



[SF 2340](#) – Illegal Entry or Presence, Prohibition and Enforcement (LSB6048SV)
Staff Contact: Molly Kilker (515.725.1286) molly.kilker@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 2340](#) creates a new Iowa Code chapter related to illegal reentry into the State by certain aliens; creates procedures for law enforcement, the Department of Public Safety (DPS), and judicial officers; and establishes criminal offenses.

Senate File 2340 establishes that a person commits an aggravated misdemeanor if the person enters, attempts to enter, or is at any time found in the State under the following circumstances:

- The person has been denied admission to or has been excluded, deported, or removed from the United States.
- The person has departed from the United States while an order of exclusion, deportation, or removal is outstanding.

Under the Bill, a person commits a Class D felony under the following circumstances:

- The person's removal was after a conviction for the commission of two or more misdemeanors involving drugs, crimes against a person, or both.
- The person was excluded pursuant to [8 U.S.C. §1225\(c\)](#) (inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing) because the defendant was excludable under 8 USC §12282(a)(3)(B).
- The person was removed pursuant to the provisions of [8 U.S.C. ch. 12, subch. V](#) (alien terrorist removal procedures).
- The person was removed pursuant to [8 U.S.C. §1231\(a\)\(4\)\(B\)](#) (detention and removal of aliens).

Under the Bill, a person commits a Class C felony if the person was removed after a conviction for the commission of a felony. A person also commits a Class C felony if they are charged with an offense under the Bill, a judge issued an order for the person to return to the foreign nation from which the person entered, and the person failed to comply with the order.

Senate File 2340 sets rules for peace officers and the DPS that limit locations an individual may be arrested for illegal reentry, tasks required prior to the issuance of a return order, and criminal record reporting requirements.

The Bill creates procedures for the Judicial Branch and judges related to written orders; restricts the use of deferred judgments, sentences or suspended sentences in certain circumstances; and restricts the abatement of prosecution in certain circumstances.

The Bill also provides standards related to civil immunity for and indemnification of local government officials, employees, and contractors.

Background

A Class C felony is punishable by confinement for up to 10 years and a fine of at least \$1,370 but not more than \$13,660. A Class D felony is punishable by confinement for up to five years

and a fine of at least \$1,025 but not more than \$10,245. An aggravated misdemeanor is punishable by confinement for up to two years and a fine of at least \$855 but not more than \$8,540.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay (LOS); revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A delay of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.

Correctional Impact

Senate File 2340 creates new criminal offenses, and the correctional impact cannot be estimated due to a lack of existing conviction data. **Figure 1** shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS in months under those supervisions; and supervision marginal costs per day for Class C felonies, Class D felonies, and aggravated misdemeanors. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 16, 2024, for information related to the correctional system.

Figure 1 — Sentencing Estimate and Length of Stay

Conviction Offense Class	Percent Ordered to State Prison	FY 2023 Avg LOS in Prison (All Releases)	Marginal Cost Per Day Prison	Percent Ordered to Probation	FY23 Field Avg LOS on Probation	Avg Cost Per Day on Probation	Percent Sentenced to CBC Residential Facility	Marginal Cost Per Day CBC	Percent Ordered to County Jail	Marginal Cost Per Day Jail	FY23 Field Avg LOS on Parole	Marginal Cost Per Day Parole
C Felony (Non-Persons)	86.0%	19.4	\$24.94	64.2%	42.2	\$ 7.67	13.0%	\$ 20.00	34.0%	\$ 50.00	21.3	\$ 7.67
D Felony (Non-Persons)	84.4%	13.0	\$24.94	69.8%	39.5	\$ 7.67	14.5%	\$ 20.00	32.2%	\$ 50.00	15.7	\$ 7.67
Aggravated Misdemeanor (Non-Persons)	30.4%	7.5	\$24.94	45.0%	25.1	\$ 7.67	3.6%	\$ 20.00	71.7%	\$ 50.00	11.9	\$ 7.67

Minority Impact

Senate File 2340 creates new criminal offenses. As a result, Criminal and Juvenile Justice Planning (CJJP) of the Department of Management (DOM) cannot use existing data to estimate the minority impact of the Bill. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 16, 2024, for information related to minorities in the criminal justice system.

Fiscal Impact

Senate File 2340 creates new criminal offenses, and the fiscal impact to the correctional system cannot be estimated due to a lack of existing conviction data. **Figure 2** shows the average State cost per offense for a Class C felony, a Class D felony, and an aggravated misdemeanor. The estimated impact to the State General Fund includes operating costs incurred by the Judicial Branch, the Indigent Defense Fund, and the Department of Corrections (DOC). The cost would be incurred across multiple fiscal years for prison and parole supervision.

Figure 2 — Average State Cost Per Offense

Offense Class	Average Cost
Class C Felony	\$14,300 to \$27,500
Class D Felony	\$12,600 to \$18,200
Aggravated Misdemeanor	\$7,500 to \$10,800

The cost to transport an individual to a port of entry is unknown. Although the fiscal impact cannot be estimated, it may be significant.

Sources

Department of Corrections
Criminal and Juvenile Justice Planning, Department of Management
Department of Public Safety
Judicial Branch
Legislative Services Agency

/s/ Jennifer Acton

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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