

LEGISLATIVE INCARCERATION FISCAL IMPACT STATEMENT
EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY 2014

HOUSE BILL NO. 1183 REVISED

AN ACT TO PROSPECTIVELY REPEAL THE DEATH PENALTY.

A legislative incarceration fiscal impact statement has been requested on HB1183 due to the repeal of "death" as a penalty for a Class A felony.

Section 1 of the Act removes the penalty of death for prospective Class A felony convictions. As a result, persons who are sentenced to death for a Class A conviction will instead be sentenced to life imprisonment.

SDCL 2-1-20(2) requires the Legislative Fiscal Impact Statement to include the projected cost of the bill on the state prison system and county jails on an annual basis and the cost over a ten year period.

The method used to project costs to the state prison and county jails is based on the average length of stay for a person sentenced to death and for a person sentenced to life imprisonment.

- 1) Data received from the Department of Corrections (DOC), shows that since 1979, when South Dakota reinstated the death penalty, there were seven persons sentenced to death in South Dakota. Because there are only seven inmates, the length of stay data varies by the actions of each inmate, such as: when an inmate waives his right to appeal and submits voluntarily to his execution; when an inmate commits suicide before his execution could occur; or when an inmate uses the appeals process in South Dakota and federal courts.
 - a) The length of stay for the inmate that waived his rights to appeal and submitted to his execution was .93 years and the inmate who committed suicide before his execution was 3.98 years. (Robert .93 yrs., Anderson 3.98 yrs.)
 - b) The average length of stay for the inmates that used their rights to appeal or are currently using their rights to appeal is 12.77 years. (Moeller 20.17 yrs., Rhines 21.44 yrs., Piper 13.46 yrs., Page 6.4 yrs., and Berget 2.4 yrs.)
 - c) The average length of stay for the three inmates that are currently serving death sentences and are appealing their sentence is 12.43 years. (Rhines 21.44 yrs., Piper 13.46 yrs., Berget 2.4 yrs.)
- 2) Without consideration of any variables, waiver, suicide, or use of an inmate's right to appeal, as of July 1, 2014, the average length of stay for the seven inmates on death row since 1979 in South Dakota will be 9.83 years.

However, the decisions of two inmates greatly skew any gross statistical analysis for the average length of stay. If the analysis does not consider the waiver of appeal and submission to execution, and an inmate's suicide, the average length of stay increases to 12.77 years. National data from the U.S. Justice Department reports the average length of stay on death row is 14.83 years.

- 3) DOC data indicates that the average length of stay for a person sentenced to life imprisonment for murder and died in prison is 20.71 years.

Regardless of whether the inmate is sentenced to death, or is sentenced to life imprisonment, the inmate will spend, on average, the first 10 years in prison. As a result, **we estimate no impact to annual incarceration costs, or incarceration costs over a ten year period.**

This Legislative Incarceration Fiscal Impact Statement was drafted to comply with the statutory requirements of SDCL 2-1-19 and 2-1-20. This statement considers only the estimated fiscal impact on the prisons and jails as a result of HB 1183 and does not validate, or calculate any potential costs or savings associated with the judicial or appeals process.

Note: The citations in the paragraph above have been corrected.

<u>Approved: /S/ Fred Schoenfeld</u>	<u>Date: 2/21/2014</u>
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