

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

SENATE BILL NO. 161

**AN ACT TO REVISE PROVISIONS REGARDING ASSAULT COMMITTED AGAINST
CERTAIN PERSONS.**

A prison/jail population cost estimate statement is required on SB 161 due to the increase in penalty for simple and aggravated assaults against law enforcement officers, Department of Corrections employees, or other public officers while not 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 while engaged in the performance of their duties. SB 161 creates a Class 6 felony for simple assault and Class 2 felony for aggravated assault against this group, while not engaged in the performance of their duties.

In South Dakota, there are an estimated 1,900 trained law enforcement officers and 973 Department of Corrections employees or persons under contract assigned to the agency. With the number of charges for simple and aggravated assault under SDCL 22-18-1 and SDCL 22-18-1.1, approximately 1.1% of the South Dakota adult population will experience a simple assault and 0.16% an aggravated assault in any given year. Applying these occurrence percentages to the number of law enforcement officers and Department of Corrections employees, South Dakota could expect 316 simple assaults and 46 aggravated assaults over a ten year period. Based on current conviction rates, there would be 62 simple assault convictions and 4 aggravated assault convictions over a ten year period.

Those convicted under SB 161 would have had a Class 1 misdemeanor or a Class 3 felony under the existing statutes. To determine the effect on prison or jail populations, the Legislative Research Council looked at the cost difference between a Class 6 felony and a Class 1 misdemeanor, and a Class 2 felony and a Class 3 felony. 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 50%, 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 will be working under the assumption that those convicted will be released at first eligibility to establish minimum standards.

The following table provides our analysis of the impact of SB161 on the number of days served in prison and jail:

	Current Average Sentence (Days)	Current Parole (Days)	SB 161 Average Sentence (Days)	SB 161 Parole (Days)	Difference in Days
Simple Assault (prison)			667	167	167
Simple Assault (Jail)	111		117		6
Aggravated Assault (prison)	2,413	1,207	3,601	1,801	594
Aggravated Assault (jail)	85				-85

For simple assault under this act, approximately 47 convictions would result in a prison sentence and 15 in a jail sentence. Under SDCL 22-18-1, all 62 convictions would result in a jail sentence. For aggravated assault under this act and under SDCL 22-18-1.1, all 4 convictions would result in a prison sentence. Given the impact of SB161 on the number of days those convicted will spend in prison or jail, and given the number of convictions of each type of crime, the following table is our estimate of the prison and jail costs associated with SB161:

	Simple Assault (Prison)		Simple Assault (Jail)		Aggravated Assault (Prison)		Yearly Cost Impact
	Convictions	Cost Impact	Convictions	Cost Impact	Convictions	Cost Impact	
Cost/day		\$42.23		\$89.73		\$74.83	
Year 1	4.7	\$33,146	1.5	(\$46,005)	1	\$0	(\$12,858)
Year 2	4.7	\$33,146	1.5	(\$46,005)	0	\$0	(\$12,858)
Year 3	4.7	\$33,146	1.5	(\$46,005)	1	\$18,932	\$6,074
Year 4	4.7	\$33,146	1.5	(\$46,005)	1	\$45,131	\$32,273
Year 5	4.7	\$33,146	1.5	(\$46,005)	0	\$18,932	\$6,074
Year 6	4.7	\$33,146	1.5	(\$46,005)	0	\$64,063	\$51,205
Year 7	4.7	\$33,146	1.5	(\$46,005)	1	\$45,131	\$32,273
Year 8	4.7	\$33,146	1.5	(\$46,005)	0	\$0	(\$12,858)
Year 9	4.7	\$33,146	1.5	(\$46,005)	0	\$18,932	\$6,074
Year 10	4.7	\$33,146	1.5	(\$46,005)	0	\$45,131	\$32,273
10-year Total:		\$331,463		(\$460,046)		\$256,251	

In conclusion, the total average cost increase for prisons would be \$587,714 over a ten year period. The total average cost decrease for jails would be \$460,046 over a ten year period.

Approved: /s/Jason Hancock Date: 2/22/18
 Director, Legislative Research Council