

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

HOUSE BILL NO. 1140

**AN ACT TO INCREASE THE CRIMES AND LOOKBACK PERIOD TO ENHANCE THE
PENALTY FOR VIOLATING A PROTECTION ORDER.**

A prison/jail population cost estimate statement has been requested on HB1140 due to the penalties in section 1.

HB 1140 amends § 22-19A-16, which provides a penalty for the violation of a stalking protection order. Currently a violation of § 22-19A-16 is a misdemeanor, unless the violation also constitutes an aggravated assault (§ 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 5 years of the first offense, but after the date of the second conviction.

This bill seeks to add simple assault (§ 22-18-1), to the list of offenses which elevate the violation to a Class 6 felony. In addition, the bill adds a violation of a domestic violence protection order (§ 25-10-13) to the offenses considered in look-back period when determining if a violation constitutes a misdemeanor or a felony. Additionally, the bill extends the look-back period from five to ten years. Therefore, if a defendant has two or more violations of either § 25-10-13 or § 22-19A-16, any subsequent violation of § 22-19A-16 within a 10 year period constitutes a Class 6 felony.

During the five year period FY10-FY14, there were a total of 16 felony convictions under §25-10-13, for the combined offenses of violating a protection order and simple assault or stalking, as compared to 857 total misdemeanor convictions under the same sections for violating a protection order alone. This means that just under 2% of violations of protection orders also involved simple assault or stalking. It is worth noting that convictions for simple assault, in general, occur approximately 20 times more frequently than convictions for stalking.

During the five year period FY10-FY14, there were 242 total misdemeanor convictions under §22-19A-16 for violating a temporary protection order. If we assume that most of the co-violations under §25-10-13 involve simple assault, and the same percentage co-violation for simple assault for both types of violations of protection orders, this means that adding simple assault as a factor

that would increase the penalty for violating a temporary protection order to a Class 6 felony will likely create no more than one additional Class 6 felony conviction per year. Because only 29% of Class 6 felony convictions result in a prison or jail sentence, it is estimated that there will be no prison or jail costs for this provision in a typical year.

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 over 3 times more likely that a defendant will be convicted under § 25-10-13 than § 22-19A-16. 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. Assuming it is more likely a defendant is convicted under § 25-10-13, and this amendment adds that element to the current statute, as well as extends the look-back period, we estimate a maximum increase of roughly 2 more convictions a year. As a result, the estimated annual prison cost for this provision 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

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Director, Legislative Research Council