

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Seventh Session SESSION
2022 South Dakota Legislature

House Bill 1232

An Act to establish mandatory sentences for certain driving while under the influence violations.

A prison/jail population cost estimate statement is required for HB1232 as the bill would establish multiple mandatory minimum terms of imprisonment.

The bill would amend SDCL 32-23-4.6, 32-23-4.7, and 32-23-4.9, the statutes that prohibit a fourth, fifth, and sixth offense of driving while intoxicated (DWI), respectively. More specifically, the bill would require an individual convicted of:

- A fourth offense DWI (a Class 5 felony), to serve a mandatory minimum sentence of three years in the penitentiary, as per section 1 of the bill;
- A fifth offense DWI (a Class 4 felony), to serve a mandatory minimum sentence of seven years in the penitentiary, as per section 2 of the bill; and
- A sixth offense DWI (a Class 4 felony), to serve a mandatory minimum sentence of seven years in the penitentiary, as per section 3 of the bill.

Unified Judicial System data permits an estimate of the bill's minimum cost impacts. The average annual number of convictions and average time served in the penitentiary and jails under the current statutes is as follows:

- Fourth offense DWI from CY 2011 to 2020, 130 penitentiary convictions and 2.9 years incarcerated, and 14 jail convictions averaging 87 days incarcerated;
- Fifth offense DWI from CY 2011 to 2020, 44 penitentiary convictions and 4.2 years incarcerated, with negligible jail convictions; and
- Sixth offense DWI from CY 2014 to 2020, 64 penitentiary convictions and 4.4 years incarcerated, with negligible jail convictions.

The bill would appear to create a net cost savings for county jails. The bill would shift all convictions served in jail to the prisons, potentially saving county jails each year, on average, \$117,293.40, based on the Office of the Attorney General's estimated cost of jail incarceration of \$96.30 per day.

The bill would appear to increase prison costs, despite the mandatory minimum not substantively increasing incarceration associated with fourth offense DWI convictions relative to the current average sentence. Individuals serving a term of imprisonment for a Class 4 felony in a low-medium security facility cost \$78.26 per day. Based on the above estimates, the increased operating costs for prisons would be \$0 in the first year, and, at a minimum, approximately \$80,000 for fifth offenders and \$74,270 for sixth offenders every ten years per

each individual convicted. Assuming continued conviction trends, the overall estimated minimum operating cost impact on prisons over the first ten years is approximately \$4.7 million.

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