



South Carolina House of Representatives

Legislative Update

AUR
8.L33
v. 7/3
Copy 3

Robert J. Sheheen, Speaker of the House

Vol. 7

January 30, 1990

No. 3

CONTENTS

House Week in Review.....	2
Bills Introduced.....	4
House Standing Committees.....	11

S. C. STATE LIBRARY
FEB 15 1989
STATE DOCUMENTS

Printed by the Legislative Council

OFFICE OF RESEARCH

Room 324, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

House Week in Review

The House continues to make significant progress on the calendar, with some bills introduced the first week of the session already moving to the third reading calendar.

As testimony to the House's quick action, H.4201, the public accommodations bill, was given second and third readings last week. This civil rights legislation would prohibit discrimination on the basis of race, creed, color or national origin by any place of public accommodation, recreation or amusement. The definition of a place of public accommodation, recreation or amusement is lengthy and includes inns, taverns, restaurants, hotels, barrooms, ice cream parlors, retail stores, hospitals, beauty parlors, theaters, race and golf courses, parks, fairs, libraries, kindergartens, elementary and secondary schools, colleges and universities, garages and public elevators, to name a few.

The bill also specifies that any facility connected with an institution for the care of delinquent or neglected children, funded directly or indirectly by public money, may not discriminate. The provisions of the bill do not apply to private clubs, institutions or places of accommodation. However, no institution or facility sponsoring or hosting a contest to determine a state championship or using the words "South Carolina State" in connection with a contest, can be considered a private exhibition, under this legislation. Under a Judiciary Committee amendment adopted by the full House, any club, institution, organization or place of accommodation that offers memberships for periods of less than 30 days may not be construed as private within provisions of the bill.

Any person convicted of violating these provisions must pay a penalty between \$100 and \$500 for each violation. The penalty will be restitution to the injured party. In addition, the violator is guilty of a misdemeanor and must be fined between \$100 and \$500 for each violation or jailed for not more than 90 days.

In other legislative action last week, the House voted 76-33 to set H.4423, legislation increasing the number of circuit judges, for special order consideration this week. Under the resolution passed by the House, the bill was set for special order for Wednesday, January 31, at 2:30 p.m.

This House Judiciary Committee bill would add nine additional Circuit Court judges: Four at-large judges and one additional judge from the 5th, 9th, 13th, 14th and 15th Judicial Circuits.

In addition, the legislation states that no judge retired from the State Supreme Court, Court of Appeals, Circuit Court or Family Court may preside over any official circuit or family court proceeding, except in case of an emergency as determined by the Chief Justice of the State Supreme Court. In order to be eligible to be appointed by the Chief Justice to serve in an emergency, the retired judges must be screened by the Joint Legislative Judicial Screening Committee and found by the committee to be qualified to serve in these emergency situations. Screening for a retired Supreme Court justice would be every 10 years on the anniversary of his retirement. Judges retired from the Court of Appeals, Circuit Court or Family Court would be screened every six years on the anniversary of their retirements, in order to serve under emergency circumstances. These duly screened retired judges may be appointed by the Chief Justice to perform judicial duties in the Supreme Court, Court of Appeals, Circuit or Family Courts.

The bill further states that no active Family Court judge may be assigned to preside over any official proceeding in Circuit Court.

Please Note

Due to a mechanical break down, the January 23 Legislative Update could not be printed and distributed last week. The January 23 Update will be distributed today, along with this week's issue.

Bills Introduced

Here is a sampling of the bills introduced in the House during the past week. Not all the bills introduced are featured here. The bills are organized by the standing committees to which they were referred.

Education and Public Works Committee

Added Salary Steps for Teachers (H.4487, Rep. Neilson). Beginning with the 1990-91 school year, this bill would require the state Department of Education to develop a minimum salary schedule which would include minimum salaries for teachers with zero to 30 years experience. Currently, the minimum state salary schedule for teachers runs from zero to 17 years experience. Teachers then have to rely on their individual school district salary schedules for increases.

