

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT
NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY 2019

SENATE BILL NO. 19

AN ACT TO REPEAL PRESUMPTIVE PROBATION.

A prison/jail population cost estimate statement is required for SB19, because the bill repeals presumptive probation for those convicted of certain Class 5 and 6 felonies.

There were 2,981 individuals convicted of an offense carrying presumptive probation in FY18. Of that number, 2,485 (83.36%) were given probation, while 496 (16.64%) were sent to prison. LRC estimates that approximately 20% of those given probation will violate probation and be required to serve out their prison sentence. As a result, under current law, 1,988 (66.69%) would complete probation, while 993 (33.31%) would ultimately be sent to prison.

Prior to the enactment of the current presumptive probation law in 2013 SB 70, approximately 71.53% of individuals sentenced to these types of Class 5 and 6 felonies were given probation, while 28.47% were sent to prison. After accounting for the 20% of those given probation who would ultimately be sent to prison, and applying these percentages to the number of individuals convicted of these types of crimes in FY18, if presumptive probation did not exist, 1,706 (57.23%) would complete probation, while 1,275 (42.77%) would ultimately be sent to prison.

The repeal of presumptive probation would result in an additional 282 individuals sent to prison than would otherwise be the case under the current presumptive probation standard. The average time served in prison for those sent to prison for these types of presumptive probation convictions is 343.7 days, to their first release. Individuals serving time for these types of offenses are typically housed in minimum security facilities, at a cost of \$41.07 per day. The annual operating cost for housing these additional prisoners, therefore, is \$3,980,644, or \$39,806,440 over 10 years.

In addition, incarcerating an additional 282 individuals for 343.7 days would require prison housing for an average of 266 additional inmates. Women's prison units in South Dakota are already at capacity, while men's minimum security prison facilities are a net 43 beds below capacity. As a result, an additional 223 beds would need to be found or created. According to the Department of Corrections, the average construction cost for prisons is \$62,733 per bed. If the state were to build an additional 223 beds of prison capacity, this would result in \$13,989,459 in one-time construction costs. While more than 223 beds of capacity exists in other, higher security men's prison units, there may be operational, security, or programmatic reasons for not adding prisoners to these other facilities where spare capacity exists. Also, there is no net capacity available for housing additional women prisoners.

Presuming none of the additional individuals are sentenced to jail, this amounts to a total prison impact of \$53,795,899 over ten years.

Approved: /S/ Jason Hancock
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Date: February 21, 2019
