

# PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

RE-ISSUED

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY 2018

## SENATE BILL NO. 63

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### AN ACT TO REVISE CERTAIN PROHIBITIONS REGARDING METHAMPHETAMINES AND TO CREATE A MANDATORY PENALTY FOR A VIOLATION THEREOF.

A prison/jail population cost estimate statement is required for SB 63 because it creates a Class 3 felony for the manufacture, distribution, or dispensing of methamphetamine; possession with intent to manufacture, distribute, or dispense methamphetamine; creating or distributing a counterfeit of methamphetamine; or possession with intent to distribute a counterfeit of methamphetamine. SB 63 also creates a Class 2 felony enhancement if the person manufactures, distributes, or possesses methamphetamine and meets three or more related criteria. Finally, SB 63 also creates a Class 1 felony for the distribution of methamphetamine to a minor.

Methamphetamine is a Schedule II substance and the crimes created by SB 63 are existing crimes under SDCL 22-42-2. However, SB 63 increases the penalties in SDCL 22-42-2 by one class level.

According to data from the Department of Corrections, approximately 76% of people currently serving time for distribution and 66% of people currently serving time for distribution to a minor under SDCL 22-42-2 were for methamphetamine. Currently, persons convicted of nonviolent felonies are eligible for parole after serving at least 30% of their sentence, depending on criminal history. Due to the nature of parole, it is impossible for the Legislative Research Council to know when parole may be granted. Therefore, we will be working under the assumption that those convicted will be released at first eligibility to establish minimum standards.

In the past ten years, there have been fifteen convictions for distribution of a Schedule I or II drug to a minor under SDCL 22-42-2. Of those fifteen convictions, we assume 10 were for methamphetamine, resulting in 1 conviction per year. During that same time, there have been sixteen convictions for manufacture, distribution, or possession of a Schedule I or II drug with three or more related criteria. If 76% of those convictions were for methamphetamine, it would equal approximately 12 convictions over a ten year period. Finally, there have been 842 prison convictions and 54 jail convictions for the manufacture, distribution, or possession of a Schedule I or II drug over the last

ten years. Assuming 76% of those convictions were for methamphetamine, it would equal approximately 64 prison convictions and 4.1 jail convictions per year.

Given these facts, the following table provides our analysis of the impact of SB 63 on the number of days served in prison and jail:

	Current Avg Sentence (Days)	Current Parole (Days)	SB 63 Avg Sentence (Days)	SB 63 Parole (Days)	Increased Days
Distribution to minor (prison)	1,886	566	7,257	2,540	1,974
Manufacture, distribution or possession w/3+ related criteria (prison)	2,309	547	2,920	1,501	954
Manufacture, distribution or possession (prison)	2,129	455	2,309	547	92
Manufacture, distribution or possession (jail)	36		80		44

Given the impact of SB 63 on the number of days those convicted will spend in prison or jail, and given the number of convictions for each type of crime, the following table is our estimate of the prison and jail costs associated with SB 63:

	Distribution to Minor (Prison)		Manufacture, Distribution or Possession w/3+ Related Criteria (Prison)		Manufacture, Distribution or Possession (Prison)		Manufacture, Distribution or Possession (Jail)		TOTAL
	Convictions	Added Cost	Convictions	Added Cost	Convictions	Added Cost	Convictions	Added Cost	
Cost/day		\$74.83		\$74.83		\$58.58		\$89.73	
Year 1	1	\$0	1.2	\$0	64	\$0	4.1	\$16,187	\$16,187
Year 2	1	\$12,294	1.2	\$16,397	64	\$346,044	4.1	\$16,187	\$390,922
Year 3	1	\$39,607	1.2	\$49,172	64	\$346,044	4.1	\$16,187	\$451,010
Year 4	1	\$66,920	1.2	\$81,948	64	\$346,044	4.1	\$16,187	\$511,099
Year 5	1	\$94,233	1.2	\$85,629	64	\$346,044	4.1	\$16,187	\$542,093
Year 6	1	\$121,546	1.2	\$85,629	64	\$346,044	4.1	\$16,187	\$569,406
Year 7	1	\$147,740	1.2	\$85,629	64	\$346,044	4.1	\$16,187	\$595,600
Year 8	1	\$147,740	1.2	\$85,629	64	\$346,044	4.1	\$16,187	\$595,600
Year 9	1	\$147,740	1.2	\$85,629	64	\$346,044	4.1	\$16,187	\$595,600
Year 10	1	\$147,740	1.2	\$85,629	64	\$346,044	4.1	\$16,187	\$595,600
10-year Total:		\$925,558		\$661,294		\$3,114,394		\$161,873	

10-Year Prison Cost: \$4,701,245

10-Year Jail Cost: \$161,873

Approved: /s/ Jason Hancock Date: 02/01/2018  
 Director, Legislative Research Council