



[HF 2594](#) – Organized Retail Theft, Penalties (LSB6329HV.1)
Staff Contact: Molly Kilker (515.725.1286) molly.kilker@legis.iowa.gov
Fiscal Note Version – Final Action

Description

[House File 2594](#) establishes organized retail theft as a new criminal offense and provides definitions and penalties. Under the Bill, a person commits organized retail theft when all of the following occur:

- The person is employed by or associated with a retail theft enterprise.
- The person has previously engaged in a pattern of retail theft and intentionally commits an act or directs another member of the retail theft enterprise to act in a violation of Iowa Code section [713.1](#) (burglary); Iowa Code section [714.1](#)(1), 714.1(3), 714.1(4), or 714.1(6) (theft); Iowa Code section [714.7B](#) (theft detection devices); or Iowa Code section [714.7C](#) (theft of pseudoephedrine).
- The person or another member of the retail theft enterprise sells or intends to sell the stolen retail merchandise, advertises or displays any item of the stolen retail merchandise for sale, or returns any item of the stolen retail merchandise to a retailer for anything of value.

House File 2594 includes the following penalties for crimes of organized retail theft:

- A Class C felony if the value of the property stolen exceeds \$5,000.
- A Class D felony if the value of the property stolen is more than \$1,000 but not more than \$5,000.
- A Class D felony if the value of the property is more than \$500 but not more than \$1,000 and the person has been previously convicted two or more times for a violation of organized retail theft; Iowa Code section 713.1, 714.1(1), 714.1(3), 714.1(4), 714.1(6), 714.7B, or 714.7C; or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or an aggravated misdemeanor sentence for the offense, and at least two of the prior convictions occurred in the previous 10 years.
- An aggravated misdemeanor if the value of the property stolen is more than \$500 but not more than \$1,000.
- An aggravated misdemeanor if the value of the property is \$500 or less and the person commits the offense within 10 years of a previous conviction of organized retail theft; Iowa Code section 713.1, 714.1(1), 714.1(3), 714.1(4), 714.1(6), 714.7B, or 714.7C; or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or an aggravated misdemeanor sentence for the offense.
- A serious misdemeanor if the value of the property is \$500 or less.

If a violation of organized retail theft creates a reasonably foreseeable risk of bodily harm to another person, the penalties are enhanced to be one degree higher than the underlying offense.

The Bill takes effect upon enactment.

Background

In FY 2023, there were 203 convictions for burglary under Iowa Code sections 713.3 through 713.6 and 8,466 convictions for theft under the other relevant criminal statutes addressed in the Bill.

A habitual offender (any person who has been convicted of a Class C or Class D felony who has twice before been convicted of any felony in any court in the United States) may be confined for no more than 15 years.

A Class C felony is punishable by confinement for up to 10 years and a fine of at least \$1,370 but no 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 no more than \$10,245. An aggravated misdemeanor is punishable by confinement for up to two years and a fine of at least \$855 but no more than \$8,540. A serious misdemeanor is punishable by confinement for up to one year and a fine of at least \$430 but no more than \$2,560.

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

House File 2594 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, aggravated misdemeanors, and serious 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 (LOS)

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 (Persons)	89.9%	50.3	\$24.94	27.2%	41.3	\$ 7.67	4.3%	\$ 20.00	52.0%	\$ 50.00	22.3	\$ 7.67
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 (Persons)	82.6%	20.5	\$24.94	53.9%	35.3	\$ 7.67	9.8%	\$ 20.00	36.9%	\$ 50.00	15.6	\$ 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 (Persons)	47.6%	10.6	\$24.94	67.6%	25.1	\$ 7.67	5.2%	\$ 20.00	55.9%	\$ 50.00	6.7	\$ 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
Serious Misdemeanor	1.7%	6.6	\$24.94	53.0%	19.2	\$ 7.67	1.2%	\$ 20.00	74.2%	\$ 50.00	N/A	\$ 7.67

Minority Impact

House File 2594 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

House File 2594 creates new criminal offenses, and the fiscal impact 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, an aggravated misdemeanor, and a serious 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
Serious Misdemeanor	\$400 to \$6,900

Sources

Department of Corrections
Criminal and Juvenile Justice Planning, Department of Management
Legislative Services Agency

/s/ Jennifer Acton

May 3, 2024

Doc ID 1449212

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.
