

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

**SENATE BILL NO. 61**

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AN ACT TO REVISE CERTAIN PROVISIONS REGARDING SEX OFFENDER  
REGISTRATION.

A prison/jail population cost estimate statement is required for SB61, because it creates a new Class 6 felony if a person required to register as a sex offender moves to a different location outside of the state and fails to register their new address before leaving the state, and creates a Class 5 felony for subsequent violations.

Section 1 of SB 61 would appear to create a new Class 5 felony for a subsequent violation of SDCL 22-24B-12. However, a Class 5 felony already exists in SDCL 22-24B-12.1 for any subsequent violations of SDCL 22-24B-12, rendering this provision redundant, and without impact.

Section 2 of SB 61 creates a new requirement that registered sex offenders must register their intent to move outside of the state at least three days prior to moving. A failure to register is a Class 6 felony. A subsequent violation is a Class 5 felony.

A violation of Section 2 of SB 61 is similar to an initial violation of SDCL 22-24B-12. The average prison sentence under SDCL 22-24B-12 is 627.2 days, at a cost of \$42.23 per day. Those receiving a jail sentence for violating SDCL 22-24B-12 receive an average sentence of 81.4 days, at a cost of \$89.73 dollars per day. Approximately 25% of convictions under SDCL 22-24B-12 receive a jail sentence compared to a prison sentence.

Currently, those convicted of a nonviolent Class 6 felony are eligible for parole after serving at least 25% of their sentence, depending on criminal history. However, due to the nature of this offense a person convicted would likely have an underlying felony conviction and would have to serve a minimum 30% of their sentence before being eligible for parole. 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 the first eligibility to establish minimum standards. Assuming that someone

convicted of a violation of Section 2 would be released at the earliest possible parole date, the average time served would be 188.2 days. If 75% of those convicted of an initial violations under Section 2 are sentenced to prison, the average annual cost would be \$17,882 in additional prison costs. If 25% are sentenced to jail the average annual cost would be \$5,478 in additional jail costs.

Section 2 of SB 61 also creates an enhanced penalty for subsequent violations of that section. One third of those convicted of an initial offense under SDCL 22-24B-12 have a subsequent conviction. If one third of the three violations per year re-offend, that would be one additional conviction per year. The average subsequent conviction under SDCL 22-24B-12.1 results in a sentence of 589.6 days in prison or 74.9 days in jail. However, due to the nature of this offense a person convicted would likely have two underlying felony conviction, one for the original sex offense and one for failure to register, and would have to serve a minimum 40% of their sentence before being eligible for parole. A prison sentence would be eligible for parole after 235 days. If 75% receive a prison sentence and 25% receive a jail sentence, the average annual increase in costs would be \$7,443 for prisons and \$1,680 for jails.

In conclusion, the total average cost increases for prisons, would be \$25,325 per year, and \$253,253 over 10 years. The total average cost increase for jails would be \$7,158 per year, and \$71,582 over 10 years.

Approved: /s/ Jason Hancock

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Director, Legislative Research Council