

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT
NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY 2017

HOUSE BILL NO. 1159

**AN ACT TO REVISE CERTAIN PROVISIONS REGARDING THE REGULATION OF
COMMERCIAL BREEDING OPERATIONS.**

A prison/jail population cost estimate statement has been requested on HB1159 due to the 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, with a warrant, 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 for dogs and cats 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 approximately 65 commercial breeding operations licensed under the Animal Welfare Act in the state of South Dakota. This number is most likely larger, as there may be operators who are unaware that they need to comply with the USDA's regulations. USDA Animal Care may forward inspection reports to the South Dakota Animal Industry Board regarding USDA licensed commercial kennels when there are findings; however, this is a rare occurrence. The findings of the reports from the USDA are most often 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 found by LRC staff was from 2016; however, there were animals other than dogs and cats involved in this incident. The next most recent case was from 2009, and was an animal cruelty case against a dog breeder. 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.

In Iowa, as of January 2016, there were 261 state licensed breeders and 241 USDA licensed breeders. Between 2010 and 2015, 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.

Wisconsin has had its program in place since 2012. 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). As of January 2016, 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. There was one instance of this between 2012 and 2015, but no jail time was served.

The state of Missouri has 800 commercial breeders. It is estimated that half of those have had a violation against them. However, no violations have resulted in any jail time.

This Act describes a crime that if prosecuted could result in a prison or jail sentence. However, based on research of commercial breeding violations in other states, a violation and prosecution is likely to be rare. Of the surrounding states, no violators were sentenced to any jail time, and for that reason it is the opinion of the Legislative Research Council that the jail impact of HB 1159 will be low. There is no impact on prison costs.

Approved: /s/ Jason Hancock Date: 2/8/17
Director, Legislative Research Council