

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT
NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY 2016

SENATE BILL NO. 26

**AN ACT TO REVISE CERTAIN PROVISIONS CONCERNING SEX OFFENDER
REGISTRATION AND TO REQUIRE AN OFFENDER TO NOTIFY OF INTENDED
FOREIGN TRAVEL.**

Senate Bill 26 amends the crimes required to register as a sex offender by adding prior court martial or tribal offenses that would qualify as a sex offense under state laws. The bill also adds a provision that requires registered sex offenders to notify the chief of police or sheriff if there is a change of residence, job, or school attendance, increases the amount of information the offender must provide to law enforcement, and creates a new section requiring the offender to report his or her intention to travel outside of the United States at least twenty-one days in advance to the sheriff or chief of police. The violation of the failure to inform the chief of police or sheriff of the change in residence, job, or school attendance is a Class 6 felony, failure to provide the correct information is a Class 6 felony, and the failure to report intention to travel outside of the United States is a Class 1 misdemeanor.

There are three main criminal violations in this bill. The first is a violation of 22-24B-2, the second is a violation of § 22-24B-8, and the third creates a new violation. There were a total of 158 arrests under §22-24B-2 from January 1, 2010 to December 31, 2015, with 77 convictions. There were a total of 104 arrests under §22-24B-8 in the same period of time, with 23 convictions. There are no statistics available for the new offense.

There are 3,438 registered sex offenders in South Dakota. Using the current arrest and conviction statistics, we can determine that approximately seven tenths of a percent of registered offenders are arrested each year for a violation of §22-24B-2, with about half of the arrests ending in conviction. Approximately one half of a percent of all registered offenders are arrested for a violation §22-24B-8, with about 23% of those arrests ending in convictions.

In addition to a requirement to register, the amendment to the §22-24B-2 would require offenders to notify police when there is a change of address, employment, or school enrollment. Currently, §22-24B-6 criminalizes the failure to inform law enforcement in a change of employment or school enrollment, with a penalty of a Class 6 felony. There were 119 violations of §22-24B-6 from January 1, 2010 to December 31, 2015, with 50 ending in a

conviction. Due to the similar nature of these laws, we are going to assume there will be a similar number of charges under the new law. While prosecutors will be able to charge failure to report school enrollment or employment changes under either statute, only the change of address violation will be covered by the new statute. §22-24B-6 averages about 20 arrests and eight convictions per year for two possible violations—failure to report an employment change, or failure to report a change in school enrollment. Assuming that ten people are arrested and four people are convicted of each offense per year, we will assume that ten people will be arrested and four people will be convicted under the new provisions of §22-24B-2 for failure to report a change of residence. Using the average sentence for §22-24B-6, there will likely be four people sentenced to 714 days in prison at a cost of \$40.88 per day, or 226 days in jail at a cost of \$105.40 per day, per inmate. Each inmate will cost \$29,188 in prison costs, or \$23,820 in jail costs, over the course of their entire sentence.

The second change adds date of birth, driver's license or identification card number and photocopy, and photocopy of any passport or immigration document, to the information required during registration on the sex offender registry. While there are currently approximately 17 arrests and four convictions under this statute each year, because the information requested is fairly basic and much of the information (the driver's license number, passport or immigration number) is already required, it is not likely adding the new information will create any new violations under the statute.

Finally, the bill creates a new crime of required reporting for sex offenders planning on leaving the country. While it is difficult to pinpoint how many violations there may be under this new law, it is the opinion of the LRC that due to the inability to gain entry to many foreign countries because of their current sex offender status, as well as other possible economic hindrances, very few registered sex offenders in South Dakota will leave the country in any given year, and even fewer will fail to report that absence. Due to the incredibly low percentage of sex offenders that violate the registration or reporting requirements of §22-24B-2 or §22-24B-6 currently, it is unlikely that failure to report plans for leaving the country will result in any significant arrest or conviction numbers, and thus, has a negligible jail impact.

The total estimated impact for this bill is four additional convictions, at a cost ranging between the amounts in the Prison and Jail Cost columns below:

Year	Annual Convictions	Additional Prison Cost	~OR~	Additional Jail Cost
1	4	\$59,685		\$95,282
2	4	\$116,753		\$95,282
3	4	\$116,753		\$95,282
4	4	\$116,753		\$95,282
5	4	\$116,753		\$95,282
6	4	\$116,753		\$95,282
7	4	\$116,753		\$95,282
8	4	\$116,753		\$95,282
9	4	\$116,753		\$95,282
10	4	\$116,753		\$95,282
		10-Year \$1,110,464		\$952,816
		Total Cost:		

Approved: /s/ Jason Hancock

Date: 1/27/16

Director, Legislative Research Council