

# PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Sixth SESSION  
2021 South Dakota Legislature

## Senate Bill 143

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An Act to revise the penalty for the ingestion of certain controlled substances.

A prison/jail population cost estimate statement is required for SB143 due to the bill lowering the penalty for ingestion of a controlled substance, but maintaining a felony penalty for a person convicted three or more times of an offense under this statute.

Currently, the statute provides that a violation for ingesting a substance that is considered Schedule I or II is a Class 5 felony. A violation of this section for a substance in Schedule III or IV is a Class 6 felony.

Since it was implemented in 2013, there have been 5,766 convictions under this statute. Below is a table describing the frequency of convictions of a specific person.

Conviction Number	Total Convictions
1	4,547
2	893
3	210
4	82
5	21
6	6
7	4
8	1
9	1
10	1

Of the 5,776 convictions, 5,440 were a first or second offense, which would qualify them for the Class 1 misdemeanor proposed in the bill. The remaining 326 convictions would be subject to the Class 6 felony under the bill.

Therefore, it is estimated that 46 convictions per year would be the third or subsequent offense and receive the Class 6 felony conviction for ingestion. It is estimated that 773 convictions per year would receive the Class 1 misdemeanor conviction for the first or second offense.

Currently, 22% of these sentences are carried out in jail facilities, 26% in minimum security facilities, and 52% receive presumptive probation. The lower penalty would result in more offenders receiving jail convictions than under current law.

The average time served in prison for these offenses is currently 240 days. The average time served in prison for those sent to prison for Class 6 felonies is 187 days to first release.

Individuals serving time for Class 6 felonies are typically housed in minimum security facilities, which cost \$49.95 per day. Under the bill, 201 fewer convictions would result in a prison sentence per year. The operating savings for prisons would be \$2,436,561 annually or \$24,365,610 over ten years.

The average time served in jail for these offenses is currently 122 days. The average time served in jail for Class 1 misdemeanors is 12 days and for Class 6 felonies is 174 days. Under the bill, it is estimated there would be 170 fewer felony convictions and 278 additional misdemeanor convictions that would be carried out in jail facilities. With a jail facility cost of \$90.26 per day, the annual operating savings would be \$1,522,054 annually or \$15,220,544 over ten years.

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This would amount to a total prison and jail savings of \$3,422,471 in the first year and \$34,224,710 over ten years.

APPROVED BY: /s/ Reed Holwegner  
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