

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

Ninety-Seventh Session SESSION  
2022 South Dakota Legislature

## **Senate Bill 72**

---

An Act to establish the crime of hazing and to provide a penalty therefor.

A prison/jail population cost estimate statement is required for SB72 because the bill would establish a new felony penalty for an act of hazing.

Under the bill, a person commits hazing when, during a student's initiation or admission into any organization affiliated with a school, college, or university, a person engages in conduct involving forced activity that endangers a student physically or subjects the student to extreme mental stress. If the person engages in hazing maliciously and the student experiences serious bodily injury, the person is guilty of a Class 6 felony. To prove that a person acts with malicious intent, the person must "import a wish to intentionally vex, annoy, or injure another person, established either by proof or presumption of law." Maliciousness is the most culpable state of mind in South Dakota. Serious bodily injury is "such injury as is grave and not trivial, and gives rise to apprehension of danger to life, health, or limb."

Surrounding states have similar provisions; however, the elements of the crime differ. In Nebraska, hazing requires an intentional or reckless state of mind, and bodily injury is not an element of the crime. In Iowa, the highest penalty for hazing is available when the person acts with an intentional or reckless state of mind and serious bodily injury results. In North Dakota, the highest penalty for hazing is available when the person acts willfully and physical injury results. Generally, an intentional, reckless, or willful state of mind represents a lower level of culpability than maliciousness, and physical injury is more minimal than serious bodily injury. The misdemeanor penalties under this bill would establish penalties for hazing involving these lower states of mind without the requirement to prove physical injury, serious or otherwise.

In looking at the convictions in these surrounding states for hazing, 2009 was the most recent year Nebraska had any convictions for hazing. According to the Nebraska Crime Commission, there were six convictions that year in Douglas County, the county that includes Omaha, that appeared to be related to a single event. The last year North Dakota had a conviction for hazing that resulted in physical injury was 2002, with a single conviction that year. In the last ten years, Iowa has had two convictions for hazing resulting in serious bodily injury, one in 2014 and one in 2020.

Thus, there is estimated to be approximately one Class 6 felony conviction every ten years under the bill. This conviction could result in a jail or penitentiary sentence.

Currently, for Class 6 felonies, 21.6% of these sentences are carried out in jail facilities and 26.1% in minimum security facilities.

The average time served in prison for a violent Class 6 felony is currently 209.5 days. Individuals serving time for Class 6 felonies in minimum security facilities cost \$52.53 per

day. The increased operating cost for prisons would be \$0 in the first year and up to \$11,005 every ten years if the individual convicted was sentenced to prison.

The average time served in jail for these offenses is currently 168 days. With a jail facilities' cost of \$96.30 per day, the increased operating cost in the first year would be \$0 and up to \$16,178 every ten years if the individual convicted was sentenced to jail.

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

DATE: 1/19/2022  
2022-FI72A

---