

**PRISON/JAIL POPULATION COST ESTIMATE STATEMENT**  
NINETIETH SESSION  
LEGISLATIVE ASSEMBLY 2015

**HOUSE BILL NO. 1143**

---

**AN ACT TO INCREASE THE CRIMINAL VIOLATIONS THAT ARE SUBJECT TO  
PROTECTION ORDERS.**

A prison/jail population cost estimate statement has been requested on HB1143 due to the penalties in section 1.

HB 1143 amends § 25-10-13, which is a violation of a protection order issued for domestic abuse. Currently a violation of § 25-10-13 is a misdemeanor, unless the violation also constitutes a simple assault (§ 22-18-1), or stalking (§ 22-19A-1), which elevates the violation to a Class 6 felony. Three or more convictions under this section are a Class 6 felony if committed within 10 years of the first offense, but after the date of the second conviction.

This bill seeks to add aggravated assault (§ 22-18-1.1), to the list of offenses which elevate the violation to a Class 6 felony. In addition, the bill adds a violation of a protection order (§ 22-19A-16) to the offenses considered in the 10 year look-back period when determining if a violation constitutes a misdemeanor or a felony. Therefore, if a defendant has two or more violations of either § 25-10-13 or § 22-19A-16, any subsequent violation of § 25-10-13 within a 10 year period constitutes a Class 6 felony.

Simple assault (§ 22-18-1) is already an offense that elevates a violation of a protection order to a Class 6 felony. While there are generally 1,300+ simple assault convictions in any given year, only one to seven have resulted in upgrading the violation of a protection order to a Class 6 felony in each of the last six years. Elevated penalties for stalking (§ 22-19A-1) while violating a protection order are even rarer. There are only 6% as many aggravated assault convictions as simple assault convictions.

In addition, simple assault is usually a Class 1 misdemeanor, which means that § 25-10-13 provides for an enhanced penalty (Class 6 felony) when simple assault is committed while violating a protection order. However, aggravated assault is already a Class 3 felony, which means that violating § 25-10-13 while committing aggravated assault would only add a lesser charge. For this reason, and the much smaller numbers of convictions for aggravated assault as compared to simple assault, it is estimated that the impact of adding aggravated assault to

the list of offenses that elevate a violation of § 25-10-13 to a Class 6 felony is negligible.

This bill also combines violations of § 25-10-13 and § 22-19A-16 into the 10 year look-back period for felony convictions. Currently, there are 49 offenders with three or more convictions under § 25-10-13 in the last 10 years. The average number of convictions in the last 5 years under § 25-10-13 is 171 per year, and the average number of convictions in the last five years under § 22-19A-16 is 48 per year, concluding that it is roughly 70% less likely that a defendant will be convicted under § 22-19A-16 than § 25-10-13. Because the bill increases the eligibility for a felony by enabling a combination of offenses, there will likely be an increase in offenders with 3 or more convictions under this statute. However, because it is significantly less likely that an offender is convicted under § 22-19A-16 than § 25-10-13, we estimate a maximum increase of roughly one third of the convictions for multiple offenses under this statute. The average number of offenders with multiple convictions under § 25-10-13 is approximately 5 per year, therefore, we estimate an increase of roughly 1 to 2 convictions per year. As a result, the estimated annual prison cost is \$7,081 and \$70,805 over a 10-year period and the estimated annual jail cost is \$4,266 and \$42,657 over a 10-year period.

Approved: /S/ Jason Hancock

Date: 2/19/15

Director, Legislative Research Council