# PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Eighth Session SESSION
2023 South Dakota Legislature

# Senate Bill 146

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An Act to limit parole for violent offenders.

A prison/jail population cost estimate statement is required for SB146 because it would modify law governing release of an inmate from imprisonment and may impact the prison population.

Section 1 of the bill lists 13 offenses, and section 2 lists an additional 10 offenses, for which an inmate, who was convicted on or after July 1, 2023, would no longer be eligible for parole except as provided in SDCL 24-15A-55 to 24-15A-68 inclusive. Section 3 of the bill amends SDCL 24-15A-32 to clarify the calculation for the initial parole date set by the Department of Corrections for crimes committed on or after July 1, 2023 according to sections 1 and 2.

Section 1 lists three Class C felonies, two Class 1 felonies, and eight Class 2 felonies. Section 2 lists four Class 3 felonies and five Class 4 felonies. Section 2 also includes an attempt to commit, solicitation to commit, or conspiracy to commit any offense in section 1 of the bill, but for the purposes of this fiscal note, that category will not be included in the analysis.

For those convicted of an offense in section 1 of the bill, they would also no longer be eligible for discharge credits earned pursuant to SDCL 24-15A-50 and 24-15A-50.1. For those convicted of an offense in section 2, they would still be able to earn discharge credits to reduce their sentences by up to 15%. For both sections, a court would still retain the discretion to suspend a portion of the prison sentence required to be served (see SDCL 23A-27-18.4).

In the last full fiscal year, FY22, 111 offenders were admitted to the custody of the Department of Corrections ("DOC") for an offense in section 1. The average sentence length of those offenders is 9,556.0 days (about 26.2 years). Based on the offenses, the average number of days served in a correctional facility rather than on parole is 3,147.8 days (about 8.6 years). Thus, offenders of crimes in section 1 generally spend 67.1% of their sentence under DOC supervision outside of a facility.

For offenses in section 2, 160 offenders were admitted. The average sentence length of those offenders is 4,326.6 days (about 11.9 years). Based on the offenses, the average number of days served in a correctional facility is 1,088.7 days (about 3.0 years). Thus offenders of crimes in section 2 generally spend 74.8% of their sentence under DOC supervision.

The preparation of this cost estimate requires assuming how much of the sentences in question, on average, would be suspended by a court. Here, the assumption is a suspension of 50% of sentences for offenses in both section 1 and section 2. Those admitted for an offense in section 2 are assumed to earn the full amount of discharge credits allowed and only serve 35% of their sentence in a correctional facility. Finally, all offenders serving a suspended sentence are assumed to not violate the conditions of their supervision as to require them to serve more time in a correctional facility.

Due to the bill, it is expected that those admitted for an offense in section 1 of the bill (111 people), on average, would have to serve an additional 1,630.2 days in prison rather than under supervision. For those admitted for an offense in section 2 (160 people), on average, they would have to serve an additional 425.6 days in prison rather than under supervision.

In FY22, the cost of housing inmates for these offenses was about $94.13 per day. The cost of supervising the same group was about $7.78 per day instead. Considering solely the group of offenders currently incarcerated that would be subject to the bill, any increased costs would not immediately be evident. For section 1, increased costs are expected to materialize after nine years. For section 2, increased costs are expected to materialize after three years.

The increased cost expected due to the bill is as follows by section:

| Section 1 | Time Spent in Prison (Days) | Time Spent under Supervision (Days) | Total Cost (Over 26 Years) |
|---|---|---|---|
| Before Bill | 3,147.83 | 6,408.17 | $ 38,423,834 |
| After Bill | 4,778.00 | 4,778.00 | $ 54,048,794 |

| Section 2 | Time Spent in Prison (Days) | Time Spent under Supervision (Days) | Total Cost (Over 26 Years) |
|---|---|---|---|
| Before Bill | 1,088.70 | 3,237.85 | $ 20,427,105 |
| After Bill | 1,514.29 | 2,812.25 | $ 26,307,129 |

Over about 26 years, the Department of Corrections would be expected to spend $21,504,978 more in general funds. This total does not account for inflation.

APPROVED BY: /s/ Reed Holwegner DATE: 2/7/2023

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