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**SF 378** – Marijuana Possession Penalty (LSB1653SV)  
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Fiscal Note Version – New

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**Description**

[Senate File 378](#) reduces the penalty for a first offense possession of marijuana of five grams or less from a serious misdemeanor to a simple misdemeanor, effective July 1, 2019.

**Background**

Under current law, a person who commits a first possession of marijuana offense commits a serious misdemeanor, punishable by confinement for up to six months, or by a fine of up to \$1,000, or both. In FY 2018, there were 6,934 first offense possession of marijuana convictions. A serious misdemeanor is punishable by confinement for not more than six months, or by a fine of \$1,000, or by both.

A simple misdemeanor is punishable by confinement of no more than 30 days, or by a fine of at least \$65 but not more than \$625, or both.

**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 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 cost for county jails cannot be estimated due to lack of data. For purposes of this analysis, the marginal cost of county jails is assumed to be \$50 per day.
- 50.0% of the 6,934 first possession of marijuana convictions in FY 2018 involved five grams or less.
- Collection rates for fines resulting from a conviction of a simple misdemeanor total approximately 29.9%.
- Collection rates for fines resulting from a conviction of a serious misdemeanor total 21.3%.

**Correctional Impact**

[Senate File 378](#) would result in an estimated 1,734 fewer serious misdemeanor convictions in FY 2020. This amount would increase to 3,467 fewer convictions in FY 2021. Additionally, there would be fewer jail, prison, Community-Based Corrections (CBC), and residential facility admissions, as well as fewer probation and parole placements. **Table 1** below shows estimates for sentencing to State prison, parole, probation, or CBC residential facilities; LOS under those supervisors; and supervision marginal costs per day for convictions of simple and serious misdemeanors. Please refer to the LSA memo addressed to the General Assembly, [Correctional Impact Memo](#), dated January 8, 2019, for information related to the correctional system.

**Table 1 — Sentencing Estimates and LOS**

	Percent to Prison	FY 18 Avg LOS Prison (months)	FY 18 Marginal Cost/Day Prison	Percent to Probation	FY 18 Avg LOS Probation (months)	FY 18 Avg Cost/Day Probation	Percent to CBC	FY 18 Marginal Cost/Day CBC	FY 18 Avg LOS Parole (months)	FY 18 Marginal Cost/Day Parole	Percent to County Jail	Marginal Cost/Day County Jail
Serious Misdemeanor (Non-Persons)	2.0%	6.4	\$ 19.93	60.0%	13.1	\$ 5.38	1.0%	\$ 11.85	6.8	\$ 5.38	70.0%	\$ 50
Simple Misdemeanor	N/A	N/A	\$ 19.93	N/A	N/A	\$ 5.38	N/A	\$ 11.85	N/A	\$ 5.38	N/A	\$ 50

**Minority Impact**

[Senate File 378](#) is expected to have a positive minority impact on the African American community. In FY 2018, 20.7% of the persons convicted of first offense marijuana possession were African American. The U.S. Census Bureau estimates that as of July 1, 2017, the population of Iowa is 4.5% African American. Please refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 7, 2019, for information related to minorities in the criminal justice system.

**Fiscal Impact**

During FY 2020, it is estimated that there would be 35 fewer admissions to prison, 17 fewer admissions to a CBC residential facility, 745 fewer admissions to jail, and 867 fewer placements of individuals on probation status. These numbers are expected to double in FY 2021 and subsequent years. **Tables 2 and 3** below shows the estimated cost savings to the justice system under [SF 378](#) for both FY 2020 and FY 2021. Annual savings in subsequent fiscal years will be similar to FY 2021.

As fines related to convictions of simple misdemeanors are significantly lower than fines related to convictions of serious misdemeanors, it is likely that fine revenue will decrease as a result of [SF 378](#). Due to limited data and low collection rates, potential fiscal impact cannot be determined at this time.

**Table 2: Estimated Justice System Fiscal Impact — FY 2020**

Conviction Offense Class	Total Convictions	Prison Admissions	Probation Placement	Est. Annual State Cost
<b>Current Law:</b>				
Serious Misdemeanor	3,467	70	1,976	\$ 1,002,080
			<b>Total</b>	<b>\$ 1,002,080</b>
<b>Proposed Law:</b>				
Serious Misdemeanor	1,734	35	988	\$ 560,320
Simple Misdemeanor	1,733	N/A	121	\$ 39,930
			<b>Total</b>	<b>\$ 600,250</b>
			<b>Total Est. Cost Savings FY 2020:</b>	<b>\$ 401,830</b>

**Table 3: Estimated Justice System Fiscal Impact — FY 2021**

<u>Conviction Offense Class</u>	<u>Total Convictions</u>	<u>Prison Admissions</u>	<u>Probation Placement</u>	<u>Est. Annual State Cost</u>
<b>Current Law:</b>				
Serious Misdemeanor	6,934	139	3,952	\$ 2,240,000
			<b>Total</b>	<b>\$ 2,240,000</b>
<b>Proposed Law:</b>				
Serious Misdemeanor	3,467	69	1,976	\$ 1,115,640
Simple Misdemeanor	3,467	N/A	242	\$ 79,860
			<b>Total</b>	<b>\$ 1,195,500</b>
			<b>Total Est. Cost Savings FY 2021:</b>	<b>\$ 1,044,500</b>

Additionally, local governments may experience cost savings resulting from considerably fewer county jail admissions and shorter LOS.

**Sources**

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

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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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