

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Seventh Session SESSION
2022 South Dakota Legislature

Senate Bill 3

An Act to provide for the use and regulated sale of marijuana.

A prison/jail population cost estimate statement is required for SB3 because it would establish two new felony penalties.

Section 43 of the bill would establish a Class 6 felony for any person who knowingly makes a false statement in any application, report, or statement concerning adult-use marijuana regulation. This section is patterned on SDCL 35-1-7, which sets forth a similar provision for alcohol regulation. While adult-use marijuana would become legal for the first time under this bill, and alcohol has been legal and regulated for a number of years, it is assumed that, over time, offenses related to alcohol regulation would serve as a comparison to offenses related to marijuana regulation.

In the last ten years, there have been no convictions under SDCL 35-1-7. Thus, the impact on prison and jail costs under this section of the bill is estimated to be negligible.

Section 44 of the bill would establish a Class 6 felony for a second or subsequent conviction for any person who purchases or acquires marijuana or marijuana products from a dispensary to give or resell to someone under the age of twenty-one. A first violation under this section would be a Class 1 misdemeanor. This section is patterned on SDCL 35-9-2.3, which provides that it is a Class 1 misdemeanor for any person twenty-one years or older to purchase or acquire alcohol from a retail establishment and give or resell that alcohol to any person under twenty-one. The same assumption concerning the comparison between alcohol and marijuana under section 43 applies to section 44.

In the last ten years, there have been no individuals with two or more charges under SDCL 35-9-2.3. Thus, the impact on prison and jail costs under this section of the bill is estimated to be negligible.

The bill would also revise felony penalties for offenses related to the possession, distribution, and ingestion of marijuana and its derivatives, as well offenses related to drug paraphernalia. Because the bill would result in an overall reduction in the period of imprisonment authorized for these felony offenses or remove penalties for certain conduct, it has been determined that a prison/jail cost estimate is not required for sections 1 to 12, inclusive, of the bill.

Additionally, in many instances a comparison between existing penalties for the possession and distribution of marijuana and its derivatives and the penalties proposed by this bill is not readily feasible. Data regarding the amount of marijuana in possession and distribution convictions is not tracked beyond the penalty classification. The adjustments to the penalty classifications based on weight proposed by this bill do not align with currently tracked data. Furthermore, data regarding convictions for possession and distribution of marijuana

derivatives is not tracked by weight as this does not currently impact the penalty classification, while this bill would provide for penalty classifications based on weight.

APPROVED BY: /s/ Reed Holwegner
Director, Legislative Research Council

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