

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

Ninety-Eighth Session  
2023 South Dakota Legislature

## **Senate Bill 46**

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An Act to establish the crime of petition circulation perjury and provide a penalty therefor.

A prison/jail population cost estimate statement is required for SB46 because the bill would establish a new felony under South Dakota law.

Per SDCL 2-1-10, any petition circulator for an initiated amendment to the Constitution, initiated measure, or a referred law shall sign a verification attesting to the veracity of several statements. The circulator's signature must be witnessed and notarized by a notary public commissioned in South Dakota or an officer authorized to administer oaths. Similar verifications are required for petitions to nominate any candidate for any political office.

The bill would make it a violation for a petition circulator to falsely attest to having personally circulated any petition to initiate an amendment to the Constitution, initiated measure, referred law, or to nominate a candidate for political office. Such a violation would be punishable as perjury pursuant to SDCL 22-29-5(3). If a petition circulator falsely attests to any of the other statements required pursuant to SDCL 2-1-10, the individual is guilty of a Class 1 misdemeanor. Only a violation concerning the statement the circulator personally circulated the petition would be punishable as perjury.

Perjury is defined under 22-29-1 as follows: "Any person who, having taken an oath to testify, declare, depose, or certify truly, before any competent tribunal, officer, or person, in any state or federal proceeding or action in which such an oath may by law be administered, states, intentionally and contrary to the oath, any material matter which the person knows to be false, is guilty of perjury." SDCL 22-29-5(3) states perjury if committed outside a trial, court proceeding, deposition, or administrative proceeding conducted under oath is a Class 6 felony.

For the purposes of this cost estimate, in comparing section 2 of the bill to SDCL 22-29-1, there appears to be no practical difference in the language of the bill to suggest the creation of a distinct felony likely to affect the state's prison or jail populations. The definition of perjury currently includes any person who, having taken an oath to certify truly before any officer, intentionally states any material matter which the person knows to be false. The bill would not extend this reach to anyone not already subject to SDCL 22-29-1.

Therefore, the impact of this bill on the prison and jail populations in the state is estimated to be negligible.

APPROVED BY: /s/ Reed Holwegner  
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DATE: 1/18/2023  
2023-FI46A