



HF 636 – Firearms, Permits, and Preemption (LSB1147HV)
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Requestor: Representative Wessel-Kroeschell
Fiscal Note Version – New

Description

[House File 636](#) makes several changes to Iowa Code chapter [724](#) by amending Code sections related to carrying, possession, or transportation of weapons on school district property, at places of employment, in buildings on property under the control of a political subdivision, and in county courthouses.

Section 1: School Grounds

The Bill provides that a person with a valid permit to carry weapons may go armed with, carry, or transport a firearm on school district property as long as the person remains on the school sidewalk or in the school parking area or school driveway designed for a motor vehicle. [House File 636](#) also provides a school with legal immunity from any claim, cause of action, or lawsuit seeking damages alleged as a result of a concealed weapon brought onto the school grounds by a person who possesses a valid permit to carry and who has remained on the exempted areas of school grounds. Educational institutions governed by the Board of Regents pursuant to Iowa Code section [262.7](#) are exempted from these provisions.

Section 2: Place of Employment

[House File 636](#) prohibits an employer from barring an employee from carrying, possessing, or transporting a firearm or ammunition on the real property comprising the employee's place of work when the firearm and ammunition are out of sight and inside the employee's locked motor vehicle, and if the carrying, transportation, or possession of the firearm is otherwise lawful in the State. The Bill amends the definition of "employee" to include contract employees and volunteers, and provides that an employer, owner, or lawful possessor of the real property on which the employer is located is legally immune from any claim, cause of action, or lawsuit seeking damages allegedly resulting from any firearm brought onto the property by the employee.

Sections 3 and 4: Property Under the Control of a Political Subdivision

[House File 636](#) modifies existing prohibitions barring a political subdivision from enacting, adopting, or amending any ordinance or similar policy that regulates ownership, possession, legal transfer, transportation, registration, or otherwise lawful licensing of firearms by extending the prohibition to firearm attachments and other weapons. The Bill allows a political subdivision to restrict weapons in buildings and structures under its control if adequate arrangements are made to screen persons for weapons and the political subdivision provides armed security personnel inside the building or structure where the restriction is in effect.

The Bill also provides that any individual adversely affected by a political subdivision's ordinance or similar policy regulating firearms may take legal action to seek damages that have resulted out of the violation. Should the affected individual's legal action prove successful, the presiding court shall also award the individual reasonable attorney fees and litigation costs.

Section 5: County Courthouses

[House File 636](#) strikes existing prohibitions on lawfully carrying, possessing, or transporting a weapon in a county courthouse or joint-use public facility, stating that a Supreme Court or Judicial Branch order that prohibits a person from doing so is unenforceable as long as the carrying, possession, or transportation of such a weapon is otherwise lawful under existing State laws and unless the judicial order applied only to a courtroom, court office, or courthouse used only for Judicial Branch functions. The Bill exempts individual courtrooms and court offices from these provisions.

Background

Under current law, a person who goes armed with, carries, or transports a firearm of any kind, concealed or not, on the grounds of a school commits a Class D felony. A Class D felony is punishable by confinement of no more than five years and a fine of at least \$750 but not more than \$7,500. In FY 2018, there were a total of eight convictions for carrying a weapon on school grounds. Of these convictions, four were related to a weapon discovered inside school property, two were related to a weapon being discovered on school property adjacent to the school, and one was related to an individual walking on a school campus. Data for the eighth conviction is incomplete.

Current law provides that an individual employer is free to create the employer's own regulations regarding firearms and ammunitions on employer's property. [House File 636](#) allows individual employees to keep firearms and ammunition in specific areas under certain circumstances but continues to allow employers to prohibit both items within the actual confines of the workplace.

Pursuant to Iowa Code section [724.28](#), a political subdivision is currently prohibited from enacting, adopting, or amending any ordinance or similar policy that regulates ownership, possession, legal transfer, transportation, registration, or otherwise lawful licensing of firearms. A political subdivision, as referenced in Iowa Code section [724.28](#), is defined as a county, city, or township.

