

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Fifth SESSION
2020 South Dakota Legislature

House Bill 1072

An Act to place certain substances on the controlled substances schedule.

A prison/jail population cost estimate statement is required for HB1072 because several chemical substances that are present in the drug kratom have been proposed to be added as Schedule I Controlled Substances. According to a 2019 report published on the current use of kratom, at least three million people are estimated to use kratom across the nation. Based on the population of South Dakota compared to the rest of the nation (0.27%), South Dakota's estimated share of kratom users is approximately 8,100.

Kratom is most similar in nature to opioids and pain relievers. Most opioids and pain relievers are Schedule II and III controlled substances. According to the Substance Abuse and Mental Health Services Administration (SAMHSA), 4.12% of South Dakotans misused pain relievers, or approximately 36,448 people. In 2019, approximately ten people per month were convicted for non-meth related controlled substances charges. LRC estimates approximately four out of those ten were convicted for opioid or pain reliever abuse, or approximately forty-eight per year. Therefore, LRC estimates that 0.13% of individuals who abuse pain relievers or opioids are being convicted per year.

Based on that percentage, and the estimated 8,100 kratom users in South Dakota, LRC estimates that approximately 107 people will be convicted of kratom offenses over the next ten years.

Based on conviction data for the past year for non-meth related charges, LRC estimates 95%, or approximately 102 of those charged, will be convicted for ingestion or possession charges, which are Class 5 felonies. These charges qualify for presumptive probation. In FY18, 64.7% of those convicted of this type of crime completed presumptive probation, thus serving no prison or jail time. Over this ten year period, approximately 31 would serve time for the Class 5 felony of possession or ingestion of Kratom (29 in prison, two in jail), while five would serve time in prison for the Class 4 felony of distribution of a Schedule I or II controlled substance

The average time served in prison for those sent to prison for Class 5 felony convictions is 266.1 days, while those sent to jail typically serve 42.88 days. The average time served in prison for those sent to prison for Class 4 felonies is 402.6 days.

The estimated prison and jail costs over the next ten years are as follows:

	Kratom Ingestion/Possession (Prison)		Kratom Distribution (Prison)		Kratom Ingestion/Possession (Jail)		TOTAL
	Convictions	Added Cost	Convictions	Added Cost	Convictions	Added Cost	
Cost/day		\$44.86		\$44.86		\$90.26	
Year 1	2.9	\$30,767	0	\$0	0	\$0	\$30,767
Year 2	2.9	\$30,767	1	\$16,374	0	\$0	\$47,141
Year 3	2.9	\$30,767	0	\$1,687	0	\$0	\$32,454
Year 4	2.9	\$30,767	1	\$16,374	0	\$0	\$47,141
Year 5	2.9	\$30,767	0	\$1,687	1	\$3,870	\$36,324
Year 6	2.9	\$30,767	1	\$16,374	0	\$0	\$47,141
Year 7	2.9	\$30,767	0	\$1,687	0	\$0	\$32,454
Year 8	2.9	\$30,767	1	\$16,374	0	\$0	\$47,141
Year 9	2.9	\$30,767	0	\$1,687	0	\$0	\$32,454
Year 10	2.9	\$30,767	1	\$16,374	1	\$3,870	\$51,011
10-year Total:		\$307,672		\$88,616		\$7,741	\$404,029

10-Year Prison Cost: \$396,289

10-Year Jail Cost: \$7,741

LRC estimates that no additional construction costs are necessary to meet the additional capacity required.

APPROVED BY: /s/ Jason Hancock
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