



**Legislative
Research
Council**

MINUTES

Criminal Code Revision Commission

**Fifth Meeting
2004 Interim
Tuesday and Wednesday, November 30 – December 1, 2004**

**LCR 1 & 2
State Capitol Building
Pierre, South Dakota**

The fifth meeting of the interim Criminal Code Revision Commission was called to order by Senator Lee Schoenbeck, Chair, at 8:00 a.m. on Tuesday, November 30, 2004, in Legislative Conference Rooms 1 and 2 of the State Capitol Building in Pierre, South Dakota.

A quorum was established with the following members answering roll call: Senator Lee Schoenbeck (Chair); Representatives Joni Cutler, Richard Engels, Thomas Hennies (Vice-Chair), Sean O'Brien, Tim Rave, and Tim Rounds; Messrs. Mike Butler, Jeff Larson, Charlie McGuigan, Robert A. Miller, Dave Nelson, and Tim Tucker. Unable to attend the meeting was Senator Gil Koetzle. Senator Patricia de Hueck was excused on Tuesday.

Staff members present included Reuben Bezpaletz, Chief Analyst for Research and Legal Services; Annie Mehlhaff, Principal Fiscal Analyst; and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council. For the purpose of continuity, these minutes are not necessarily in chronological order.

Minutes

COMMISSIONER RAVE MOVED, SECONDED BY COMMISSIONER ROUNDS, THAT THE MINUTES OF THE SEPTEMBER 30 – OCTOBER 1, 2004, MEETING BE APPROVED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Chair Remarks

Chair Schoenbeck stated that two projects were still in the drafting stages, restraining orders and sex registry. He stated that the meeting was being broadcast via the Internet, thus there will be an audio tape for future reference as to what the legislative intent was. He announced that the agenda was being changed. The full commission would be meeting initially, rather than the subcommittees, and would start with the amendments. Public testimony would be held at 10 a.m. as previously scheduled. Once the amendments have been dealt with, the commission would start working through the drafts. He asked that members go through all of the correspondence again to be sure that all of the issues had been considered at some point in time.

Staff Remarks

Mr. Bezpaletz distributed a packet of technical amendments (purple) (**Document 1**). He stated that these are some of the amendments that will be proposed to the draft legislation - Cutler Subcommittee (green) (**Document 2**, pages 1 – 248). Both the Cutler drafts and the Hennies drafts (orange) (**Document 3**, pages 1 - 56) were previously mailed to the commission and had been posted on the Legislative Research Council's (LRC) Web site prior to this meeting. He commented that posting the drafts on the Web site was successful and he had received many comments regarding the drafts. Additional correspondence was distributed to the commission later in the meeting (**Documents 3, 4, & 5**) for placement behind Tab 2 (Items No. 26, 27, & 28, pages 96-100). Comments on the Alcohol/Drug Bill Drafts from Professor Hutton, Commissioner Larson, and Commissioner Schoenbeck were also distributed to the commission (**Document 6**).

Technical Amendments

Larson Amendment A (Brookings Draft)

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER CUTLER, THAT LARSON AMENDMENT A BE APPROVED. MOTION FAILED ON A VOICE VOTE.

Larson Amendment B (Butte Draft)

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER CUTLER, THAT LARSON AMENDMENT B BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Larson Amendment D (Codington Draft)

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER CUTLER, THAT LARSON AMENDMENT D BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Larson Amendment E (Deuel Draft)

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER CUTLER, THAT LARSON AMENDMENT E BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Larson Amendment F (Dewey Draft)

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER CUTLER, THAT LARSON AMENDMENT F BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Larson Amendment G (Haakon Draft)

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER CUTLER, THAT LARSON AMENDMENT G BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Larson Amendment H (Lyman Draft)

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER TUCKER, THAT LARSON AMENDMENT H BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Larson Amendment I (Minnehaha Draft)

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER CUTLER, THAT LARSON AMENDMENT I BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment A (Aurora Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT A BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Following a discussion on Hutton Amendment A and Schoenbeck Amendment B (Beadle Draft) the following motion was made:

Schoenbeck Amendment B (Beadle Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT B BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment C (Brookings Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT C BE APPROVED. MOTION FAILED ON A VOICE VOTE.

Schoenbeck Amendment D – Option 1 and Option 2 (Buffalo Draft)

Following a discussion it was the consensus of the commission that an affirmative defense should not be part of the Buffalo draft.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER CUTLER, THAT BUFFALO BE AMENDED ON PAGE 35, DELETE LINES 8 TO 12, INCLUSIVE. MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT D – OPTION 1 AND OPTION 2 BE TABLED. MOTION PREVAILED ON A VOICE VOTE.

Hutton Amendment D (Buffalo Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT D BE APPROVED. MOTION FAILED ON A VOICE VOTE.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER LARSON, THAT BUFFALO BE AMENDED ON PAGE 35, LINE 16, AFTER "ANOTHER" INSERT "WITHOUT THE CONSENT OF ALL OF THE OWNERS". MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment E (Buffalo Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT E BE APPROVED. MOTION FAILED ON A VOICE VOTE.

Schoenbeck Amendment F (Buffalo Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT F BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment G (Davison Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT G BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment H (Dewey Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT H BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment I (Fall River Draft)

COMMISSIONER BUTLER MOVED, SECONDED BY COMMISSIONER CUTLER, THAT THE SCHOENBECK AMENDMENT I , SECTION 6 BE AMENDED BY OVERSTRIKING ", OR ENTERS OR WHO REMAINS IN A HOUSE OF PROSTITUTION FOR THE PURPOSE OF ENGAGING IN SEXUAL ACTIVITY," . MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT THE SCHOENBECK AMENDMENT I BE APPROVED AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

Staff distributed Commissioner McGuigan's amendment to the Hand Draft regarding firearms and weapons (**Document 7**).

McGuigan Amendment (Hand Draft)

Schoenbeck Amendment J (Hand Draft)

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER CUTLER, THAT THE McGUIGAN AMENDMENT BE APPROVED, IN LIEU OF SCHOENBECK AMENDMENT J. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck/McGuigan/Butler Amendment (Hand Draft)

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER ENGELS, TO AMEND THE SCHOENBECK/McGUIGAN/BUTLER AMENDMENT BY DELETING "ONE" AND INSERTING "TWO". MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER NELSON, TO AMEND THE SCHOENBECK/McGUIGAN/BUTLER AMENDMENT BY DELETING "ONE" AND INSERTING "FIVE". MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT THE SCHOENBECK/McGUIGAN/BUTLER AMENDMENT BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment K (Hutchinson Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT K BE TABLED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment L (Lake Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT L BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment M (McCook Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT M BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment N (McCook Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT N BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Schoenbeck Amendment O (Meade Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT SCHOENBECK AMENDMENT O BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Miller Amendment A (Edmunds Draft)

COMMISSIONER MILLER MOVED, SECONDED BY COMMISSIONER CUTLER, THAT MILLER AMENDMENT A BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Hutton Amendment A (Beadle Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT A BE HELD UNTIL LATER. MOTION PREVAILED ON A VOICE VOTE.

