

# **PRISON/JAIL POPULATION COST ESTIMATE STATEMENT**

Ninety-Sixth SESSION  
2021 South Dakota Legislature

## **Senate Bill 98**

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An Act to limit the application of the death penalty.

A prison/jail population cost estimate statement is required for SB98 because the Act limits the application of the death penalty. The death penalty is currently authorized for Class A felonies and only when an aggravating circumstance is found beyond a reasonable doubt. Under SDCL 23A-27A-1, there are currently ten aggravating circumstances in which the death penalty can be authorized.

The bill sets forth that the only aggravating circumstance that would authorize the death penalty is an offense committed against "a law enforcement officer, employee of a corrections institution, or firefighter while the victim is engaged in the performance of such official duties." Furthermore, the defendant must be the "actual perpetrator, rather than an accomplice, aider, or abettor" of an offense committed against these individuals.

The alternative sentence for a Class A felony is mandatory life imprisonment. Because the death penalty will be authorized in fewer cases under the bill, it is less likely that a defendant convicted of a Class A felony would be sentenced to death. The defendant would instead serve a mandatory life sentence.

Since the death penalty was reinstated in South Dakota in 1979, five individuals have been executed. The most recent homicide to result in the executions of two of these individuals occurred in 2011, with the homicide of Ronald "RJ" Johnson, a correctional officer at the South Dakota State Penitentiary in Sioux Falls. Due to the small number of defendants executed in South Dakota in recent years, the potential impact on prison and jail costs is not readily discernible.

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