

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Eighth Session
2023 South Dakota Legislature

Senate Bill 94

An Act to establish the crime of grooming and provide a penalty therefor.

A prison/jail population cost estimate statement is required for SB94 because it establishes multiple new felonies under state law.

The bill would create the crime of grooming, defined as "knowingly engag[ing] in a course of conduct to persuade, induce, entice, or coerce that involves or results in the person building trust, a relationship, or an emotional connection with [a] child, known or believed to be under the age of eighteen, with the intent to engage in sexual contact or penetration with the child or prepare the child for sexual contact or penetration." Any person guilty of grooming would be eighteen years or older and at least four years older than the child.

The bill would require a "course of conduct" under section 1, which includes three or more separate incidents found to be inappropriate given the nature and circumstances of the adult-child relationship. Incidents include 1) showing sexually explicit materials to the child, 2) exposing the child to sexually explicit language, 3) making comments to the child about the child's sexual or physical development, 4) providing the child with an intoxicating substance, special privilege, or benefit to incentivize the child to engage in sexual conduct or penetration, or 5) committing or attempting to commit an offense prohibited under SDCL 22-22 with the child. A violation of section 1 would be a Class 4 felony. Any subsequent violation would be a Class 2 felony.

While several other states, along with the federal government, have already established the crime of grooming, only one of these entities requires a course of conduct to be found guilty of grooming: Delaware. However, that state's law took effect on August 19, 2022.

Since it does not appear the bill can be compared to an existing statute for which convictions data can be collected, the impact on the prison and jail populations in South Dakota cannot be determined at this time.

APPROVED BY: /s/ Reed Holwegner

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Director, Legislative Research Council

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