

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

HOUSE BILL NO. 1142ba

AN ACT TO REVISE THE PENALTY FOR VEHICULAR HOMICIDE.

A prison/jail population cost estimate statement has been requested on amendment HB1142ba which strikes everything in the printed bill and states that vehicular homicide may be charged in the alternative as manslaughter in the first degree.

Currently, certain cases of vehicular homicide are being charged in the alternative as manslaughter in the first degree under SDCL 22-16-15. However, the first circuit has not allowed some vehicular homicides to be charged as manslaughter. Although vehicular homicide can be charged in the alternative already, this amendment clarifies that these cases may be charged in the alternative as manslaughter.

In order to determine the effect of this amendment on prison and jail populations, we looked at vehicular homicide convictions by circuit. Over the past five years, there have been a total of 16 convictions of vehicular homicide under SDCL 22-16-41 with an average sentence of 13.08 years. Three of these convictions were in the first circuit.

To determine which of these may have been charged as manslaughter, we looked at each of these three cases. Two convictions stemmed from the same case in which one individual was convicted of two counts of vehicular homicide. In this case, the individual was initially charged with manslaughter in the first degree and vehicular homicide. However, the judge dismissed the manslaughter charges. The other case did not have manslaughter charges dismissed.

Assuming the case with dismissed manslaughter charges would have resulted in manslaughter convictions, we estimate that this amendment will result in an average of two additional manslaughter convictions every five years. Vehicular homicide is a Class 3 felony and those convicted of vehicular homicide are eligible for parole after serving 30% to 50% of their sentence, depending on criminal history. Manslaughter in the first degree is a Class C felony, and those convicted of manslaughter are eligible for parole after serving 50% to 75% of their sentence, depending on criminal history. 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 individuals will be released at the first eligibility to establish minimum standards.

If we assume a defendant is given the average sentence of 13.08 years, a defendant convicted of vehicular homicide is eligible for parole after 3.92 years. If we assume a defendant is given the average sentence of 39.75 years, a defendant convicted of manslaughter in the first degree is eligible for parole after 19.87 years. Therefore, these defendants would serve an additional 15.95 years at an average cost of \$74.27 per day. Because they would already be serving 3.92 years, the costs from the increased sentence would not be realized until year 4. However, the cost of the initial 3.92 years would also be higher by \$18.27 per day. The average daily cost for a Class 3 felony is \$56.00, whereas the cost of a Class C felony is \$74.27 per day. Using an average of two convictions every five years, the impact will likely be as follows:

Year	Annual Convictions	Additional Costs
1	1	\$6,668.55
2		\$6,668.55
3		\$6,668.55
4		\$8,348.55
5	1	\$33,777.10
6	1	\$40,445.65
7		\$40,445.65
8		\$42,125.65
9		\$62,565.65
10	1	\$87,994.20

10-Year Total Additional Costs: \$335,708.10

Approved: /s/ Jason Hancock Date: 2/15/2017
 Director, Legislative Research Council