

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Sixth SESSION
2021 South Dakota Legislature

House Bill 1081

An Act to increase the penalty for protection order violations.

A prison/jail population cost estimate statement is required for HB1081 because the bill would increase the penalty for multiple violations of a protective order. The bill increases the penalty on three different statutes: §§ 21-65-19, 22-19A-16, and 25-10-13.

For all three statutes, an offender receives a Class 6 felony if they are convicted three or more times. Under the bill, an offender would receive a Class 5 felony for a fourth conviction and a Class 4 felony for a fifth or subsequent conviction.

For all three statutes combined, there have been 30 people who received the enhanced penalty two times. Seventeen people have received the enhanced penalty three or more times. Therefore, about three individuals per year would receive the Class 5 felony under the bill, and two individuals would receive the Class 4 felony.

The average time served in prison for those sent to prison for Class 6 felonies is 187 days to first release, for Class 5 felonies is 240 days to first release, and for Class 4 felonies is 385 days to first release.

Currently under the Class 6 felony, 22% of these sentences are carried out in jail facilities, 26% in minimum security facilities, and 52% receive probation. For Class 5 felonies, the percentage split is 19% for jail facilities, 29% for minimum security facilities, and 52% for probation. For Class 4 felonies, the percentage split is 15% for jail facilities, 49% for medium-low security facilities, and 36% for probation.

SDCL 22-19A-16 is exempt from presumptive probation. Due to the data on the number of convictions under that statute showing no repeated felonies, the regular percentage split, including probation, is applied to the additional individuals in this estimate.

Individuals serving time for Class 5 felonies are typically housed in minimum security facilities. With a minimum security cost of \$49.95 per day, the operating cost increase for housing prisoners with two felony convictions would be \$2,662 annually or \$51,983 over ten years.

Individuals serving time for Class 4 felonies are typically housed in medium-low security facilities. With a medium-low security cost of \$72.10 per day, the operating cost increase for housing prisoners with three or more felony convictions would be \$27,787 annually or \$166,255 over ten years.

With a jail facilities cost of \$90.26 per day, the savings under this bill for no longer housing certain prisoners with two felony convictions would be \$4,784 annually or \$44,408 over ten years. The annual savings under the bill for no longer housing certain prisoners with three or more felony convictions would be \$2,572 annually or \$25,724 over ten years.

Therefore, this increased cost for prisons would be \$30,450 in the first year and \$218,238 over ten years. The savings to jail facilities would be expected to be \$7,356 the first year and \$70,132 over ten years.

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