

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT
NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY 2019

HOUSE BILL NO. 1197

**AN ACT TO PROHIBIT INTENTIONALLY DAMAGING MONUMENTS, STATUES, OR
MEMORIALS AND PROVIDE A PENALTY THEREFOR.**

A prison/jail population cost estimate statement is required for HB1197, as the bill revises penalties for certain offenses regarding the intentional damaging of monuments, statues, or memorials. The bill sets the penalty at a Class 1 misdemeanor for damage of \$5,000 or less and a Class 6 felony for above \$5,000.

Currently, offenses of this nature would likely be charged under SDCL 22-34-1. This section sets the following penalties for intentional damage to property:

<u>Amount of Damage to Property</u>	<u>Penalty</u>
\$400 or less	Class 2 misdemeanor
Greater than \$400 but \leq \$1,000	Class 1 misdemeanor
Greater than \$1,000 but \leq \$2,500	Class 6 felony
Greater than \$2,500 but \leq \$5,000	Class 5 felony
Greater than \$5,000 but \leq \$100,000	Class 4 felony
Greater than \$100,000 but \leq \$500,000	Class 3 felony
Greater than \$500,000	Class 2 felony

In contrast, HB 1197 would increase the penalty for damage amounting to \$400 or less to a Class 1 misdemeanor and decrease the penalty for damage between \$1,001 to \$2,500 from a Class 6 felony to a Class 1 misdemeanor and for damage between \$2,501 to \$5,000 from a Class 5 felony to a Class 1 misdemeanor. Any current Class 2 felony, Class 3 felony, or Class 4 felony for damage over \$5,000 under SDCL 22-34-1 as applied to monuments, statues, or memorials would be decreased to a Class 6 felony by HB 1197.

If a prosecutor were to file charges using the statute with the greatest possible penalty, the provisions of HB 1197 would only be used in cases where the damage to a monument, statue, or memorial was \$400 or less. For all other dollar amounts, existing penalties are already equal to or greater than HB 1197. No direct information is available as to the number of intentional damage to property offenses

that would fall under this category, so a violation and prosecution is likely to be rare. However, given the likely rarity of such a violation, and the fact that equal to or greater penalties are already provided elsewhere in statute, the LRC estimates that violations and prosecutions are likely to be rare. Therefore, the impact on prison or jail populations is estimated to be low.

Approved: /S/ Jason Hancock

Date: February 20, 2019

Director, Legislative Research Council