

# PRISON/JAIL POPULATION COST ESTIMATE STATEMENT

Ninety-Fifth SESSION  
2020 South Dakota Legislature

## House Bill 1119

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An Act to include certain offenses committed in another state for purposes of an enhanced penalty.

A prison/jail population cost estimate statement is required for HB1119 because it adds out-of-state convictions for intentional contact with body fluids to the list of convictions that are used to determine if a person has a third or subsequent simple assault offense under SDCL 22-18-1. A first or second offense for simple assault is a Class 1 misdemeanor, but a third or subsequent offense for simple assault is a Class 6 felony.

To determine the impact of this bill the Legislative Research Council looked at data on the number of in-state convictions for intentional contact with body fluids that resulted in an enhancement under SDCL 22-18-1 and adjusted for the proportion of time that South Dakotans have spent outside South Dakota. Over the past ten years there were twenty in-state convictions for intentional contact with body fluids that resulted in an enhancement. LRC estimates that approximately 21% of South Dakota's population has moved here from out-of-state in the last ten years, and approximately 53% of this group's last ten years of residence was spent out-of-state. Therefore, the LRC expects that HB 1119 would result in two convictions in a ten-year span where an out-of-state conviction for intentional contact with body fluids would lead to an enhanced sentence of a Class 6 felony rather than a Class 1 misdemeanor.

Under current law, approximately a third of Class 1 misdemeanors are sentenced to jail at an average cost of \$90.26 per day for an average of 12 days. For one of the two convictions to be sentenced to jail, the cost under current law would be \$1,083 over 10 years. The other conviction would likely not result in incarceration under current law.

Under HB1119, one of these convictions would likely receive probation and one would be sentenced to prison where time served, until first release, would be 200.7 days for a violent Class 6 felony. The cost per day for a minimum-security inmate is \$44.86, resulting in a ten-year cost of \$9,003.

The LRC estimates that in year one the prison and jail costs of HB 1119 would be \$0. Further, the LRC estimates that over the next ten years, HB 1119 would increase prison costs by \$9,003 and would reduce jail costs by \$1,083.

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