Hutton Amendment B (Bon Homme Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT B BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Hutton Amendment C (Brookings Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT C BE APPROVED. MOTION FAILED ON A VOICE VOTE.

Hutton Amendment E (Haakon Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT E BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Hutton Amendment F (Jones Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT F BE HELD UNTIL LATER. MOTION PREVAILED ON A VOICE VOTE.

Hutton Amendment G (McCook Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT G BE APPROVED. MOTION FAILED ON A VOICE VOTE.

Hutton Amendment H (McCook Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT H BE AMENDED TO READ ON PAGE 180, LINE 11, AFTER "REASON" INSERT "DUE TO MENTAL DISEASE OR DEFECT," . MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT H BE APPROVED AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

Hutton Amendment I (Minor Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT HUTTON AMENDMENT I BE APPROVED. MOTION FAILED ON A VOICE VOTE.

Hutton Amendment J (Perkins Draft)

Chair Schoenbeck stated that Hutton Amendment J would be discussed later in the meeting.

Bezpaletz Amendment (Aurora Draft)

Feiler Amendment A (Aurora Draft)

Following discussion on the Bezpaletz Amendment and the Feiler Amendment A, it was the consensus not to adopt either amendment but to incorporate the stylistic features of the Bezpaletz Amendment into whatever version of the sliming statutes were subsequently adopted.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT THE POSITION OF THE COMMISSION BE THAT ALL PERSONS, CONVICTED OR NOT, REGARDLESS OF WHO THE VICTIM IS, BE TREATED THE SAME WITH REGARD TO THE SLIMING STATUTES. MOTION PREVAILED ON A VOICE VOTE.

Feiler Amendment B (Kingsbury Draft)

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT FEILER AMENDMENT B BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

PUBLIC TESTIMONY

Mr. Mike Leidholt, Pierre, Hughes County Sheriff, testified that the creation of aggravated misdemeanor crimes would have an adverse effect on county governments. He stated additional funding would be necessary to pay for the additional prisoners in the county jails. He felt the state prison system is more beneficial to prisoners because the state has rehabilitation programs and most counties do not. Also, the state allows for good time and has a parole system. Mr. Leidholt stated his main concern was the additional cost to the counties as the county tax system is frozen.

Mr. Ron Olinger, Pierre, lobbyist for the South Dakota Retailers Association, testified regarding the business related provisions in the criminal law. He distributed a memorandum dated November 29, 2004, (**Document 8**) which explained the retailers concerns with theft, identify theft, vandalism, forgery, burglary, fraud, insufficient funds checks, no account checks, and the age requirements in regard to sale of alcoholic beverages proposed changes. He stated that the collection of bad checks needs to be improved as most prosecutors do not have the time to prosecute. He stated that the adjustment on the misdemeanors was out of line; \$500 and \$2,000 are too high and is just an invitation to commit a crime. He stated that the aggravated misdemeanor penalties were too lenient. He asked the commission to retain the differential between insufficient funds and no account checks. He stated that the commission needs to be considering intent also, not only the amount of the loss. Overall, Mr. Olinger stated that the retailers are generally opposed to the reduction of property crime offenses.

Mr. Jay Davis, Rapid City, Pennington County Public Defender, stated that he commended the commission on all of the work they have done. In response to Sheriff Leidholt's comments about the burden on the county jails, he responded that if someone writes a bad check they should not be in the state prison. That person needs to be put into a work release program where we can still support his family and repay the debt. He stated that raising the threshold on vandalism and no

account checks is okay. He stated that an eighteen year old who takes a hood ornament should not be a felony. In regards to drugs and alcohol, Mr. Davis stated that forced blood draws on first offense driving under the influence is not a good thing. He stated that a lot of people have never been in the criminal system before and may never again. The loss of driving privileges for a year is a forced guilty plea. A topic that the commission had not addressed yet was altered states and bodily fluids for drugs.

Mr. Mike Stonefield, Rapid City, Pennington County Public Defender, stated that he agrees with most of the proposed changes. He stated that consideration must be taken of the dollar amounts on theft charges. When setting penalties, he stated that the commission needs to look at the relevant damage of what the person's conduct has done.

Mr. Mark Barnett, Pierre, Assistant Attorney General, stated that in reviewing the drafts, it was his interpretation that the commission is proposing to reduce the penalties for the majority of the offenses that are all of the major and high volume offenses. In reference to the forgery drafts, he asked what the plan was for the non-monetary crimes. He stated that he agreed with the retailers that it was going to become more expensive to prosecute. He also asked that the implementation date be delayed until July 1, 2006. Overall, he stated, the Attorney General opposes the reduction of the sentencing discretion of the judges. He stated that there are a lot of good things about the drafts; however, he felt the tilt of the bill is to reduce penalties across the board, shift costs to the counties, and take power away from the prosecutors.

Mr. Kurt Evans, Wessington Springs, testified about a protection order that had been filed against him and the difficulties that he has had in dealing with it. He stated that the stalking language has problems and is being enforced differently than it is written. He asked the commission to define the word "repeatedly" in § 22-19A-1 so that sentencing judges have to cite specific instances. He had concerns with what "other relief" means in § 22-19A-11. In § 22-19A-5 he asked the commission to clarify constitutionally protected activity.

Ms. Carol Graves, Ethan, testified regarding the indecent exposure laws. She distributed additional information regarding her father's arrest, conviction, and medical history (**Document 9**). This was a supplement to the information she had furnished the commission earlier. In the end, the prosecutor offered her father a stipulation for deferred prosecution. She stated that without her persistence, her father would have ended up in prison.

Ms. Pamala Dornbusch, Watertown, testified in support of the mandatory minimums for drug dealing. Her minor son had been offered drugs by an adult who received a sentence of 30 days in the county jail, a \$500 fine, and one year probation. She asked the commission to send this message, "If you distribute 'drugs' to our children in a drug free zone, you are going to prison." She stated that her son has lost respect for the judicial system over this light sentence.

Mr. George Ferebee, Hill City, testified regarding the need to have the stalking statutes rewritten (Chapter 22-19A). He distributed a handout of Article 6, Section 27 (**Document 10**) and stated that we have gone beyond moderation as the number of protection orders has increased threefold over the past five years. He stated that for the good of society, our individual rights is what this country is all about and he reminded the legislators that they are society's voice to restrict the other two branches of government.

