

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Seventh Session SESSION
2022 South Dakota Legislature

House Bill 1069

An Act to include out-of-state convictions as a basis of an enhanced penalty for certain drug crimes.

A prison/jail population cost estimate statement has been requested under Joint Rule 6C-1.1 for HB1069.

Currently under SDCL 22-42-2, it is a Class 4 felony to manufacture, distribute, dispense a Schedule I or II substance; possess with intent to manufacture, distribute, or dispense a Schedule I or II substance; create or distribute a counterfeit substance in Schedules I or II; or possess with intent to distribute a counterfeit substance listed in Schedules I or II. It is a Class 3 violation if certain aggravating circumstances are present. Distribution of Schedule I or II substances to a minor is a Class 2 felony under SDCL 22-42-2. There is a further enhancement if distribution for consideration of a drug under this section results in the death of another person.

Certain first convictions under SDCL 22-42-2 are punishable by certain mandatory minimum sentences, while second and subsequent convictions are punishable by increased mandatory minimum sentences.

The bill would establish that convictions or guilty pleas to an offense in another state that would be a conviction of this section, if committed in this state, and occurred within 15 years prior to the date of the violation being charged would be used to determine whether an offense under this section is a second or subsequent offense.

In the last ten years, there have been 996 convictions under SDCL 22-42-2. While out-of-state convictions are part of the information collected by a prosecutor in a case and are collected by the Department of Corrections as part of an inmate's background, this data is maintained on an individual level. The criminal history of each of these defendants would need to be examined to determine whether they had out-of-state convictions meeting the requirements of the bill. Thus, the bill may have an impact on prison and jail costs, but it is not readily discernible at this time.

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

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