

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

Ninety-Seventh Session SESSION  
2022 South Dakota Legislature

## **House Bill 1313**

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An Act to expand the definition of community safety zone in relation to the sex offender registry.

A prison/jail population cost estimate statement is required for HB1313, as the bill would effectively add a new crime by making it a felony for a sex offender to reside within 500 feet of certain child daycare facilities.

Currently, SDCL 22-24B-23 prohibits a registered sex offender from residing within a community safety zone. The zone is defined in SDCL 22-24B-23 as extending 500 feet away from the "facilities and grounds of any school, public park, public playground, or public pool." SDCL 22-24B-23 makes it a Class 6 felony for an initial violation, and a Class 5 felony for any subsequent violation. However, the statute also provides exceptions to the violation, including, in relevant part, that the offender does not violate if the offender's residence was established prior to the existence of the facilities and grounds listed above.

The bill would add certain child daycare facilities to the list of facilities and grounds from which a community safety zone derives (section 1). It would also extend the violation exception to cover sex offender residences that come to exist in a community safety zone by virtue of the opening of a new child daycare facility (section 2). Lastly, and conversely, it would prohibit the establishment of certain child daycare facilities within 500 feet of the residence of a sex offender "inhabited" prior to July 1, 2022 (section 3).

According to Unified Judicial System data, from CY 2011 to 2021, there were 24 penitentiary convictions and four jail convictions for first-time offenses under SDCL 22-24B-23. This averages to approximately two penitentiary convictions and less than half a jail conviction per year, with average sentences to the penitentiary and to the county jail of 236 days and ten days, respectively. There were no subsequent-offense convictions registered in that timeframe.

The above conviction statistics involve four types of facilities that trigger a community safety zone. This bill would add a fifth type. It is not clear to what extent this bill would cause an increase in convictions, particularly with what would be a unique prohibition on the establishment of a child daycare facility within 500 feet of an offender's residence inhabited prior to July 1, 2022.

Based on these multiple, compounding variables, the estimated impact of this bill on the state prison system and county jail populations, along with the associated operational and capital costs, is not quantifiable.

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