Mr. Don Holloway, Rapid City, Pennington County Sheriff, testified against placing more criminals in the county jails. He stated that the number of people and the length of their stay is what impacts the county jails. He asked the commission to amend § 22-6-1.1 and § 23A-27-18.1 so that counties are reimbursed for these prisoners. In response to a question earlier by the commission in regard to sliming, Sheriff Holloway stated it does serve as a deterrent. If a person is in prison and knows that he has a release date, he will pay attention to the kinds of crimes he will commit. He stated that having sliming as an aggravated misdemeanor was not sufficient. He asked the commission to have only one class with regard to an assault on a law enforcement officer; they are assaulting the criminal justice system, not the person. He encouraged the commission to put livestock back into the felony theft statutes. He stated that the proposed change to the drug and alcohol statutes regarding an evaluation with a first driving under the influence was an excellent idea and that it would require a person to take a good look at his drinking habits.

Mr. Mike Milstead, Sioux Falls, Minnehaha County Sheriff, testified that moving the misdemeanor theft amount to \$2,000 was unreasonable and would be sending the wrong message. He stated that \$700 to \$1,000 would be more reasonable. He also expressed concerns with downgrading arson from a Class 1 to a Class 2, moving backwards with regards to sex offenders, and he also thought sliming should be a felony. Sheriff Milstead stated that their new county jail was ten beds away from being full. If changes are made that result in counties having to house additional prisoners, counties would have to build additional jails. In response to a question if electronic monitoring is being used, Sheriff Milstead stated that it is used for persons awaiting sentencing or trial. He stated that counties that offer work release programs can become burdened with those prisoners sentenced for Class 5 and 6 felonies; when probation is revoked, they come back to the county, not the state.

Mr. Mark McNeary, Aberdeen, Brown County States Attorney and president of the States Attorney Association, testified that the association strongly supports repealing the implied consent statute. He stated that the majority of the board agrees with retaining the mandatory minimums. He asked the commission to take another look at § 22-22-1 and consider leaving the age at ten. With regard to § 22-14-12, he asked the commission to keep mandatory minimums. He stated that aggravated misdemeanors sounds good in theory; however, in Brown County he couldn't see himself recommending eighteen months in the county jail.

Mr. Thomas Wollman, Sioux Falls, Lincoln County States Attorney and vice-president of the States Attorney Association, stated that prosecutors are ministers of justice and must balance the interest of the victims with the interest and rehabilitation for the crimes that have been committed. He stated that most prosecutors do not overcharge in order to obtain a plea agreement. He did not see the need for aggravated misdemeanors and for moving some of the felonies down. He stated that the implied consent statute needs to be repealed; it is the only time a defendant can withhold evidence from the state. He also stated that child rape has become an epidemic, and Internet pornography is spreading rapidly. He asked the commission to remain tough and keep the mandatory minimums.

Ms. Kristia Heeren-Graber, Sioux Falls, Executive Director for South Dakota Network Against Family Violence, asked the commission to consider the domestic disorderly conduct bill and the Schoenbeck/Beadle/Moody Amendment and Protection Orders Amendments that were distributed to the commission (**Document 11**).

Mr. Jonathan Freer, Sioux Falls, testified regarding the need to change the way a pedophile is treated in the judicial system. He distributed letters regarding his children (**Document 12**). The

children were sexually abused and because of a plea agreement, the perpetrator was never charged for the crimes committed against his children. He suggested that pedophiles be sentenced to death if there is more than one offense. He stated the pedophile should be just as scared as their victims.

Mr. Lanny Klinkhammer, Howard, Miner County Sheriff, testified about some of the different costs to the counties and what the state reimburses them for.

Following the public testimony, Commissioner Hennies distributed a handout entitled "Legislative Survey 2003" (**Document 13**). The survey showed that felony prisoners spent 90,066 days in county jails during 2003. He stated that the actual number is probably higher since not all the counties responded to the survey.

REVIEW OF PROPOSED DRAFTS

AURORA Draft

COMMISSIONER TUCKER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 5 of the printed bill, delete lines 6 to 11, inclusive, and insert:

" Section 11. That § 22-18-26 be amended to read as follows:

22-18-26. Any convicted person or any incarcerated person under the jurisdiction of the Department of Corrections who intentionally throws, smears, spits, or otherwise causes blood, ~~emesis~~ vomit, saliva, mucus, semen, excrement, urine, or human waste to come in contact with a Department of Corrections employee, or visitor, or volunteer authorized by the Department of Corrections, or person under contract assigned to the Department of Corrections is guilty of a Class 6 felony. "

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER TUCKER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 6, delete lines 3 to 8, inclusive, and insert:

" Section 15. That § 22-18-29 be amended to read as follows:

22-18-29. Any adult confined in a county or municipal jail who intentionally throws, smears, spits, or otherwise causes blood, ~~emesis~~ vomit, saliva, mucus, semen, excrement, urine, or human waste to come in contact with a county or municipal jail employee, or visitor, or volunteer authorized by the county or municipal jail, or person under contract assigned to the county or municipal jail is guilty of a ~~Class 4 misdemeanor~~ Class 6 felony. "

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER TUCKER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 6, delete lines 9 to 14, inclusive, and insert:

" Section 16. That § 22-18-29.1 be amended to read as follows:

22-18-29.1. Any juvenile confined in a juvenile detention facility or a juvenile corrections facility established and maintained in accordance with § 26-11A-1 who intentionally throws, smears, spits,

or otherwise causes blood, ~~emesis vomit, saliva,~~ mucus, semen, excrement, urine, or human waste to come in contact with a juvenile detention or juvenile corrections facility employee, or visitor, or volunteer authorized by the juvenile detention or juvenile corrections facility, or person under contract assigned to the juvenile detention or juvenile corrections facility is guilty of a ~~Class 2 misdemeanor~~ Class 6 felony. "

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER ENGELS,

On page 5, delete lines 18 to 24, inclusive, and insert:

" Section 13. That § 22-18-27 be repealed.

~~22-18-27. A penitentiary sentence arising from a conviction pursuant to § 22-18-26 may not commence until the expiration, with no allowance of good time, of the last sentence of imprisonment.~~

Section 14. That § 22-18-28 be repealed.

~~22-18-28. An inmate sentenced pursuant to § 22-18-26 shall serve the entire term of the sentence and is not eligible for parole release as authorized under chapter 24-15A.~~"

On page 6, delete lines 1 and 2.

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER ROUNDS MOVED, SECONDED BY COMMISSIONER HENNIES,

On page 5, delete lines 12 to 17, inclusive, and insert:

" Section 12. That § 22-18-26.1 be amended to read as follows:

22-18-26.1. Any person who, with the intent to assault, throws, smears, spits, or causes human blood, ~~emesis vomit, saliva,~~ mucus, semen, excrement, urine, or human waste to come in contact with a law enforcement officer as defined in subdivision 22-1-2(22), a firefighter, a court services officer or designee, or an emergency medical technician, while performing official duties or actions any other person, is guilty of a Class 1 misdemeanor. "

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER CUTLER,

On page 5, line 10, of the previously restored statutory provision, overstrike "volunteer" and insert "person".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER ROUNDS,

On page 1, line 11, overstrike "serious".