Judiciary Committee

Facilitating Drug Activities (H.4436, Rep. Baker). Under this legislation, confiscation provisions would be expanded to include any motor vehicle used "to facilitate any transaction to purchase or sell" controlled substances or their compounds. The bill would delete that portion of the current law which states that no motor vehicle can be forfeited to the state unless it is found to conceal, contain or transport certain amounts of illegal substances.

Uniform Premarital Agreement Act (H.4441, Rep. McElveen). This legislation seeks to enact the "Uniform Premarital Agreement Act." The legislation defines what a premarital agreement constitutes, and what the two parties may contract to in a premarital agreement. The bill states the agreement may not adversely affect the right of a child to support. The bill specifies how the agreement may be amended and what criteria would be used to set aside such an agreement. This legislation would bring South Carolina premarital agreement laws into line with other states.

Guns and Juveniles (H.4442, Rep. Faber). This bill would establish strict penalties for juveniles, 18-years-old or younger, who are found to unlawfully possess a handgun. Penalties proposed by the legislation include:

- Automatic revocation of his driver's license for three years. If the youth does not possess a driver's license or restricted permit, he may not apply for one until he is 23-years-old. If he has a restricted license, it would be revoked, and the juvenile could not apply for a license again until age 23;
- A fine of \$1,000;
- Community service work totaling 1,000 hours during a one year period;
- Confiscation of the handgun.

If a person 18-years-old or older provides a handgun to a juvenile, 18-years-old or younger, the person providing the gun would be subject to a \$5,000 fine and a mandatory 18 months in prison without parole. The handgun in question also would be confiscated.

Adult Health Care Consent Act (H.4445, Rep. P. Harris). This legislation would oversee how a health care decision would be made if the patient is unable to make a reasoned decision regarding the care or to communicate that decision in an unambiguous manner. The legislation does not cover minors, unless they are married and judicially emancipated. Under the bill, the patient's inability to consent must be certified by two licensed physicians. However in an emergency, the patient's inability to consent may be certified by a licensed health care professional responsible for the care of the patient, if the professional states in writing that delay to obtain certification would be detrimental to the patient's health.

The legislation outlines in what priority individuals would be ranked who, by law, could make health care decisions for a person unable to make them for himself. The bill outlines what would be done if two individuals of equal priority disagree as to the patient's need for care. The bill would not authorize health care decisions to be made for a patient if, in the opinion of the certifying physicians, the inability to consent is of a temporary nature.

The legislation further outlines who may make health care decisions for a patient, and under what circumstances, if none of the individuals given priority status are available to make the decision. The legislation would protect a person from health care, even if he is unable to consent, if the care is contrary to his religious beliefs, or if the patient has objected to the proposed care at a time when he was able to give unambiguous and uncontradicted instructions as to his own care.

Persons who make good faith decisions on the part of a patient unable to consent would not be subject to civil or criminal penalties under provisions outlined in the legislation.

College and University Security Information Act (H.4451, Rep. Fair). This bill begins with a lengthy prologue about the rising occurrence of rape, particularly "date rape" and "acquaintance rape," and cites statistics as to its frequency on college campuses. It also states that college violence reporting procedures are often "flawed." "Too often they (the colleges) are torn between the bad publicity that violent incidents create and the need to provide an accurate picture of campus conditions."

This legislation would apply to all institutions of higher learning, their branches and technical schools in South Carolina. Under this bill, each institution annually would have to turn over to SLED crime statistics for a report. The report must include crime statistics for the most recent three year period. Crime rates also must be included in the report based on the number and categories of crimes and the number of undergraduates, graduate students and employees at the school. Upon request, the report would be furnish to every person applying for admission to the institution, and in acceptance letters, the college must inform the applicant of the availability of such a report. The report also would be distributed annually to all students and employees.

