SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

FISCAL NOTE, 2019 LEGISLATIVE SESSION

FISCAL NOTE 2019-SB142A

SB 142 require the state to assume the responsibility for legal expenses of certain persons in state custody.

Based on information provided by the Department of Corrections (DOC), 138 inmates have been referred for criminal prosecution while in the custody of the state over the past two years. An additional 5-6 crimes per year occur in facilities under the direction of Department of Social Service (DSS), and the Department of Human Services (DHS).

According to the Unified Judicial System (UJS), the statewide average court-appointed case cost was $879 in 2017. The counties received payments from individuals for restitution or fees, and from the state to help cover county expenses, as required by SDCL 23-3-52-53. After these adjustments, the subsidized statewide average court-appointed case cost was $706.

SB142 would require the payment of "legal expenses". Legal expenses may include $706 for the statewide average court-appointed case cost and $879 for prosecution expenses at a non-subsidized rate, assuming that prosecution expenses are roughly equal to defense expenses. Telephone interviews were conducted with several State Attorneys' from jurisdictions with major state incarceration facilities in order to equate the level of effort, and justify the prosecution expense. The estimated defense and prosecution combined cost would be $1,585 per case.

It is estimated that 75 cases would be prosecuted per year at an estimated cost of $118,875, which would include clients in the custody of DOC, DHS, and DSS.

An administration charge of 10% is included to cover costs such as travel, depositions, interpreters, and office services. This would not include the cost of competency evaluations.

According to the Bureau of Labor and Statistics, a CPI adjustment of 2.2% was included in the final calculation.

The total estimated fiscal impact of SB142 is expected to be $133,640, in a typical year. However, a major event such as a prison riot could result in much higher costs in an atypical year.

APPROVED BY: _____Jason Handcock_____ DATE: __02/02/2019__