On page 1, line 11, overstrike "seriously".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT AURORA AS AMENDED BE ADOPTED. MOTION PREVAILED ON A VOICE VOTE.

BEADLE Draft

Schoenbeck/Beadle/Moody Amendment

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 10, after line 10 of the printed bill, insert:

"

Section 3. Any person who knowingly engages in an act of sexual penetration with a person who:

- (1) Is at least sixteen but less than eighteen years of age; and
- (2) Is the child of a spouse or former spouse of the perpetrator;

is guilty of incestuous statutory rape. Incestuous statutory rape is a Class 3 felony."

On page 10, line 11, after "§ 22-22-19.1" insert "and section 3 of this Act".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

Following a brief discussion of whether incest should be included, the following amendment to the Schoenbeck/Beadle/Moody Amendment was offered:

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER NELSON,

On page 10, after line 10 of the printed bill, insert:

"

Section 3. Any person who knowingly engages in an act of sexual penetration with a person who:

- (1) Is at least sixteen but less than eighteen years of age; and
- (2) Is either:
 - (a) The child of the perpetrator or the child of a spouse or former spouse of the perpetrator; or
 - (b) Related to the perpetrator within degrees of consanguinity within which marriages are, by the laws of this state, declared void pursuant to § 25-1-6;

is guilty of incestuous statutory rape. Incestuous statutory rape is a Class 3 felony."

MOTION TO AMEND THE PREVIOUSLY ADOPTED AMENDMENT PREVAILED ON A VOICE VOTE.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER HENNIES,

On page 10, after line 1, insert:

"

Section 2. Any persons, eighteen years of age or older, who knowingly engage in a mutually consensual act of sexual penetration with each other:

- (1) Who are not legally married, and

- (2) Who are within degrees of consanguinity within which marriages are, by the laws of this state, declared void pursuant to § 25-1-6,

are guilty of incest. Incest is a Class 3 felony."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER LARSON, TO AMEND THE PREVIOUSLY ADOPTED AMENDMENT BY STRIKING "CLASS 3" AND INSERTING "CLASS 5". MOTION TO AMEND THE AMENDMENT PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO ADOPT BEADLE AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

BENNETT Draft

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER ROUNDS, ON PAGE 12, LINES 11 AND 12 BE RESTORED TO THEIR ORIGINAL FORM. MOTION FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO ADOPT BENNETT. MOTION PREVAILED ON A VOICE VOTE.

The commission recessed at 5:00 p.m. and reconvened at 7:08 p.m.

BON HOMME Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO ADOPT BON HOMME. MOTION PREVAILED ON A VOICE VOTE.

BROOKINGS Draft

COMMISSIONER RAVE MOVED, SECONDED BY COMMISSIONER MILLER,

On page 24, line 18, delete "two" and insert "one".

On page 25, line 19, delete "two" and insert "one".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER TUCKER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 25, line 18, delete "five" and insert "four".

On page 25, line 23, delete "five" and insert "four".

COMMISSIONER HENNIES MOVED A SUBSTITUTE MOTION, SECONDED BY COMMISSIONER CUTLER,

On page 25, line 18, delete "five hundred" and insert "two hundred and fifty".

On page 25, line 23, delete "five hundred" and insert "two hundred and fifty".

SUBSTITUTE MOTION FAILED ON A VOICE VOTE.

ORIGINAL MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER ROUNDS,

On page 24, delete lines 21 to 24, inclusive, and insert:

"

(3) ~~Property of any value is~~ Is taken from the person of another; ~~or~~

(4) ~~In the case of theft by receiving stolen property, the receiver is a dealer in stolen property, the value of the property stolen exceeds five hundred dollars in value; or~~

~~(5) —~~The property stolen is cattle, horses, mules, buffalo, or captive nondomestic elk."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER HENNIES,

On page 28, remove the overstrikes from lines 16 to 24, inclusive.

On page 29, remove the overstrikes from line 1.

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO ADOPT BROOKINGS AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

BROWN Draft

Following a brief discussion and listening to the public testimony, it was the consensus of the commission to remove aggravated misdemeanor from the drafts.

COMMISSIONER ENGELS MOVED, SECONDED BY COMMISSIONER CUTLER,

On page 31, line 11, remove the overstrikes from "~~a Class 4~~".

On page 31, line 11, delete "an aggravated".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO ADOPT BROWN AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

BRULE Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO ADOPT BRULE. MOTION PREVAILED ON A VOICE VOTE.

BUFFALO Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO ADOPT BUFFALO. MOTION PREVAILED ON A VOICE VOTE.

BUTTE Draft

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER ROUNDS,

On page 39, line 11, delete "five" and insert "four".

On page 39, line 13, delete "two" and insert "one".

On page 39, line 14, delete "five" and insert "four".

On page 39, line 16, delete "two" and insert "one".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER McGUIGAN,

On page 39, line 4, remove the overstrikes from "intentionally".

On page 39, line 4, delete ", with specific intent,".

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER ROUNDS,

On page 40, delete lines 11 to 19, inclusive.

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO ADOPT BUTTE AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

CAMPBELL Draft

Larson Amendment C

COMMISSIONER LARSON MOVED, SECONDED BY COMMISSIONER CUTLER, THAT LARSON AMENDMENT C BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Following a brief discussion after the adoption of the above amendment on the penalty and the intent to defraud, it was the consensus of the commission to hold any final decision on Campbell until later in the meeting. Additional discussion on the Campbell draft was held on Wednesday and the following amendment was made.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER NELSON,

On page 43, delete lines 3 to 15, inclusive, and insert:

" Section 1. That § 22-39-36 be amended to read as follows:

22-39-36. "Any person who, with intent to defraud, falsely makes, completes, or alters a written instrument of any kind, or passes ~~such an~~ any forged instrument of any kind is guilty of forgery. Forgery is a Class 5 felony.

Section 2. That § 22-39-38 be amended to read as follows:

~~22-39-38. Any person who possesses a forged instrument, with the intent to defraud, possesses any forged instrument with the knowledge that the instrument has been forged is guilty of a Class 6 felony. No person shall be convicted under this section unless he possesses the forged instrument with knowledge that it is forged and with intent to defraud possessing a forged instrument. Possessing a forged instrument is a Class 6 felony."~~

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE CAMPBELL AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

CHARLES MIX Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE CHARLES MIX. MOTION PREVAILED ON A VOICE VOTE.

CLARK Draft

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER MILLER,

On page 49, line 3, remove the overstrikes from "a Class 6 felony".

On page 49, line 3, delete "an aggravated misdemeanor".

COMMISSOINER HENNIES MOVED A SUBSTITUTE MOTION, SECONDED BY COMMISSIONER LARSON,

On page 48, delete lines 22 to 24, inclusive, and insert:

" Section 6. That § 22-32-19 be amended to read as follows:

22-32-19. Any person who forcibly enters an automobile or motor truck a motor vehicle with intent to commit any crime therein, ~~or remains in an automobile or motor truck after forming an intent to commit any crime therein~~ in that motor vehicle is guilty of ~~fourth degree burglary. Fourth degree burglary~~ aggravated criminal entry of a motor vehicle. Aggravated criminal entry of a motor vehicle is a Class 6 felony.