Security procedures also would be distributed to all students, employees, student applicants and new employees. What must be included in these security procedure reports is stated in the bill. The information also must include statistics regarding housing and security measures available.

A civil penalty of not more than \$10,000 could be lodged against an institutions who violates this legislation, if it is enacted,

Public Prison Records (H.4465, Rep. Davenport). Under this legislation, the criminal and prison records of any person, 17-years-old or older at the time of the crime or when committed to prison, would be considered public information under the state's Freedom of Information Act.

Death with Dignity Revisions (H.4468, Rep. Hodges). This legislation would amend several provisions of the state's Death with Dignity Act, thereby allowing the person to add more personalized instructions regarding his care in the declaration. This bill expands the definition of life-sustaining procedures to allow the declarant to add "any other procedure specified by the declarant," not just the medical procedures or intervention which would "serve only to prolong the dying process," as currently allowed under the law. The definition of "terminal condition" would be expanded to include "any other incurable or irreversible condition capable of causing death or permanent unconsciousness specified by the declarant in the declaration."

The bill would delete the requirement that an affidavit sworn to by two witnesses in the declarant's presence must accompany the declaration.

The wording of the declaration would be changed by the bill to allow the declarant to appoint an agent who could revoke the declaration or enforce it by petitioning the courts, as well as make treatment decisions. The power of the agent would not be affected by the appointment of a guardian or the declarant's execution of a durable power of attorney, unless the agent's authority is terminated by a probate court.

The declaration changes also allow allow the person to specify other instructions to a physician. Revocations of a declaration would not be effective until they are communicated to a doctor, according to the bill.

Public Funds and Abortion (H.4469, Rep. Wells). This legislation would prohibit the use of public funds and facilities for the performance of an abortion not necessary to save the life of the mother. It furthers prohibits the use of public funds for the encouraging or counseling a woman to have an abortion not necessary to save her life. Public funds would include any federal, state or local revenues, public or private grants controlled by the state or its political subdivisions. Violations of the bill, if enacted, would be a civil penalty of not more than \$500.

Child Support and Health Insurance (H.4477, Rep. Moss). This legislation would authorize the state Department of Social Services to ask the courts to require absent parents to maintain health insurance coverage for their children receiving support, if it is available to the absent parent at a reasonable rate. The legislation also specifies that DSS ask the court to require the absent parent to cooperate with the custodial parent and the department in filling out the required insurance claim forms.

Child Support and Tax Returns (H.4479, Rep. Moss). Under this bill, parents who are delinquent in their child support payments could have their federal and state tax returns received by DSS for the support payments. This requirement would apply even if the non-custodial parent has worked out an agreement with the court to pay the delinquent child support.

Safety Belts and License Checks (H.4481, Rep. Farr). Law enforcement officers would no longer be able to issue seat belt violation citations in connection with a driver's license and/or registration checkpoint, under this bill. Seat belt citations could be issued only if the officer stops the driver for another offense.

Retired Judges and Private Practice (H.4483, Rep. Harwell). No judge or justice receiving retirement pay, who engages in the private practice of law, could serve as a judge in any court in the South Carolina, if this bill is enacted.

Absentee Ballots (S.1104, Senate Judiciary Committee). Voters attending sick or physically disable people, or people who are admitted to the hospital as an emergency patient on election day or four days prior, would qualify to vote by absentee ballot, under this legislation.

Medical, Military, Public or Municipal Affairs Committee

Work for Able-Bodied Inmates (H.4453, Rep. Bruce). Under this legislation, the state Department of Corrections would be directed to develop programs with other state agencies to "assure that every able-bodied inmate is employed in work most suit to his capacity and most advantageous to the people of the state." The legislation specifically mentions that the Corrections Department should cooperate primarily with state departments with responsibilities for improving and protecting the environment and the state's natural resources when developing the inmate work programs.

