

**LEGISLATIVE INCARCERATION FISCAL IMPACT STATEMENT**  
EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY 2014

**SENATE BILL NO. 46**

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**AN ACT TO REVISE CERTAIN PROVISIONS REGARDING ANIMAL WELFARE AND  
TO PROVIDE A FELONY PENALTY FOR CRUELTY TO ANIMALS.**

A legislative incarceration fiscal impact statement has been requested on SB46 due to the establishment of new penalties.

Senate Bill 46 represents several thorny thickets through which one must pass to arrive at a plausible incarceration fiscal impact statement.

Our analysis begins by identifying several preexisting penalties (in section 3, neglect, abandonment, and mistreatment of an animal; in Section 10, dog fighting; in Section 13, euthanization; and in Section 16, poisoning). As preexisting penalties, violations of these provisions can have no impact within the meaning of SDCL 2-1-19.

This leaves the core of the analysis to center around the felony offense of animal cruelty (Section 4).

According to the South Dakota State Veterinarian, South Dakota is the only state that has no felony provision for animal cruelty. On the other hand, prior to 1986 only four states had felony animal cruelty laws. Clearly then, fully forty-five states since 1986 have felonized animal cruelty reflecting a substantial increase in public concern about animal welfare.

Statistics supplied by the Unified Judicial System and corroborated by the Office of the Attorney General indicate that, on a rough average, about twenty cases of inhumane treatment of an animal or animal cruelty have come to the attention of the courts each year during the last ten years. It is not clear from court statistics whether animal abuse or animal cruelty as defined by SB 46 is in question in these cases. Data from surrounding states reveals little in the way of enlightenment other than the number of cases has been growing.

Therefore it is logical that:

- (1) A small number of felony cases will be prosecuted pursuant to Section 4;
- (2) Although it is common for the courts to pronounce suspended sentences or probation on many Class 6 felonies, animal cruelty is distinguishable in that:
  - (A) There could be multiple counts charged based on the number of animals involved;
  - (B) Public outrage will encourage vigorous prosecution; and
  - (C) Some judges may be inclined to punish some of the miscreants more severely because of the egregiousness of the facts.

Based on the data available and the assumptions outlined here, it is not unreasonable to estimate that passage of SB 46 could result in an average of **two** felony convictions annually.

**Class 6 Felony (2 violators convicted):**

The average number of people sentenced to jail or prison after being convicted of a Class 6 felony is 30%.

**As a result, the estimated number sentenced to jail or prison is 1.**

**Jail Costs:**

The average jail time ordered is 36 days.

The average jail cost per day is \$72.30.

The estimated total annual jail cost for 1 convicted and sentenced violator is \$2,603.

The estimated total jail cost for 1 convicted and sentenced violator over a 10 year period is \$26,028.

**Prison Costs:**

The average prison time served is 242 days.

The average prison cost per day is \$33.67.

The estimated total annual prison cost for 1 convicted and sentenced violator is \$8,148.

The estimated total prison cost for 1 convicted and sentenced violator over a 10 year period is \$81,481.