Section 7. That chapter 22-32 be amended by adding thereto a NEW SECTION to read as follows:

Any person who enters a motor vehicle without the use of force or who remains in a motor vehicle after forming an intent to commit any crime in that motor vehicle is guilty of criminal entry of a motor vehicle. Criminal entry of a motor vehicle is a class 1 misdemeanor."

On page 49, delete lines 1 to 3, inclusive.

SUBSTITUTE MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER McGUIGAN, TO STRIKE ALL OF THE UNDERSCORED LANGUAGE IN SECTION 6 (SDCL 22-32-19). MOTION FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT CLARK AS AMENDED BE ADOPTED. MOTION PREVAILED ON A VOICE VOTE.

CLAY Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT CLAY BE ADOPTED. MOTION PREVAILED ON A VOICE VOTE.

CODINGTON Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER ROUNDS,
On page 53, remove the overstrikes from lines 14 and 15, inclusive.

COMMISSIONER McGUIGAN MOVED A SUBTITUTE MOTION, SECONDED BY COMMISSIONER HENNIES, ON PAGE 53, SECTION 1 BE RESTORED TO ITS ORIGINAL LANGUAGE. SUBSTITUTE MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER MILLER MOVED, SECONDED BY COMMISSIONER TUCKER,

On page 54, line 1, overstrike "a gross permanent physical injury" and insert "serious bodily injury".

MOTION PREVAILED ON A VOICE VOTE.

The commission recessed at 9:04 p.m.

Wednesday, December 1, 2004

The commission reconvened at 8:07 a.m. on Wednesday, December 1, 2004, in Legislative Conference Rooms 1 and 2 with the same members present except Commissioner Larson, who was excused for the second day. Commissioner de Hueck was in attendance on day two.

CODINGTON Draft (continued)

COMMISSIONER ENGELS MOVED, SECONDED BY COMMISSIONER CUTLER, ON PAGE 54, LINES 2 TO 4, RESTORE THE SENTENCES, EXCEPT ", PRIOR TO TRIAL,". MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER TUCKER MOVED, SECONDED BY COMMISSIONER CUTLER, TO REINSTATE SECTION 1 ON PAGES 53 AND 54 TO THE MODEL KIDNAPPING CODE. MOTION PREVAILED ON A VOICE VOTE.

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER CUTLER,
On page 53, remove the overstrikes from lines 13 to 15, inclusive.
MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER ENGELS MOVED, SECONDED BY COMMISSIONER CUTLER,
On page 54, line 3, delete ", prior to trial,".

COMMISSIONER NELSON MOVED A SUBSTITUTE MOTION, SECONDED BY COMMISSIONER RAVE,

On page 54, line 2, delete "However, if the perpetrator of a".

On page 54, delete lines 3 to 5, inclusive.

SUBSTITUTE MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER ROUNDS MOVED, SECONDED BY COMMISSIONER ENGELS,

On page 54, line 14, remove the overstrikes from "~~a~~Class".

On page 54, line 15, delete "~~4~~ an aggravated" and insert "1".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT CODINGTON BE ADOPTED AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

CORSON Draft

COMMISSIONER MILLER MOVED, SECONDED BY COMMISSIONER DE HUECK,

On page 59, line 6, delete "disposition or sentencing" and insert "any traffic or status offense".

On page 59, line 8, after "juvenile" insert ", including proof of financial responsibility,".

On page 59, after line 9, insert:

" Section 2. That § 26-8C-7 be amended to read as follows:

26-8C-7. If a child has been adjudicated as a delinquent child, the court shall enter a decree of disposition according to the least restrictive alternative available in keeping with the best interests of the child. The decree shall contain one or more of the following alternatives:

- (1) The court may make any one or more of the dispositions in § 26-8B-6, except that a delinquent child may be incarcerated in a detention facility established pursuant to provisions of chapter 26-7A for not more than ninety days, which may be in addition to any period of temporary custody;
- (2) The court may impose a fine not to exceed one thousand dollars;
- (3) The court may place the child on probation under the supervision of a court services officer or another designated individual. The child may be required as a condition of probation to report for assignment to a supervised work program, provided the child is not deprived of the schooling that is appropriate for the child's age, needs, and specific rehabilitative goals. The supervised work program shall be of a constructive nature designed to promote rehabilitation, appropriate to the age level and physical ability of the child, and shall be combined with counseling by the court services officer or other guidance personnel. The supervised work program assignment shall be made for a period of time consistent with the child's best interests, but for not more than ninety days;
- (4) The court may place the child at the Human Services Center for examination and treatment;

- (5) The court may commit the child to the Department of Corrections;
- (6) The court may place the child in a detention facility for not more than ninety days, which may be in addition to any period of temporary custody;
- (7) The court may place the child in an alternative educational program;
- (8) The court may order the suspension or revocation of the child's driving privilege or restrict the privilege in such manner as it sees fit, including proof of financial responsibility;
- (9) The court may assess or charge costs and fees permitted by §§ 16-2-41, 23-3-52, 23A-27-26, and 23A-27-27 against the child, parent, guardian, custodian, or other party responsible for the child.

Section 3. That § 26-8B-6 be amended to read as follows:

26-8B-6. If a child has been adjudicated as a child in need of supervision, the court shall enter a decree of disposition according to the least restrictive alternative available in keeping with the best interests of the child. The decree shall contain one or more of the following alternatives:

- (1) The court may place the child on probation or under protective supervision in the custody of one or both parents, guardian, custodian, relative, or another suitable person under conditions imposed by the court;
- (2) The court may require as a condition of probation that the child report for assignment to a supervised work program, provided the child is not placed in a detention facility and is not deprived of the schooling that is appropriate to the child's age, needs, and specific rehabilitative goals. The supervised work program shall be of a constructive nature designed to promote rehabilitation, shall be appropriate to the age level and physical ability of the child, and shall be combined with counseling by a court services officer or other guidance personnel. The supervised work program assignment shall be made for a period of time consistent with the child's best interests, but may not exceed ninety days;
- (3) If the court finds that the child has violated a valid court order, the court may place the child in a detention facility for not more than ninety days, which may be in addition to any period of temporary custody, for purposes of disposition if:
 - (a) The child is not deprived of the schooling that is appropriate for the child's age, needs, and specific rehabilitative goals;
 - (b) The child had a due process hearing before the order was issued; and
 - (c) A plan of disposition from a court services officer is provided to the court;
- (4) The court may require the child to pay for any damage done to property or for medical expenses under conditions set by the court if payment can be enforced without serious hardship or injustice to the child;
- (5) The court may commit the child to the Department of Corrections for placement in a juvenile correctional facility, foster home, group home, group care center, or residential treatment center pursuant to chapter 26-11A. Prior to placement in a juvenile correctional facility, an interagency team comprised of representatives from the Department of Human Services, Department of Social Services, Department of Education, the Department of Corrections, and the Unified Judicial System shall make a written finding that placement at a Department of Corrections facility is the least restrictive placement commensurate with the best interests of the child. Subsequent placement in any other Department of Corrections facility may be authorized without an interagency review;
- (6) The court may place a child in an alternative educational program;
- (7) The court may order the child to be examined and treated at the Human Services Center;
- (8) The court may impose a fine not to exceed five hundred dollars;

