

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Eighth Session
2023 South Dakota Legislature

Senate Bill 49

An Act to prohibit the improper storage and disposal of records containing personal or protected information and provide a penalty therefor.

A prison/jail population cost estimate statement is required for SB49 because the bill would establish a new felony under South Dakota law.

The bill would create the crime of improper storage and disposal of records containing personal or protected information. Specifically, persons, businesses, and governmental agencies would have to take all reasonable steps to secure and protect against unauthorized access to records containing personal or protected information and destroy such records when the entity no longer requires them.

At least 35 states have enacted laws requiring either private entities or governmental entities or both to dispose of records containing personal or protected information. Almost all these states make violators civilly liable rather than both civilly and criminally liable.

One exception is Nevada (Nev. Rev. Stat. §§ 603A.200, 210), which not only provides that a violation constitutes a deceptive trade practice, but also provides for felony criminal punishments depending on the severity of loss of property or services. In speaking with that state's Administrative Office of the Courts, there are no recorded instances of their records disposal or security provisions resulting in a criminal conviction since the enactment in 2005.

While available data to analyze the possible effect of the bill is limited, the collected data suggests the effect on prison and jail populations in the state would be negligible.

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