Law Enforcement Training Council (H.4461, Medical, Military, Public and Municipal Affairs Committee). This legislation would restore the membership of the Law Enforcement Training Council, which was inadvertently deleted from last year's legislation. It maintains the dean of the USC law school as a member of the council, although last year's original proposal replaced the law school dean with the dean of the USC College of Criminal Justice.

Abortion Clinics and Malpractice Insurance (H.4464, Rep. Fair). Under this legislation, all abortion clinics would be required to maintain no less than \$2 million of medical malpractice insurance and annually submit to DHEC proof of their insurance coverage. Further, the clinic must be in compliance with state and local building codes, including electrical, plumbing, fire and other building and safety codes. The bill also would require the administrator of an abortion facility to be a licensed physician, licensed practical nurse, registered nurse or have a four-year college degree and experience in a health-related field and be of good moral character.

Nursing Home Administrators and Disciplinary Action (H.4474, Rep. Moss). This bill generally updates the provisions for the licensing of nursing home administration. Further, it would add important sections to the law regarding the duties of the board of examiners in connection with disciplinary hearings and the disciplining of licensed administrators. The legislation outlines what would constitute grounds for revoking an administrator's license, how complaints could be brought, investigations and hearings conducted, and penalties invoked.

Public Safety and Testing Disclosure Act (H.4484, Rep. Farr). This AIDS-related legislation would allow crime victims, law enforcement officers, EMS personnel and firefighters to request in writing that a defendant or prisoner, who is charged as an adult or juvenile, be tested for AIDS. In the case of law officers, firefighters or EMS personnel, the officer must petition the court, alleging that the defendant or prisoner bit, spit or transferred blood with the officer in some manner.

In the case of victims, the written request would be made to the prosecuting attorney. Copies of the test would be sent to the person requesting the testing, the defendant or prisoner, the officer in charge and chief medical officer of the facility where the defendant is incarcerated or detained. The officer in charge could share the testing information with people who would be in contact with the defendant/prisoner; however, the bill contains strict confidentiality measures.

The bill also would require any medical personnel working with state, county or city prisoners to report any information regarding an inmate contracting or being exposed to the AIDS virus. The report would be made to the officer in charge of the facility.

Inmate Labor and County Projects (S.1080, Sen. Horace Smith). Under this legislation, the Department of Corrections could assign inmate labor to work on highway projects or other public improvement or development projects proposed by county governments, in addition to those proposed by the State Highway Department or other state agencies. The state agency or county government would contract with the state Board of Corrections to use the prison labor. The board would determine whether the projects could be performed safely and whether it would be beneficial to the public. While the Corrections Department would supply personnel to supervise and control the inmate workers, the state or county government would supervise the direction of the work.

Inmates convicted of violent crimes, child abuse or escape could not be used for these labor projects.

Ways and Means Committee

Homestead Exemption Increase (H.4437, Rep. Wright). This legislation would increase the Homestead Exemption from the first \$20,000 of fair market value to the first \$40,000.

County or Municipality Homestead Exemption (H.4440, Rep. McAbee). Under this legislation, a county or municipality could provide a homestead exemption in addition to the one provided by the state beginning with the 1990 tax year.

Insurance and School Board Members (H.4460, Rep. Felder). School board members would be eligible for the same insurance program provided for school teachers and other district employees, under this legislation.

Subcommittees of the House Standing Committees

The following is a list of the House standing committees broken down by subcommittees and their chairmen.

