

# **PRISON/JAIL POPULATION COST ESTIMATE STATEMENT**

Ninety-Seventh Session SESSION  
2022 South Dakota Legislature

## **Senate Bill 128**

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An Act to increase the penalty for neglect, abandonment, and mistreatment of animals.

A prison/jail population cost estimate statement is required for SB128 because the bill would establish a new felony.

Currently under SDCL 40-1-2.3, it is a Class 1 misdemeanor if a person neglects, abandons, or mistreats an animal that the person is responsible for or owns. In the last ten years, there have been 109 jail convictions under SDCL 40-1-2.3. The bill would establish a Class 6 felony if the neglect, abandonment, or mistreatment results in serious physical injury, illness, or death of the animal.

Under SDCL 40-1-2.4, it is a Class 6 felony to subject an animal to cruelty. Cruelty is defined as intentional, willful, and malicious gross physical abuse inflicted on an animal that causes prolonged pain, serious physical injury, or death.

It is assumed that convictions under the proposed Class 6 felony penalty for prohibited conduct resulting in serious physical injury, illness, or death to an animal under the bill would occur at approximately the same rate as convictions under SDCL 40-1-2.4, as that section currently prohibits conduct that results in pain, serious physical injury, or death of an animal.

In the last ten years, there have been ten convictions under SDCL 40-1-2.4, with three penitentiary sentences and three jail sentences. Thus, it is estimated that there would be, on average, approximately ten Class 6 felony convictions every ten years under the bill, averaging to one conviction per year. It is not known if and how many Class 1 misdemeanors under SDCL 40-1-2.3 would instead be charged as Class 6 felonies under the bill.

Currently, for Class 6 felonies, 21.6% of these sentences are carried out in jail facilities and 26.1% in minimum security facilities.

The average time served in prison for a non-violent Class 6 felony is currently 163.5 days. Individuals serving time for Class 6 felonies in minimum security facilities cost \$52.53 per day. Assuming two individuals would be sentenced to time in prison every ten years, the increased operating cost for prisons would be \$1,718 on an annual basis and up to \$17,177 every ten years.

The average time served in jail for a Class 6 felony is currently 168 days. Assuming, every ten years, two were sentenced to time in jail, with a jail facilities' cost of \$96.30 per day, the increased operating cost in the first year would be \$3,236 on an annual basis and up to \$32,357 every ten years.

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