

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Fifth SESSION
2020 South Dakota Legislature

Senate Bill 164

An Act to revise the penalties and provisions regarding approaching stopped vehicles.

A prison/jail population cost estimate statement is required for SB164 because if a person violates the move over laws and causes an accident it would be a Class 6 felony if the accident causes bodily injury or a Class 3 felony if the accident causes death.

In 2019, there were forty-four emergency responders in the United States killed while working various roadway incidents. South Dakota represents .27% of the US population, so it would be expected that a fatality would occur in South Dakota approximately once every ten years. Taking into consideration the rarity that such fatalities occur, the likelihood that a conviction would occur in the case of a fatality, and the possibility that a fatality could result in a conviction under current law, such as under the vehicular homicide statute (a Class 3 felony) or vehicular battery (a Class 4 felony), the Legislative Research Council expects that the impact on prison and jail costs for the penalty for accidents causing death would be negligible.

Statistics from the National Highway Traffic Safety Administration show that a vehicle accident is about 50 times more likely to result in bodily injury than death. Based on the preceding paragraph, it would be expected that there would be about 5 bodily injuries annually to persons in vehicles stopped on the roadside. The LRC estimates that about 20% of accidents causing bodily injury would cause serious bodily injury that might fall under the vehicular battery statute (a Class 4 felony). Further, according to Bureau of Justice Statistics, the likelihood a person charged will be convicted of a driving offense is 73%. Therefore, the LRC estimates that SB 164 will result in an additional 3 convictions for Class 6 felonies annually. Under current law these drivers might be charged under misdemeanor offenses under 32-31-6.1 or for reckless driving under chapter 32-24.

Under current law, approximately a third of Class 1 misdemeanors are sentenced to jail for an average of 12 days. For 1 of the 3 convictions to be sentenced to jail, the annual cost under current law would be \$1,083, or \$10,381 over 10 years. Under SB164, these drivers would be convicted of a Class 6 felony where penitentiary time would be an average of 177.4 days, until first release, or jail time would be an average of 209 days. LRC estimates that one conviction would result in probation, one conviction would result in a jail sentence, and one conviction would result in a prison sentence. The jail sentence would result in an annual cost of \$18,864, or \$188,643 over 10 years. The prison sentence would result in an annual cost of \$7,958, or \$79,581 over 10 years.

Therefore, the total net estimated jail cost is \$17,781 annually, or \$178,262 over ten years. The total estimated prison cost is \$7,958 annually, or \$79,581 over 10 years.

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