



SF 273 – Sexual Misconduct with Offenders (LSB1224SV)
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Fiscal Note Version – New

Description

Senate File 273 relates to the criminal elements and penalties for the commission of sexual misconduct with offenders and juveniles. The Bill raises the criminal penalty from an aggravated misdemeanor to a Class D felony for the following offenses:

- Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of the Department of Corrections (DOC) engages in a sex act with an individual committed to the custody of the DOC and has specific and actual knowledge the individual is committed to the custody of the DOC.
- An officer, employee, or agent of a judicial district department of correctional services engages in a sex act with an individual under supervision of a judicial district department of correctional services and has specific and actual knowledge the individual is under such supervision.
- Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of a juvenile placement facility engages in a sex act with a juvenile placed at such facility.
- Any peace officer, or an officer, employee, contractor, vendor, volunteer, or agent of a county who engages in a sex act with a prisoner incarcerated in a county jail.

Background

An aggravated misdemeanor is punishable by confinement for no more than two years and a fine of at least \$625 but not more than \$6,250. A Class D felony is punishable by confinement for no more than five years and a fine of at least \$750 but not more than \$7,500.

Currently, a person who violates Iowa Code section [709.16](#) is also subject to a special sentence under Iowa Code section [903B.2](#). A special sentence is a punishment in addition to the punishment for the underlying criminal offense that commits the person into the custody of the Director of the DOC for a period of 10 years. In addition, a person who commits an offense under Iowa Code section [709.16](#) is classified as a tier II sex offender under Iowa Code section [692A.102](#)(1)(b)(12) and is required to register as a sex offender under Iowa Code section [692A.103](#).

In 2018, the DOC had nine substantiated cases of staff sexual misconduct out of 41 reports. The three substantiated cases that were referred to the county attorney for prosecution were denied.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect 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

The correctional impact of [SF 273](#) is estimated to be minimal. Since FY 2014, there have been eight convictions under Iowa Code section [709.16](#). It is uncertain whether an individual who receives a Class D felony under this Bill will be incarcerated or placed under Community-Based Corrections (CBC) supervision.

Table 1 below shows estimates for sentencing to State prison, parole, probation, or CBC residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for all convictions of aggravated misdemeanors and Class D felonies in crimes involving persons. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2019, for information related to the correctional system.

Table 1 — Sentencing Estimates and LOS

Conviction Offense Class	Percent to Prison	FY 18 Avg Length of Stay Prison (months)	FY 18 Marginal Cost/Day Prison	Percent to Probation	FY 18 Avg Length of Stay Probation (months)	FY 18 Avg Cost/Day Probation	Percent to CBC	FY 18 Marginal Cost/Day CBC	FY 18 Avg Length of Stay Parole (months)	FY 18 Marginal Cost/Day Parole	Percent to County Jail	Marginal Cost/Day County Jail
Class D Felony (Sex Offense)	79.0%	34.8	\$18.43	49.0%	42.9	\$5.38	10.0%	\$11.85	2.7	\$5.38	19.0%	\$50.00
Aggravated Misdemeanor (Sex Offense)	72.0%	11.6	\$18.43	64.0%	27.3	\$5.38	4.0%	\$11.85	1.4	\$5.38	28.0%	\$50.00

Minority Impact

The minority impact of [SF 273](#) is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 7, 2019, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of [SF 273](#) is estimated to be minimal due to the low number of convictions since FY 2014. **Table 2** contains estimates for the average State cost per offense class type and the estimated cost increase of raising the penalty from an aggravated misdemeanor to a Class D felony for one conviction. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Table 2 — Estimated Cost Increase for [SF 273](#) Conviction

Offense	Cost Increase Estimate	
	Minimum	Maximum
Class D Felony	\$ 9,200	\$ 28,000
Aggravated Misdemeanor	5,000	10,000
Additional Cost Per Conviction	\$ 4,200	\$ 18,000

Sources

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections

/s/ Holly M. Lyons

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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.