- (9) The court may order the suspension or revocation of the child's driving privilege or restrict the privilege in such manner as the court sees fit or as required by § 32-12-52.4, including proof of financial responsibility;
- (10) The court may assess or charge the same costs and fees as permitted by §§ 16-2-41, 23-3-52, 23A-27-26, and 23A-27-27 against the child, parent, guardian, custodian, or other party responsible for the child.

No adjudicated child in need of supervision may be incarcerated in a detention facility except as provided in subdivision (3) or (5) of this section."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT CORSON BE ADOPTED AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

CUSTER Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER CUTLER,

On page 61, delete lines 3 to 12, inclusive, and insert:

" Section 1. That § 22-13-1 be amended to read as follows:

22-13-1. Any person who intentionally causes serious public inconvenience, annoyance, or alarm to any other person, or creates a risk thereof by:

- (1) Engaging in fighting or in violent or threatening behavior;
- (2) Making unreasonable noise;
- (3) Disturbing any lawful assembly or meeting of persons without lawful authority; or
- (4) Obstructing vehicular or pedestrian traffic;

is guilty of disorderly conduct. Disorderly conduct is a Class 2 misdemeanor."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT CUSTER BE ADOPTED AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

DAVISON Draft

COMMISSIONER TUCKER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 64, line 3, after "22-30A" insert ". Any series of insufficient funds checks within any thirty day period may be aggregated in amount to determine the degree of theft of such course of conduct".

On page 64, line 10, after "22-30A" insert ". Any series of no account checks within any thirty day period may be aggregated in amount to determine the degree of theft of such course of conduct".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT DAVISON BE ADOPTED AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

DAY Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER ROUNDS, TO CHANGE THE EFFECTIVE DATE OF THE ACT FROM JANUARY 1, 2006, TO JULY 1, 2006. MOTION FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT DAY BE ADOPTED. MOTION PREVAILED ON A VOICE VOTE.

DEUEL Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, THAT DEUEL BE ADOPTED. MOTION PREVAILED ON A VOICE VOTE.

DEWEY Draft

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER RAVE,

On page 76, line 18, overstrike "Class 1" and insert "Class C".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER MCGUIGAN,

On page 76, line 23, overstrike "Class 4" and insert "Class 2".

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER ROUNDS MOVED, SECONDED BY COMMISSIONER ENGELS,

On page 74, line 22, delete "or".

On page 74, line 22, remove the overstrikes from "~~, or unlawful throwing, placing, or~~".

On page 74, line 23, remove the overstrikes from "~~discharging of a destructive device or explosive~~".

On page 75, line 1, delete "or".

On page 75, line 1, remove the overstrikes from "~~or unlawful throwing, placing or discharging of a~~".

On page 75, line 2, remove the overstrikes from "~~destructive device or explosive~~".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 74, delete lines 18 to 24, inclusive, and insert:

" Section 5. That § 22-16-4 be amended to read as follows:

22-16-4. Homicide is murder in the first degree ~~when:~~

- (1) If perpetrated without authority of law and with a premeditated design to effect the death of the person killed or of any other human being, ~~or when; or~~
- (2) If committed by a person engaged in the perpetration of, or attempt to perpetrate, any arson, rape, robbery, first degree burglary, kidnapping, or unlawful throwing, placing, or discharging of a destructive device or explosive.

Homicide is also murder in the first degree if committed by a person who perpetrated, or who attempted to perpetrate, any arson, rape, robbery, first degree burglary, kidnapping or unlawful throwing, placing or discharging of a destructive device or explosive and who subsequently effects the death of any victim of such crime to prevent detection or prosecution of the crime".

On page 75, delete lines 1 to 3, inclusive.

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE DEWEY AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

DOUGLAS Draft

Chair Schoenbeck stated that Douglas did not need to be addressed.

EDMUNDS Draft

COMMISSIONER ROUNDS MOVED, SECONDED BY COMMISSIONER RAVE,

On page 85, line 5, remove the overstrikes from "~~two~~".

On page 85, line 5, delete "three".

On page 85, delete lines 7 to 11, inclusive, and insert:

"

(1) Class 1 misdemeanor: one year imprisonment in a county jail or ~~one~~ two thousand dollars fine, or both;

(2) Class 2 misdemeanor: thirty days imprisonment in a county jail or ~~two~~ five hundred".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE EDMUNDS AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

FALL RIVER Draft

COMMISSIONER ENGELS MOVED, SECONDED BY COMMISSIONER MILLER,

On page 87, line 5, after "in" insert "or offers to engage in".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER MILLER,

On page 89, delete lines 13 to 16, inclusive, and insert:

" Section 6. That § 22-23-9 be amended to read as follows:

22-23-9. Any person who hires or attempts to hire another person for a fee to engage in sexual activity, ~~or enters or remains in a house of prostitution for the purpose of engaging in sexual activity,~~ is guilty of a Class 1 misdemeanor."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER TUCKER MOVED, SECONDED BY COMMISSIONER CUTLER,

On page 87, delete lines 7 and 8, and insert:

"

(2) ~~Loiters in or within view of any public place for the purpose of being hired to engage in sexual activity;~~ is guilty of prostitution. Prostitution is a Class 1".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER HENNIES,

On page 88, delete lines 5 and 6, and insert "place, means any place to which the public or any substantial group thereof has access."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE FALL RIVER AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

FAULK Draft

Chair Schoenbeck stated that Faulk would be discussed later in the meeting.

GRANT Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE GRANT. MOTION PREVAILED ON A VOICE VOTE.

GREGORY Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER HENNIES,

On page 100, line 3, remove the overstrikes from "Class A" and delete "Class C".

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE GREGORY. MOTION PREVAILED ON A VOICE VOTE.

HAAKON Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE HAAKON. MOTION PREVAILED ON A VOICE VOTE.

HAMLIN Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER TUCKER,

On page 115, delete lines 3 to 7, inclusive, and insert:

" Section 1. That § 22-12-1 be repealed."

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE HAMLIN. MOTION PREVAILED ON A VOICE VOTE.

HAND Draft

COMMISSIONER RAVE MOVED, SECONDED BY COMMISSIONER McGUIGAN,

On page 120, line 11, remove the overstrikes from "a Class 4".

