

SENATOR BROCK L. GREENFIELD, CHAIR | REPRESENTATIVE G. MARK MICKELSON, VICE CHAIR  
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March 30, 2018

Hon. Shantel Krebs  
Secretary of State  
500 E. Capitol Avenue  
Pierre, SD 57501

RECEIVED

MAR 30 2018

S.D. SEC. OF STATE

Dear Secretary Krebs,

This office received an initiated constitutional amendment to require physical damage to an individual or an individual's property in order for conduct to be considered a violation of the law. The initiated constitutional amendment requires a fiscal note because it was determined that it may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. SDCL 2-9-31 requires that said fiscal note be no longer than fifty "words." Therefore, numbers and percentages do not count against the fifty-word limit.

Enclosed is a copy of the initiated measure, in final form, that was submitted to this office. In accordance with SDCL 2-9-31, I hereby submit the Legislative Research Council's fiscal note with respect to this initiated constitutional amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Hancock". The signature is fluid and cursive, with a large initial "J" and "H".

Jason Hancock  
Director

Enclosures

CC: Levi Breyfogle

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article VI of the Constitution of the State of South Dakota be amended by adding NEW SECTIONS to read as follows:

§ 30. In order for a violation of the law to have been committed each of the following shall occur:

- (1) A charge of a violation may only be filed by a individual victim whose person or property have been physically damaged by the defendant. If the victim is incapable of filing a charge of a violation, a family member may, but only if the victim does not object;  
and
- (2) The damages must be physical, quantifiable, and have already occurred.

§ 31. Each known victim in any pending case on July 1, 2021, in the law enforcement, judicial, or correctional systems shall be notified and the victim may file a charge of a violation. If no victim files a charge of a violation, the case, sentence, or outstanding fine shall be dropped by October 1, 2021. If a charge is filed, the charge shall be initially reviewed within 30 days to verify the person filing the charge was a probable victim of a willful, direct, physical action of the defendant. No restitution shall be paid for time or fines already paid by any person currently or previously incarcerated or paying fines even if a charge of a violation is dropped pursuant to this section.

§ 32. No public funds of this state, or any political subdivision of this state, may be expended for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation regulating any case that is in violation of this amendment. No personnel or property of this state, or any political subdivision of this state, may be utilized for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that is in violation of this amendment.

# SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

## FISCAL NOTE

### INITIATED CONSTITUTIONAL AMENDMENT

AN INITIATED CONSTITUTIONAL AMENDMENT REQUIRING PHYSICAL DAMAGE  
IN ORDER FOR CONDUCT TO BE CONSIDERED A VIOLATION OF THE LAW

By requiring physical damage to an individual's person or property for a violation of law to occur, this amendment nullifies 93% of crimes, including for nonpayment of taxes. The estimated voluntary tax payment rate is 0.63%, based on use tax data.

	Revenue	
	State	Local
General	(\$1,386,893,635)	\$0
Other	(\$890,190,427)	\$0
Federal	(\$433,506,204)	\$0
Property/Other	\$0	(\$1,451,001,433)

Expenditures		
Incarceration	(\$39,312,496)	(\$34,956,360)
Net Impact	(\$2,671,277,770)	(\$1,416,045,073)

Approved:  Date: 3/30/18  
Director, Legislative Research Council