Finally, current law provides that a political subdivision is prohibited from enacting, adopting, or amending any ordinance or similar policy that regulates ownership, possession, legal transfer, transportation, registration, or otherwise lawful licensing of firearms. On June 19, 2017, the Iowa Supreme Court issued a [supervisory order](#) which prohibited all firearms in court-controlled spaces and public areas of courthouses. In December 2017, the Court supplemented the order by requiring county supervisors or other local government officials to file a written request with the Chief Judge of a judicial district to allow firearms in certain areas of a courthouse. Under current law, firearm prohibition measures differ from courthouse to courthouse.

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.
- It is assumed insurance companies, in conjunction with individual schools or school districts, will evaluate the need to update existing individual school or school district insurance

policies for any potential increase in claims related to the exception for being armed with, carrying, or transporting firearms on specific areas of school grounds.

- Providing an exception for carrying firearms on limited school grounds is assumed to increase liability and risk coverage for individual school or school district insurance policies.
- Although the Bill does not so mandate, it is likely individual political subdivisions, including courthouses, will continue to provide some sort of security parameters regarding firearms and ammunition.

Correctional Impact

The correctional impact of [HF 636](#) is expected to be minimal. The Bill creates an exception to an existing offense. Existing data indicates a low number of convictions per year, and any potential fiscal impact arising out of a decrease in convictions is expected to be minimal. **Table 1** below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for all convictions of Class D felonies. 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

	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
Class D Felony (Persons)	80.0%	17.2	\$ 19.93	53.0%	29.5	\$ 5.38	8.0%	\$ 11.85	10.6%	\$ 5.38	31.0%	\$ 50

Fiscal Impact

Section 1

The fiscal impact of Section 1 cannot be determined. Although the State is not expected to incur a fiscal impact, local schools and school districts may incur an increase in insurance coverage costs. Any insurance rate increases are expected to be paid out of the School District Management Fund, which is solely funded by local property taxes, but any potential fiscal impact cannot be determined at this time.

Additionally, individual schools and school districts may experience an increase in operational costs to accommodate changes in school safety and associated local school board policies, but this increase is expected to be minimal.

The fiscal impact of [HF 636](#) pertaining to a decrease in Class D felony convictions arising out of the exception for carrying weapons on school grounds is estimated to be minimal due to the low number of convictions per year. **Table 2** contains estimates for the average State cost for a Class D felony and includes operating costs incurred by the Judicial Branch, the State Public Defender, and the Department of Corrections for one conviction. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Table 2 — Average State Cost per Offense Class Type

Offense Class Type	Total Minimum Cost	Total Maximum Cost
Class D Felony	\$9,200	\$14,100

Section 2

Section 2 is expected to have no fiscal impact. [House File 636](#) explicitly provides that an employer, owner, or lawful possessor of the property on which the employer is located is immune from any claim, cause of action, or lawsuit brought by any person seeking damages that are alleged, directly or indirectly, as a result of any firearm or ammunition brought onto the property of the employer, owner, or lawful possessor by an employee. Legal costs resulting out of any such claim or cause of action would be paid by an individual claimant. Additionally, an employer that has conformed with the provisions of this Bill would not be held liable for any claim arising out of an individual employee experiencing an injury while carrying, transporting, or possessing a firearm or ammunition on the employer's property in violation of the employer's firearm prohibition. Any such claim must be paid out of the injured employee's private insurance policy. As an employer, the State of Iowa receives these immunities from liability as well. Finally, any individual employee who is terminated due to violation of the employer's policy on carrying, transporting, or possessing a firearm in conformance with [HF 636](#) is not eligible to receive unemployment compensation.

Sections 3 and 4

The fiscal impact of Sections 3 and 4 cannot be determined. Section 4 allows a political subdivision to restrict weapons in buildings and structures under its control provided it makes arrangements to screen persons for weapons and they provide armed security personnel inside the building or structure. The associated costs would be the responsibility of the political subdivision and cannot be determined at this time.

Section 5

The fiscal impact of Section 5 cannot be determined. Although the Judicial Branch does not expect to incur any costs related to the implementation of [HF 636](#), individual county courthouses oversee and fund courthouse security parameters. It is possible that individual courthouses and/or county sheriffs who provide courthouse security may experience an increase in security-related costs resulting from the provisions of [HF 636](#), but potential fiscal impact cannot be estimated at this time.

Sources

Department of Education
Iowa Association of School Boards
Board of Regents
Judicial Branch
Attorney General
Criminal and Juvenile Justice Planning Division, Department of Human Rights
LSA analysis

/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.
