

**PRISON/JAIL POPULATION COST ESTIMATE STATEMENT**  
NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY 2017

**SENATE BILL NO. 176ff**

---

AN ACT TO AUTHORIZE THE CREATION OF PUBLIC SAFETY ZONES, TO  
AUTHORIZE CERTAIN ACTIONS TO BE IMPLEMENTED BY THE GOVERNOR AND TO  
PROVIDE CERTAIN PENALTIES.

A prison/jail population cost estimate statement has been requested on SB 176ff due to removing the mandatory minimum and felony penalties from the previous version of SB 176 and instead imposing a Class 1 misdemeanor for failing to obey a notice not to enter a public safety zone.

Over the last six years South Dakota has averaged 689 convictions a year of SDCL 22-35-6 (entering and refusing to leave property after notice). Currently, those convictions serve an average of 5.5 days in jail. It is important to note that due to prosecutorial discretion, a person arrested for a violation of SB 176ff may not necessarily be charged and convicted of the same crime for which they were arrested. Due to the potential limited resources and space available, in the event of a mass number of arrests during the declaration of a public safety zone, it is possible that some individuals arrested for violation of SB 176ff may be pled down to a lesser offense or would not serve any jail time. However, due to the uncertain nature of that potential, the LRC is unable to speculate as to a percentage of plea deals that would result from SB 176ff charges.

SB 176ff treats a person who fails to comply with a notice not to enter the same as a violation of SDCL 22-35-6. The proximate cause for increased jail costs would be individuals choosing to trespass in spite of notice, not any changes proposed by SB 176ff, which do not change the nature of the crime, or its penalty. The impact on prison and jail cost of SB 176ff, therefore is zero.

Approved: /s/ Jason Hancock                      Date: 3/6/17  
Director, Legislative Research Council

---