

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

**HOUSE BILL NO. 1155**

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**AN ACT TO REVISE THE PENALTY FOR AGGRAVATED ASSAULT WITH THE INTENT  
TO DISFIGURE THE VICTIM.**

A prison/jail population cost estimate statement has been requested on HB1155 due to the creation of a Class 2 felony for an assault with intent to disfigure the victim.

HB1155 requires that certain instances of aggravated assault are elevated to a Class 2 felony if the defendant acted to intentionally cause permanent disfigurement of the victim. To determine how many convictions South Dakota can expect under the separate crime created by HB 1155 we looked to Utah, which also treats assault with intent to disfigure as a distinct crime. Comparing the convictions and population of Utah to the population of South Dakota, we expect one conviction every four years.

In order to determine the sentence for this new crime, we looked to the average sentence of aggravated assault and all Class 2 felonies. The average sentence under the current aggravated assault statute, SDCL 22-18-1.1, is 1,574 days or 4.31 years. The average sentence of all Class 2 felonies is 3,210 days or 8.79 years. Comparing the two sentences, it is expected that a conviction under HB 1155 would result in a sentence with an additional 1,636 days or 4.48 years compared to the current Class 3 felony aggravated assault sentence.

Currently, those convicted of aggravated assault as a Class 3 felony are eligible for parole after serving 50% to 70% of their sentence, depending on criminal history. Those convicted of violent Class 2 felonies are eligible for parole after serving 50% to 75% of their sentence. Increasing the penalty of this crime would not change the percent of the sentence that must be served for first-time offenders. If we assume a defendant is given an average sentence, a defendant convicted of aggravated assault is first eligible for parole after serving 2.15 years, while the same defendant would be eligible for parole after 4.39 years if convicted under HB1155, serving 2.24 more years in prison. Of note, due to the nature of parole, it is impossible for the LRC to know when parole may be granted. Therefore, we are working under the assumption that defendants will be released at the first available eligibility to establish minimum standards.

At a cost of \$74.27 per day and an additional 2.24 years served, each conviction would cost an additional \$60,723. Because a person would already be serving 2.15 years, these costs would not be realized until year 3, assuming there was a conviction in the first year. After this period of time and using an average of one conviction every four years, the impact will likely be as follows:

Year	Annual Convictions	Additional Cost
1	1	\$0.00
2		\$0.00
3		\$23,042.27
4		\$27,108.55
5	1	\$10,572.33
6		\$0.00
7		\$23,042.27
8		\$27,108.55
9	1	\$10,572.33
10		\$0.00

10-Year Total Additional Costs: \$121,446.30

Approved: /s/ Jason Hancock Date: 2/10/2017  
 Director, Legislative Research Council