On page 120, line 11, delete "an aggravated".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER CUTLER,

On page 123, delete lines 2 to 9, inclusive, and insert:

" Section 13. That § 22-14-15 be amended to read as follows:

22-14-15. No person who has been convicted in this state or elsewhere of a crime of violence or a felony ~~under chapter 22-42, other than pursuant to § 22-42-5 or 22-42-6 pursuant to § 22-42-2, 22-42-3, 22-42-4, 22-42-7, 22-42-8, 22-42-9, 22-42-10 or 22-42-19,~~ may possess or have control of a firearm. A violation of this section is a Class 6 felony. ~~This~~ The provisions of this section does do not apply to any person who was last discharged from prison, jail, probation, or parole, ~~for a crime of violence or a felony under chapter 22-42, other than pursuant to § 22-42-5 or 22-42-6,~~ more than fifteen years prior to the commission of the principal offense."

On page 126, delete lines 1 to 7, inclusive, and insert:

" Section 27. That § 22-14-30 be amended to read as follows:

22-14-30. No person who has been convicted of a felony ~~pursuant to § 22-42-5 or 22-42-6 under chapter 22-42~~ or of a felony for a crime with the same elements in another state may possess or have control of a firearm. A violation of this section is a Class 6 felony. ~~This~~ The provisions of this section does do not apply to any person who was last discharged from prison, jail, probation, or parole, ~~for a felony pursuant to § 22-42-5 or 22-42-6 under chapter 22-42~~ more than five years prior to the commission of the principal offense and is not subject to the restrictions in § 22-14-15."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE HAND AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

HANSON Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE HANSON. MOTION PREVAILED ON A VOICE VOTE.

HARDING Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE HARDING. MOTION PREVAILED ON A VOICE VOTE.

HUGHES Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE HUGHES. MOTION PREVAILED ON A VOICE VOTE.

HUTCHINSON Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE HUTCHINSON. MOTION PREVAILED ON A VOICE VOTE.

The commission made the suggestion to Code Counsel that a cross reference be made to the Game, Fish and Parks statutes.

HYDE Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE HYDE. MOTION PREVAILED ON A VOICE VOTE.

JACKSON Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE JACKSON. MOTION PREVAILED ON A VOICE VOTE.

JERAULD Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE JERAULD. MOTION PREVAILED ON A VOICE VOTE.

JONES Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER McGUIGAN, A PORTION OF THE AMENDMENT BELOW; COMMISSIONER BUTLER MOVED A SUBSTITUTE MOTION, SECONDED BY COMMISSIONER McGUIGAN,

On page 146, delete lines 1 to 8, inclusive, and insert:

" Section 3. That § 22-24-1.3 be amended to read as follows:

22-24-1.3. If any person, eighteen years of age or older, with the intent to arouse or gratify the sexual desire of any person, exposes his or her genitals in a public place under circumstances in which that person knows that his or her conduct is likely to annoy, offend, or alarm some other

~~person, and that conduct is viewed by and does, in fact, annoy, offend, or alarm any child, thirteen years of age or younger, that person is guilty of the crime of aggravated indecent exposure involving a child. Aggravated indecent~~ Indecent exposure involving a child is a Class 6 felony. A second or subsequent conviction for ~~aggravated indecent exposure involving a child~~ is a ~~Class 6~~ Class 5 felony."

SUBSTITUTE MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER DE HUECK MOVED, SECONDED BY COMMISSIONER MILLER,

On page 146, line 2, overstrike "in a".

On page 146, line 3, overstrike "public place".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE JONES AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

KINGSBURY Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 159, delete lines 19 to 24, inclusive, and insert:

" Section 11. That § 22-11A-9 be repealed.

~~22-11A-9. A penitentiary sentence arising from a conviction under § 22-11A-8 may not commence until the expiration, with no allowance of good time, of the last sentence of imprisonment.~~

Section 12. That § 22-11A-10 be repealed.

~~22-11A-10. Any inmate sentenced under § 22-11A-8 shall serve the entire term of the inmate's sentence and is not eligible for parole release as authorized under chapter 24-15A."~~

On page 160, delete lines 1 and 2.

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER TUCKER MOVED, SECONDED BY COMMISSIONER MILLER,

On page 158, delete lines 8 to 11, inclusive, and insert:

" Section 4. That § 22-11A-3 be repealed.

~~22-11A-3. Any law enforcement officer or person having custody of a prisoner who negligently allows a prisoner to escape or go at large, except as permitted by law, is guilty of a Class 1 misdemeanor."~~

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE KINGSBURY AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

LAKE Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE LAKE AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

LAWRENCE Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE LAWRENCE. MOTION PREVAILED ON A VOICE VOTE.

LINCOLN Draft

Chair Schoenbeck stated that Lincoln did not require any action.

The commission recessed at 11:29 a.m. for lunch and reconvened at 12:42 p.m.

LYMAN Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE LYMAN AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

MC COOK Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER TUCKER,

On page 180, line 18, after "any officer" insert ", prosecutor,".

On page 180, line 21, overstrike "or" and insert " ,".

On page 180, line 21, after "detection" insert ", or prosecution".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE MC COOK AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

MC PHERSON Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE MC PHERSON. MOTION PREVAILED ON A VOICE VOTE.

MEADE Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE MEADE. MOTION PREVAILED ON A VOICE VOTE.

MELLETTE Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE MELLETTE. MOTION PREVAILED ON A VOICE VOTE.

Commissioner Cutler requested that staff prepare draft legislation for stand alone solicitation.

MINOR Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE MINOR. MOTION PREVAILED ON A VOICE VOTE.

MINNEHAHA Draft

Chair Schoenbeck stated that Minnehaha would be discussed at the December 8 meeting.

MOODY Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER RAVE,

On page 204, line 5, overstrike "Class 1" and insert "Class C".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER NELSON,

On page 204, delete line 6, and insert "felony. A violation of subdivision (2); of this section is rape in the second degree which is a Class 1 felony. A violation of subdivision (3); or (4) of this section is rape in the second ~~second~~ third degree,".

On page 204, line 8, overstrike "third" and insert "fourth".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER CUTLER,

On page 204, delete lines 18 to 24, inclusive, and insert:

" Section 3. That § 22-22-1.2 be amended to read as follows:

22-22-1.2. If any adult is convicted of any of the following violations, the court shall impose the following minimum sentences:

- (1) For a violation of subdivision 22-22-1(1), ten years for a first offense and twenty years for a subsequent offense; and
- (2) For a violation of § 22-22-7 if the victim is less than ~~ten~~ thirteen years of age, five years for a first offense and ten years for a subsequent offense."

On page 205, delete lines 1 to 11, inclusive, and insert:

" Section 4. That § 22-22-1.3 be amended to read as follows:

22-22-1.3. Any person convicted of a violation ~~listed as provided~~ listed as provided in § 22-22-1.2 shall have included ~~in his the offender's~~ in the offender's presentence investigation report an assessment ~~which shall include~~ including the following information: the offender's sexual history; intellectual, adaptive and academic functioning; social and emotional functioning; previous legal history; previous treatment history; victim selection; risk to the community; and treatment options recommended.

