

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Seventh Session SESSION
2022 South Dakota Legislature

House Bill 1233

An Act to establish a hearing requirement for any person convicted of four or more felony offenses prior to parole release.

A prison/jail population cost estimate statement is required for amendment HB1233B to HB1233 because the amendment would modify law governing release of a prisoner from imprisonment and may result in an impact on the prison population.

The amendment would mandate a discretionary parole hearing before the Board of Pardons and Paroles (Board) at an incarcerated inmate's initial parole date for inmates convicted of three or more prior felony offenses and then is subsequently convicted of certain driving under the influence offenses. The Board would have the discretion to release the inmate to parole if the Board is satisfied that:

- The inmate has been confined for a sufficient length of time to be rehabilitated;
- The inmate is not a danger to society;
- The inmate will be employed or beneficially occupied; and
- The inmate complied with their individual program directive or, if there is no program directive, the inmate met certain substantive requirements.

Individual program directives are established by the Department of Corrections (DOC) soon after an inmate is admitted to the agency. A directive requires the inmate to participate in certain rehabilitative activities and demonstrate good conduct.

SDCL chapter 24-15A provides for the current system of parole. An inmate is released from incarceration to parole supervision without a hearing if the inmate has substantively met the requirements of the inmate's individual program directive, agreed to the conditions of supervision, and has an approved parole release plan.

A hearing is held if the warden of the institution where the inmate is incarcerated indicates to the Board that the inmate has not complied with the directive or if there is insufficient information to determine compliance. The Board determines compliance at the hearing.

If there is no program directive, the Board utilizes standards set by SDCL 24-15A-42. This section directs the Board to determine whether the inmate complied with work, school, and program directives, complied with DOC rules and policies, and did not evince an intent to reoffend. A final standard directs the Board to consider mitigating factors impacting a warden's determination of substantive noncompliance.

If parole is revoked, discretionary parole hearings are held at intervals of at least two years. An inmate may be released to parole based on the discretion of the Board following a subsequent hearing. The Board may use the standards set by SDCL 24-15A-42 in discretionary parole decisions.

Due to the discretion afforded to the Board, the individual factors that the Board must consider pertaining to each inmate, and the fact that the factors do not fully align with the current system of parole, it cannot be feasibly predicted whether the requirement under the amendment would result in more inmates to be denied parole and remain incarcerated for longer periods of time than under current law. Additionally, there was insufficient time to determine how many inmates the amendment would apply to. As compared to the bill as introduced, however, the amendment would apply to a smaller population of inmates. The bill as introduced would have applied the hearing requirement to all inmates convicted of four or more prior offenses.

There may be an increase on prison costs, but it cannot be estimated at this time.

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

DATE: 2/16/2022
2022-FI1233B