

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Eighth Session
2023 South Dakota Legislature

House Bill 1213

An Act to require that persons limit access to firearms by minors and to provide a penalty therefor.

A prison/jail population cost estimate statement is required for HB1213 because it would establish multiple new felonies.

Section 1 of the bill would make it a Class 6 felony for a firearm owner to knowingly give, loan, or sell the firearm to a minor if the minor uses that firearm in the commission of a crime. Section 2 of the bill would make it a Class 6 felony for a firearm owner to store the firearm without using a locked container or trigger lock if a minor obtains and uses the firearm in the commission of a crime. Any penalties described in the bill would not be applicable if the firearm has been rendered inoperable or if the firearm was obtained illegally.

The first felony to be created by the bill would overlap with SDCL 23-7-46. Per SDCL 23-7-46, "No person may sell, transfer, give, loan, furnish, or deliver a firearm or firearm ammunition to any person under the age of eighteen years if such person knows or reasonably believes that the minor recipient of the transfer intended . . . to use the firearm or ammunition in the commission . . . of a crime of violence[.]" A violation of this section is a Class 5 felony.

While the *mens rea* required is different, the first felony in the bill would criminalize similar behavior already covered by SDCL 23-7-46. For the purposes of this cost estimate, it is assumed the impact on prison and jail populations in South Dakota due to the first felony would be negligible.

The second felony to be created by the bill would not have an existing parallel in state law, and no direct parallels would appear to exist in other states. This felony would require a minor to use an unsafely stored firearm in the commission of a crime for the firearm owner to be guilty. Similar laws in other states do not define the crime of unsafe storage of a firearm as narrowly, often requiring just the acquisition of the firearm by a minor for the owner to be guilty. Without a comparable statute and conviction data available, the impact of the second felony on prison and jail populations in the state is not ascertainable.

Thus, the impact of the bill on the state's prison and jail populations cannot be determined.

APPROVED BY: /s/ Reed Holwegner
Director, Legislative Research Council

DATE: 2/11/2023
2023-FI1213A