Section 5. That § 22-22-1.4 be amended to read as follows:

22-22-1.4. The sentencing court may impose a sentence other than that which is required by § 22-22-1.2 if the court finds that mitigating circumstances exist which require a departure from the mandatory sentence imposed by § 22-22-1.2. The court's finding of mitigating circumstances ~~allowed~~ ~~by this section~~ and the factual basis relied upon by the court shall be in writing."

COMMISSIONER ENGELS MOVED A SUBSTITUTE MOTION, SECONDED BY COMMISSIONER RAVE, THAT WOULD DO EVERYTHING AS THE ORIGINAL MOTION EXCEPT NOT REMOVE THE OVERSTRIKES ON LINES 23 AND 24 (SECTION 3 (2)). SUBSTITUTE MOTION TO AMEND FAILED ON A VOICE VOTE. ORIGINAL MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER O'BRIEN MOVED, SECONDED BY COMMISSIONER TUCKER,

On page 206, delete line 1.

On page 207, delete lines 1 to 3, inclusive and insert:

"Section 11. That § 22-22-7.3 be repealed.

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE MOODY AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

PENNINGTON Draft

COMMISSIONER McGUIGAN MOVED, SECONDED BY COMMISSIONER DE HUECK,

On page 224, line 21, overstrike "secretary of the Department of Social Services" and insert "attorney general".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE PENNINGTON AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

PERKINS Draft

A brief discussion was held regarding drafting ideas for the sex offender registry. It was the consensus of the commission that a method be devised to allow certain people on the registry to petition for removal after ten years.

Commissioner Cutler stated that if a person is required to register in another state, the statute should be drafted to require that person to also register in South Dakota if they relocate.

Chair Schoenbeck appointed a subcommittee of Commissioner McGuigan, Commissioner Miller, and himself to work with staff on drafting a petition process to remove names from the sex offender registry.

Chair Schoenbeck stated that Perkins would be discussed at the December 8 meeting.

POTTER Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE POTTER. MOTION PREVAILED ON A VOICE VOTE.

ROBERTS Draft

COMMISSIONER ENGELS MOVED, SECONDED BY COMMISSIONER DE HUECK,
On page 239, delete lines 8 to 16, inclusive.
MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER ROUNDS,
On page 239, delete lines 4 to 10, inclusive.
MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE ROBERTS AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

SANBORN Draft

Chair Schoenbeck stated that Sanborn would be discussed at the December 8 meeting.

SHANNON Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE SHANNON. MOTION PREVAILED ON A VOICE VOTE.

SPINK Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE SPINK. MOTION PREVAILED ON A VOICE VOTE.

STANLEY Draft

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER ENGELS,
On page 247, line 11, delete "proceeding" and insert "trial".
MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER MILLER, TO APPROVE STANLEY AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

HOUSE BILL NO. 1 Draft

COMMISSIONER NELSON MOVED, SECONDED BY MILLER,
On page 3, line 1, after "order" insert "upon proof of financial responsibility, pursuant to § 32-35-43.1,".

On page 3, line 18, after "program," insert "and proof of financial responsibility pursuant to § 32-35-43.1".

On page 4, line 8, after "program," insert "and proof of financial responsibility pursuant to § 32-35-43.1".

On page 5, line 9, after "program," insert "and proof of financial responsibility pursuant to § 32-35-43.1".

On page 6, after line 14, insert:

" Section 15. That § 32-35-43.1 be amended to read as follows:

32-35-43.1. The suspension or revocation of driving privileges required for a violation of §§ 22-16-41, 32-23-1, 32-24-3, 32-35-113, and 32-35-120 shall remain in effect and the Department of Public Safety may not issue to the person any renewal of driving privileges or any court ordered driving permit until the person gives and thereafter maintains proof of financial responsibility for the future."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER ENGELS MOVED, SECONDED BY COMMISSIONER DE HUECK,

On page 1, line 10, delete ", or marijuana".

On page 1, line 13, remove the overstrikes from "marijuana or".

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER CUTLER MOVED, SECONDED BY COMMISSIONER DE HUECK,

On page 1, line 13, delete "obtained".

On page 1, line 14, delete "pursuant to a valid prescription, or any other substance".

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER TUCKER,

On page 5, line 22, overstrike "five hundredths" and insert "seven hundred ninety-nine ten thousandths".

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER ENGELS,

On page 3, line 17 of the printed bill, delete "court-ordered" and insert "court-approved chemical dependency".

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER ENGELS MOVED, SECONDED BY COMMISSIONER DE HUECK,

On page 1, line 7, before "vehicle" insert "motor".

MOTION TO AMEND FAILED ON A VOICE VOTE.

COMMISSONER HENNIES MOVED, SECONDED BY COMMISSIONER TUCKER, TO APPROVE HOUSE BILL NO. 1 AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

HOUSE BILL NO. 1A Draft

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER RAVE, TO TABLE HOUSE BILL NO. 1A. MOTION TO TABLE PREVAILED ON A VOICE VOTE.

HOUSE BILL NO. 2 Draft

COMMISSIONER NELSON MOVED, SECONDED BY COMMISSIONER HENNIES,

On page 9, line 10 of the printed bill, after "driving." insert "The chemical analysis shall be administered at the direction of a law enforcement officer who, after stopping or detaining the vehicle driver, has probable cause to believe that the driver was driving or in physical control of the motor vehicle while in violation of § 32-23-1."

MOTION TO AMEND PREVAILED ON A VOICE VOTE.

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER CUTLER, TO APPROVE HOUSE BILL NO. 2 AS AMENDED. MOTION PREVAILED ON A VOICE VOTE.

HOUSE BILL NO. 3 Draft

COMMISSIONER HENNIES MOVED, SECONDED BY COMMISSIONER CUTLER, TO APPROVE HOUSE BILL NO. 3. MOTION PREVAILED ON A VOICE VOTE.

HOUSE BILL NO. 4 Draft

Following a brief discussion on the draft, Chair Schoenbeck stated that House Bill No. 4 would be further discussed at the December 8 meeting.

HOUSE BILL NO. 5 Draft

Following a brief discussion on the draft, Chair Schoenbeck stated that House Bill No. 5 would be further discussed at the December 8 meeting.

Next Meeting Date

Chair Schoenbeck stated that a special meeting will be held on Wednesday, December 8, in Room 412 to finish working through the drafts. He asked all members to read the drafts and review all of the correspondence prior to the next meeting. Mr. Bezpaletz stated that the revised drafts would be posted on the Legislative Research Council's Web site no later than Monday, December 6.

Adjournment

There being no further business, Chair Schoenbeck adjourned the meeting at 3:57 p.m.

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