

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT
NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY 2018

HOUSE BILL NO. 1237

AN ACT TO REVISE CERTAIN PROVISIONS REGARDING VOTING IN ELECTIONS.

A prison/jail population cost estimate statement is required on HB1237 due to the creation of two Class 2 misdemeanors and two Class 6 felonies. Under this new crime, any person who opens, examines, or makes a communication about a ballot before counting votes begins is guilty of a Class 2 misdemeanor. Additionally, any person who intentionally disposes of a ballot in a way not authorized by HB1237 is guilty of a Class 2 misdemeanor. Any person who forges another voter's signature or unduly influences another voter is guilty of a Class 6 felony. Finally, any person who intentionally fails to deliver the ballot, intentionally fails to return identification and secrecy envelopes with the ballot, or tampers with the envelopes or ballot is guilty of a Class 6 felony.

To determine any potential impact of HB1237 the Legislative Research Council looked at the following existing South Dakota statutes;

- 12-19-10. Preservation and delivery of ballot to precinct superintendent--Comparison of statement and application--Deposit in ballot box--Unopened ballots--Unauthorized examination as misdemeanor;
- 12-19-14. Unlawful disposition of ballot or ballot link as misdemeanor;
- 12-19-33. Failure to deliver or tampering with ballot as felony;
- 12-20-20. Sealing of ballot boxes after deposit of counted ballots--Violation as misdemeanor;
- 12-26-10. Threats or intimidation to prevent public assembly of electors as misdemeanor--Hindering attendance at meeting;
- 12-26-12. Persecution, threats, or intimidation to influence vote as misdemeanor--Obstruction of voter on way to polls; and
- 12-26-23. Tampering with ballots, ballot box, or poll list as felony.

In the last six years there have been zero convictions under any of the above South Dakota statutes. The Legislative Research Council also looked to Colorado, which uses a vote-by-mail process. Section 1-13-803 of Colorado Revised Statutes Annotated makes any person who knowingly violates the laws relating to vote- by-mail subject to a fine of up to five thousand dollars, up to

