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[HF 649](#) – Agricultural Production Facility Trespass (LSB2749HV)  
Analyst: Debra Kozel (515.281.6767) [deb.kozel@legis.iowa.gov](mailto:deb.kozel@legis.iowa.gov)  
Fiscal Note Version – New

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### **Description**

[House File 649](#) creates a criminal offense for agricultural production facility trespass when a person involves the use of deception to obtain access to a facility not open to the public with the intent to cause physical or economic harm or to injure a facility's operations, property, or persons. A person who commits agricultural production facility trespass is guilty of a serious misdemeanor for a first offense and an aggravated misdemeanor for a second or subsequent offense. The Bill also expressly provides for the application of the conspiracy statute under Iowa Code section [706.1](#).

### **Background**

The enactment of [HF 589](#) (FY 2012 Agricultural Production Facility Fraud Act) made it a crime for persons to obtain access to an agricultural production facility using false pretenses. Several groups challenged the law in court and on January 9, 2019, Senior Federal Judge James Gritzner ruled the law was unconstitutional, saying it violates the First Amendment's free speech protections.

A serious misdemeanor is punishable by confinement for no more than one year and a fine of at least \$315 but not more than \$1,875. 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.

In 2018, there were no convictions related to agricultural production facilities or conspiracy. Over the past 10 years, there were four convictions related to agricultural production facilities and 66 for conspiracy.

### **Assumptions**

Other assumptions for the Bill include:

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice system policies and practices will not change over the projection period.
- If passed by the General Assembly, the law will become effective July 1, 2019. 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.

### **Correctional Impact**

The correctional impact of [HF 649](#) cannot be determined. The Bill establishes a new criminal offense and the number of convictions cannot be estimated.

**Table 1** below shows estimates for sentencing to State prison, 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 serious misdemeanors and aggravated misdemeanors 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	Percent to Probation	FY 18 Avg Length of Stay Probation (months)	FY 18 Avg Cost/Day Probation	Percent to CBC	FY 18 Marginal CBC Cost/Day	FY 18 Avg Length of Stay Parole (months)	FY 18 Marginal Cost/Day Parole	Percent to County Jail	Marginal Cost/Day
Aggravated Misdemeanor Persons	46.0%	8.5	\$19.93	71.0%	20.2	\$5.38	5.0%	\$11.85	4.8	\$5.38	53.0%	\$50.00
Serious Misdemeanor Persons	2.0%	6.4	\$19.93	60.0%	13.1	\$5.38	1.0%	\$11.85	6.8	\$5.38	70.0%	\$50.00

**Minority Impact**

The minority impact of [HF 649](#) 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**

[House File 649](#) establishes a new criminal offense, and the resulting cost to the Justice System cannot be estimated. **Table 2** shows estimates for the average State cost per offense class type. The estimates include 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 — Fiscal Estimate to the State Justice System**

<u>Offense</u>	<u>Cost Per Conviction</u>	
	<u>Minimum</u>	<u>Maximum</u>
Serious Misdemeanor	\$ 390	\$ 5,000
Aggravated Misdemeanor	4,700	7,500
Total	<u>\$ 5,090</u>	<u>\$ 12,500</u>

**Sources**

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
LSA calculations

/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.

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