

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Seventh Session SESSION
2022 South Dakota Legislature

House Bill 1326

An Act to reinstate the prohibition against certain acts causing the termination of an unborn human life, and to prescribe a penalty therefor.

A prison/jail population cost estimate statement is required for HB1326 as the bill would establish a new Class 5 felony penalty. Section 2 of the bill would make it a Class 5 felony for a person to:

- Provide a pregnant woman a compound for use in a chemical abortion; or
- Use an instrument or procedure for a non-chemical abortion upon a pregnant woman; and
- For the person to have specific intent to cause or abet an abortion in performing one of the above acts.

The bill would also make it a Class 5 felony for a licensed physician providing health care to a pregnant woman to not "make every effort" to preserve the life of the pregnant mother and the unborn human being. The bill would appear to criminalize these acts or omissions without the death of the unborn human being resulting. The bill's criminal penalty would not apply to:

- The provision or use of contraceptives:
 - In accordance with manufacturer instructions; and
 - Administered prior to the time that pregnancy could be determined "through conventional medical testing" (section 3); or
- A licensed physician who performs an abortion to prevent the death of the pregnant mother (section 4); or
- Accidental injury or death to the unborn human being associated with medical treatment (section 4).

Relevant data from which to estimate a prison or jail cost impact is negligible. South Dakota, as with many other states, places restrictions on the performance of abortions. Unified Judicial System data indicates that there have been no convictions for violations under chapter 34-23A within the last ten years. The more comprehensive ban that would result from this bill may, however, have an impact on prison and jail costs, but as no conviction data on a similar ban exists in other states, that impact is not readily discernible.

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