

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Sixth SESSION
2021 South Dakota Legislature

Senate Bill 166

An Act to revise provisions regarding hate crimes.

A prison/jail population cost estimate statement is required for amendment 166A to SB166 because it would create a Class 6 felony for any person who causes physical injury to another person, defaces any real or personal property of another person, or threatens another person or group based on color, disability, or sex. The bill as introduced would create a Class 6 felony for any person who commits these acts based on sexual orientation, gender identity, or identification as a Native American Two-Spirit.

SDCL 22-19B-1 currently provides a Class 6 felony for any person who causes physical injury to another person, defaces any real or personal property of another person, or threatens another person or group based on race, ethnicity, religion, ancestry, or national origin. Over the past ten years, there have been three convictions under SDCL 22-19B-1.

It is assumed that color is related to hate crimes based on race and ethnicity already provided for in current law. As noted in the prison/jail population estimate for the original bill, it is also assumed that hate crimes based on identification as a Native American Two-Spirit is related to discrimination based on sexual orientation and gender identity.

According to the Uniform Crime Reporting 2019 Hate Crime Statistics Report from the U.S. Department of Justice and the FBI, hate crimes based on sex, sexual orientation, gender identity, and disability occur at slightly higher than one-fifth of the rate as the five factors already included in current law.

Therefore, it is estimated that the fiscal impact of the bill as amended would be result in no additional convictions in the first year and one additional conviction resulting in a prison sentence every twenty years. The estimated time served for a Class 6 non-violent felony is 187 days in a minimum-security facility at a rate of \$49.95 per day. The total estimated prison/jail impact of the bill as amended would be \$0 in the first year and up to \$9,341 every twenty years.

The bill as amended would also create a Class 2 misdemeanor for failure to comply with reporting requirements by various offices and agencies within the state for bias-motivated crimes. It is assumed there would be a high rate of compliance with the reporting requirement. Therefore, the impact on prison and jail costs is estimated to be negligible.

Under the original bill, the total prison and jail impact was \$0 in the first year and up to \$9,341 every twenty years. Compared with the original bill, there would be no additional prison/jail impact.

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