SD, United School Association of South Dakota, and the Office of the Attorney General. It was opposed in its original form by Department of Corrections, the Unified Judicial System, Lutheran Social Services, and SD Association of Criminal Defense Lawyers. The SDCCBH was opposed to the bill as introduced and supported the House State Affairs amendment that put the bill into its last form. The genesis of the legislation was driven by school administrators that have been experiencing issues with “tough kids” in educational settings.

Disposition: **Measure Failed**

**SCR 608**      **A CONCURRENT RESOLUTION, To conduct an interim study examining local jails and opportunities for collaboration with state correctional plans.**

Description: The concurrent resolution required the Executive Board of the Legislative Research Council to establish an interim study regarding local correctional needs across the state and opportunities for collaboration within the state’s correctional plan, so that efficient and effective solutions among local and state leaders may be realized.

Source: Introduced by Sen. Novstrup.

Status: First Reading 2/24; Referred to Senate Judiciary. 3/1 Judiciary Do Pass, Passed, 5-0. Certified Uncontested, Placed on Consent Calendar. 3/2 Senate Do Pass, Passed, 35-0. First Reading in House 3/3; Referral to Committee Waived Pursuant to JR 6D-1. 3/7 House of Representatives Concurred in Resolution, Passed, 68-1.

Comment: The approved interim study will involve counties in a state-wide correctional planning process to identify opportunities for collaboration to meet state and local requirements regarding adequate jail facilities and for meeting law enforcement and inmate sentencing needs. The interim study is also intended to evaluate the feasibility of regional jails.

Disposition: **Measure Passed**