Agriculture and Natural Resources Committee

Rep. L. Edward Bennett, chairman

Wildlife Subcommittee

Rep. Thomas N. Rhoad, chairman
Rep. Kenneth E. Bailey
Rep. L. Edward Bennett
Rep. Lanny F. Littlejohn

Agriculture Subcommittee

Rep. John J. Snow Jr., chairman
Rep. Liston Barfield
Rep. Grady Brown
Rep. Danny M. Bruce

Environmental Affairs Subcommittee I

Rep. Charles R. Sharpe, chairman
Rep. Maggie W. Glover
Rep. Harry M. Hallman JR.
Rep. J. Roland Smith
Rep. Candy Waites

Environmental Affairs Subcommittee II

Rep. C. Lenoir Sturkie, chairman
Rep. Kenneth S. Corbett
Rep. Holly Cork
Rep. Sarah G. Manly
Rep. Timothy C. Wilkes

Education and Public Works Committee

Rep. David M. Beasley, chairman

Colleges and Universities Subcommittee

Rep. James C. Johnson, chairman
Rep. Michael L. Fair
Rep. Ennis M. Fant
Rep. David A. Wright

Highway Safety, Libraries, Museums, Statehouse and Grounds Subcommittee

Rep. Edward W. Simpson Jr., chairman
Rep. David M. Beasley
Rep. Robert O. Kay

K-12 Education Subcommittee

Rep. Ronald P. Townsend, chairman
Rep. Michael F. Jaskwich
Rep. Alfred C. McGinnis Sr.
Rep. Joseph H. Nesbitt

Railroads and Aviation

Rep. Olin R. Phillips, chairman
Rep. James Faber
Rep. Eugene C. Stoddard

Highway General

Rep. R. Linwood Altman, chairman
Rep. Toney L. Farr
Rep. Thomas G. Keegan
Rep. Dewitt Williams

Judiciary Committee

Rep. David H. Wilkins, chairman

Constitutional Laws Subcommittee

Rep. Robert W. Hayes Jr., chairman
Rep. Michael Baxley
Rep. Howell H. Clyborne Jr.
Rep. Larry E. Gentry
Rep. David H. Wilkins

Criminal Laws Subcommittee

Rep. Eugene Leroy Nettles Jr., chairman
Rep. Paul M. Burch
Rep. J. Derham Cole
Rep. William P. Keesley
Rep. John W. Tucker Jr.

Election Laws Subcommittee

Rep. Jackson V. Gregory, chairman
Rep. Terry E. Haskins
Rep. Daniel E. Martin Sr.
Rep. D. Malloy McEachin Jr.
Rep. Joseph B. Wilder

General Laws Subcommittee

Rep. Thomas E. Huff, chairman
Rep. Roland S. Corning
Rep. B. Hicks Harwell
Rep. James H. Hodges
Rep. Joseph T. McElveen Jr.

Special Laws Subcommittee

Rep. Paul E. Short Jr., chairman
Rep. Robert A. Barber
Rep. B.L. Hendricks Jr.
Rep. Irene K. Rudnick
Rep. John B. Williams

Labor, Commerce and Industry Committee

Rep. Robert B. Brown, chairman

Labor and Commerce Subcommittee

Rep. M. O. Alexander, chairman
Rep. Thomas C. Alexander
Rep. Carole C. Wells
Rep. Larry A. Martin
Rep. E. B. McLeod

Banking and Consumer Affairs Subcommittee

Rep. Paul W. Derrick, chairman
Rep. T. Moffatt Burriss
Rep. Thomas A. Limehouse
Rep. Luther L. Taylor Jr.

Insurance Subcommittee -- Property & Casualty

Rep. Robert A. Kohn, chairman
Rep. Thomas C. Alexander
Rep. Tee Ferguson
Rep. C. Alexander Harvin III
Rep. James J. Bailey
Rep. Theodore T. Mappus Jr.

