

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT
NINETIETH SESSION
LEGISLATIVE ASSEMBLY 2015

SENATE BILL NO. 122

AN ACT TO REVISE PROVISIONS RELATED TO THE DEATH PENALTY.

A prison/jail population cost estimate statement has been requested on SB122 due to Section 1 of SB 122. Section 1 of SB 122 adds a requirement that the jury find that the defendant is "too dangerous to be incarcerated and is an ongoing danger to the public and the prison community" before a sentence of death may be imposed.

It has the effect of increasing the period of incarceration for existing crimes in which a defendant receives a life sentence rather than a death sentence. The person may have committed a crime that justifies the death penalty but because the defendant is not "too dangerous" the sentence will be for life imprisonment. A person incarcerated for life serves a longer sentence than a person who is sentenced to death. Because the number of individuals who will receive a death sentence and the timeline of events for each individual so sentenced is unpredictable, it is not possible to predict a total annual or ten-year impact on prison costs. It is possible, however, to estimate the average impact per inmate sentenced to death.

Based on data provided by the Department of Corrections, the median length of time for an inmate in the penitentiary with a life sentence is between twenty and twenty-one years. The average length of stay in the prison for an inmate with a death sentence in South Dakota is between twelve and thirteen years. Accordingly, an inmate with a life sentence as opposed to a death sentence will serve on average eight more years in prison.

The cost to the state for one inmate for one year is \$25,484. Multiply the yearly cost by the eight years of incarceration and the increased costs are \$ 203,872 per inmate with a life sentence who would have received a death sentence but for the "too dangerous" criteria in Section 1.

The Attorney General has reported that the average cost for an execution is \$60,525. The increased costs associated with additional years in prison would be reduced by \$60,525 per inmate who received a life sentence as opposed to a death sentence because the state would not incur the costs related to an

execution. The result is a net cost increase to the state over the inmate's lifetime of \$143,000 per inmate who would have received a death sentence but for the "too dangerous" criteria in Section 1, over that inmate's life in the prison system.

Costs related to appeals for any defendant's sentence are indeterminate because each inmate, regardless of a life sentence or a death sentence, has the same core appeals to challenge his or her conviction. Whether the defendant has any extraordinary appeal rights are fact specific to his or her case and are indeterminate, and therefore are not considered in this estimate.

Since the death penalty was reinstated in 1979 the State has had eight persons sentenced to death, with three inmates currently awaiting their execution. No opinion is offered whether any of the current inmates or future defendants would have been sentenced to life as opposed to death according to the criteria in Section 1 of the bill.

This legislation has no impact on jail costs.

Approved: /s/ Jason Hancock

Date: 2/10/15

Director, Legislative Research Council