

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Seventh Session SESSION
2022 South Dakota Legislature

House Bill 1217

An Act to expand criminal provisions regarding the protection of minors from certain forms of sexual exploitation.

A prison/jail population cost estimate statement is required for HB1217 because it would establish new felony penalties.

The bill would create a Class 6 penalty for the crime of grooming. Grooming could be proven in three different ways:

- If a person knowingly contacts or attempts to contact a minor with the intent to gain trust with or establish a relationship with a minor, intended to entice the minor into engaging in conduct amounting to sexual exploitation under SDCL 22-22-4.3;
- If a person develops a relationship or initiates communication with a minor for the purpose of having the minor engage in conduct amounting to sexual exploitation under SDCL 22-22-4.3; or
- If a person knowingly exposes a minor to sexually explicit language or visual imagery for the purpose of encouraging or making it likely that the minor will engage in conduct amounting to sexual exploitation under SDCL 22-22-4.3.

The soliciting of minors to engage in sexual activity appears to be the nearest comparable crime. SDCL 22-24A-5 prohibits the solicitation of a minor, or someone the person reasonably believes to be a minor, to engage in prohibited sexual activity. It is also prohibited to use a computer or other electronic means to solicit a minor or someone the person reasonably believes is a minor to engage in a prohibited sexual act. The states surrounding South Dakota have enacted laws similar to SDCL 22-24A-5. Minnesota and Wyoming have enacted laws prohibiting solicitation of a minor or someone a person reasonably believed to be a minor to engage in sexual activity. North Dakota, Minnesota, and Nebraska have also enacted laws prohibiting the use of electronic communication to lure minors into sexual activity.

These various state laws, however, are not sufficiently comparable to the bill to draw adequate comparisons for purposes of a prison/jail cost estimate. This penalty may have an impact on prison and jail costs, but it is not discernible at this time.

Currently, under SDCL chapter 22-49, human trafficking involves obtaining a person knowing that force, fraud, or coercion will cause the person to engage in prostitution, forced labor, or involuntary servitude. The bill would add that human trafficking also involves obtaining a person knowing that force, fraud, or coercion will cause the person to engage in the production of pornography and sexual exploitation of a minor under SDCL 22-22-24.3.

These new types of conduct would be added to the penalties for human trafficking in the first degree under SDCL 22-49-2 and the second degree under 22-49-3. There have been no convictions under SDCL 22-49-2 or 22-49-3 in the last ten years.

It is expected that a those engaged in the forms of human trafficking currently prohibited might also be engaged in the forms of human trafficking proposed by the bill. Because of the absence of convictions under current human trafficking law, the impact on prison and jail costs is expected to be negligible.

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