Insurance Subcommittee -- Life, Accident & Health

Rep. Denny Woodall Neilson, chairman
Rep. Tee Ferguson
Rep. C. Alexander Harvin III
Rep. Larry L. Koon
Rep. Thomas A. Limehouse

Real Estate Subcommittee

Rep. George H. Bailey, Chairman
Rep. Larry A. Martin
Rep. E. B. McLeod
Rep. Carole C. Wells

Medical, Military, Public and Municipal Affairs Committee

Rep. Donna A. Moss, chairman

Health and Environmental Affairs

Rep. Dell Baker, chairman
Rep. Richard M. Quinn
Rep. John Rama
Rep. Juanita M. White

Occupational Regulation & Licensing Boards Subcommittee

Rep. Ralph Davenport, chairman
Rep. M.J. Cooper
Rep. Frank E. McBride

Local Government and Correction Affairs Subcommittee

Rep. C.D. Chamblee, chairman
Rep. Lewis R. Vaughn
Rep. Sandra S. Wofford

Military and Public Affairs Subcommittee

Rep. Joe E. Brown, chairman
Rep. M.D. Burriss
Rep. Marion H. Kinon

Social Services, Mental Health & Children's Affairs Subcommittee

Rep. Steven Lanford, chairman
Rep. Dave C. Waldrop
Rep. Lucille S. Whipper
Rep. James H. Harrison

Rules Committee

Rep. Douglas E. McTeer Jr., chairman

Economic Subcommittee

Rep. Robert N. McLellan, chairman
Rep. T. Moffatt Burriss
Rep. Michael L. Fair
Rep. James W. Johnson, Jr.
Rep. Harriet Keyserling

Legislative Subcommittee

Rep. Larry Gentry, chairman
Rep. B.J. Gordon
Rep. Alex Harvin
Rep. B.L. Hendricks
Rep. Douglas E. McTeer Jr.

Judicial Subcommittee

Rep. John W. Tucker, chairman
Rep. Thomas E. Huff
Rep. D. Malloy McEachin
Rep. Joseph T. McElveen, Jr.
Rep. David Wilkins

Ways and Means Committee

Rep. Robert N. McLellan, chairman

Budget Subcommittees

Corrections and Law Enforcement

Rep. Larry Blanding, chairman
Rep. Woodrow M. McKay
Rep. Henry E. Brown

Education and Economic Development

Rep. William D. Boan, chairman
Rep. Jean L. Harris
Rep. Timothy F. Rogers

Social Services

Rep. Marion P. Carnell, chairman
Rep. Dill Blackwell
Rep. McKinley Washington Jr.

Health

Rep. Patrick B. Harris, chairman
Rep. B.J. Gordon
Rep. James G. Mattos

Special Education and Services

Rep. Harriet H. Keyserling, chairman
Rep. Samuel Foster
Rep. William S. McCain

Higher Education

Rep. Herbert Kirsh, chairman
Rep. Jarvis Klapman
Rep. James W. Johnson Jr.

Natural Resources

Rep. Jennings McAbee, chairman
Rep. D.N. Holt Jr.
Rep. Dick Elliott

Executive/Administrative Subcommittee

Rep. Douglas E. McTeer Jr., chairman
Rep. John G. Felder
Rep. Daniel E. Winstead

Subcommittee on Provisos

Rep. Herbert Kirsh, chairman
Rep. Larry Blanding
Rep. William Boan
Rep. Marion Carnell
Rep. Patrick Harris
Rep. Harriet Keyserling
Rep. Jennings McAbee
Rep. Robert McLellan
Rep. Douglas McTeer

Legislative Subcommittees

Sales, Income and Property Taxes

Herbert Kirsh, chairman
William D. Boan, co-chairman
Jean L. Harris
James W. Johnson, Jr.
Jarvis Klapman
Timothy F. Rogers

Other Taxes and Capital

Jennings G. McAbee, chairman
Douglas E. McTeer, co-chairman
Dick Elliott
John G. Felder
D.N. Holt
Daniel E. Winstead

Licenses, Fees, Insurance, Others

Marion D. Carnell, chairman
Harriet H. Keyserling, co-chairman
Dill Blackwell
Samuel R. Foster
William S. McCain
McKinley Washington, Jr.

Personnel/Retirement, Regulations
Agencies

Patrick Harris, chairman
Larry Blanding, co-chairman
Henry E. Brown Jr.
B. J. Gordon
James G. Mattos
Woodrow M. McKay