

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

**SENATE BILL NO. 157**

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**AN ACT TO PROVIDE ADDITIONAL REGULATIONS FOR COMMERCIAL BREEDING OPERATIONS.**

A prison or jail population impact statement has been requested on SB157 due to changes in sections 1, 2, and 3. Section 1 amends §40-1-1 to include the definition of the term "primary enclosure". Section 2 amends §40-1-41 by allowing an agent or officer to enter and inspect a commercial breeding operation upon receipt of a verified complaint. Section 3 adds a new section to provide for details on the minimum standards of care and that a violation of these standards of care is a Class 1 misdemeanor.

Currently, commercial breeding operations are not licensed in South Dakota. According to data collected by the U.S. Department of Agriculture (USDA), there are at least 68 commercial breeding operations in the state of South Dakota. This number is most likely larger as there may be operators that are unaware that they need to comply with the USDA's regulations. USDA Animal Care forwards inspection reports to the South Dakota Animal Industry Board regarding USDA licensed commercial kennels when there are findings. On average, there are one to two reports per year. However, these findings are characterized as minor and do not amount to animal cruelty as defined in chapter 40-1.

The addition of minimum standards of care to chapter 40-1 brings with it the possibility of a Class 1 misdemeanor, with a maximum sentence of one year in county jail and a two-thousand dollar fine. The average Class 1 misdemeanor serves 10 days at a cost of \$105.40 per day.

The most recent animal cruelty charges against a commercial breeding operation in South Dakota that was found by LRC staff was from 2009. This is an animal cruelty case against a dog breeder in Hurley, South Dakota. Since South Dakota does not have more data indicating specific violations by commercial breeding operations, we looked to other states to determine if they are aware of similar violations in their state.

The state of Iowa was contacted and they have 261 state licensed breeders and 241 USDA licensed breeders. As of 2010, there were 5 civil penalties, 3

suspensions and 1 revocation. Of the suspensions, one facility relinquished their license. All violations noted are from USDA licensed facilities. There were not any violations issued to state licensed facilities.

The state of Wisconsin was also contacted. Their program has been running for the past four years. They are different from some states because breeding operators in Wisconsin must meet state regulations even if they are USDA licensed (a number of states have an exemption for this). Wisconsin has 280 licensees who meet the definition of dog sellers and they have a number of repeat noncompliance cases that lead to civil forfeitures. A very small number have had their licenses revoked. If they have an inspector who enters a facility and finds conditions that are in violation of the state cruelty law, they are mandated to report this breeder to the county sheriff department. They have had one instance of this in the past four years, but no jail time was served.

The state of Missouri has 782 commercial breeders. They estimate that half of those have had a violation against them. However, none of these violations have resulted in any jail time.

Based on our research of commercial breeding violators in other states, we have come to the conclusion that most states assess civil actions against violators. Of the states that we contacted, no violators were sentenced to any jail time. Therefore, it is the opinion of LRC that the jail impact of this bill will be low. There is no impact on prison costs.

Approved: /S/ Jason Hancock  
Director, Legislative Research Council

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