

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

**HOUSE BILL NO. 1293**

---

**AN ACT TO INCREASE THE PENALTY FOR CERTAIN ASSAULTS COMMITTED  
AGAINST FIREFIGHTERS OR EMERGENCY MEDICAL TECHNICIANS WHILE  
ENGAGED IN THE PERFORMANCE OF THEIR DUTIES.**

A prison/jail population cost estimate statement is required for HB1293 due to the increase in penalty for simple and aggravated assaults against firefighters and emergency medical technicians while engaged in the performance of their duties.

Currently, SDCL 22-18-1.05 applies to law enforcement officers, Department of Corrections employees, or other public officers. HB1293 would include firefighters and emergency medical technicians in this group. In South Dakota, there are an estimated 8,560 firefighters and 3,383 emergency medical providers, which include EMTs, EEMTs, paramedics, and other grandfathered in classifications. A simple assault under SDCL 22-18-1.05 is a Class 6 felony and an aggravated assault is a Class 2 felony.

Based on national data of the percentage of firefighters and EMTs who experience violence while on the job, South Dakota could expect 1.6 assaults a year against firefighters and 9 assaults against EMTs. Under the existing statute, approximately 85% of charges have been for simple assault and 15% for aggravated assault. Applying this percentage to the number of expected occurrences, there will be 14 simple assaults and 2 aggravated assaults against firefighters and 76 simple assaults and 14 aggravated assaults against EMTs over a ten year period.

Under SDCL 22-18-1.05, the average prison sentence for simple assault is 667 days and 3,601 days for aggravated assault. The average jail sentence for simple assault is 117 days. Currently, persons convicted of nonviolent Class 6 felonies are eligible for parole after serving at least 25% of their sentence, while Class 2 felonies are eligible after serving 30%, depending on criminal history. Due to the nature of parole, it is impossible for the Legislative Research Council to know when parole may be granted. Therefore, we will be working under the assumption that those convicted will be released at first eligibility to establish minimum standards. Under parole, the days spent in prison would be 167 days for simple assault and 1,080 days for aggravated assault.

23.6% of simple assault convictions under the existing statute result in a jail sentence. For this reason, LRC is assuming 21 individuals will serve a jail sentence and 69 individuals will serve a prison sentence over a ten year period for simple assault. The average daily cost of prison for a Class 6 felony is \$42.23 and is \$74.83 for a Class 2 felony. The average daily cost of jail is \$89.73.

In conclusion, the total average cost increases for prisons would be \$170,181 annually and \$1,701,813 over a ten year period. The total average cost increase for jails would be \$21,990 annually and \$219,901 over a ten year period.

Approved: /s/ Jason Hancock Date: 2/13/18  
Director, Legislative Research Council

---