



[HF 2338](#) – Eluding Law Enforcement (LSB5317HV)
Staff Contact: Christin Mechler (515.250.0458) christin.mechler@legis.iowa.gov
Fiscal Note Version – Revised Fiscal Estimate

Description

[House File 2338](#) relates to the criminal offense of eluding or attempting to elude a pursuing law enforcement vehicle. The Bill enhances penalties in Iowa Code section [321.279](#), specifically for a second or subsequent criminal offense of eluding or attempting to elude a law enforcement vehicle. Under [HF 2338](#), a driver of a motor vehicle who is convicted of a second or subsequent violation of Iowa Code section [321.279](#)(1) is guilty of an aggravated misdemeanor. The driver of a motor vehicle who is convicted of a second or subsequent violation of Iowa Code section [321.279](#)(2) is guilty of a Class D felony, and a driver of a motor vehicle who is convicted of a second or subsequent violation of Iowa Code section [321.279](#)(3) is guilty of a Class C felony.

Additionally, [HF 2338](#) prohibits a court from ordering a deferred sentence or deferred judgment for the driver of a motor vehicle convicted of eluding or attempting to elude a pursuing law enforcement vehicle while exceeding the speed limit by 25 miles per hour or more and while violating Iowa Code section [321J.2](#) by operating a motor vehicle while intoxicated (OWI).

Background

Under current law, a driver of a motor vehicle who commits a violation of Iowa Code section [321.279](#)(1) by willfully failing to bring a motor vehicle to a stop or otherwise eluding or attempting to elude a marked law enforcement vehicle is, upon conviction, guilty of a serious misdemeanor. Iowa Code section [321.279](#)(2) states that a driver of a motor vehicle who willfully fails to bring a motor vehicle to a stop or otherwise eludes or attempts to elude a marked law enforcement vehicle, and in doing so, exceeds the speed limit by 25 miles per hour or more, is, upon conviction, guilty of an aggravated misdemeanor. Additionally, a driver of a motor vehicle is, upon conviction of violating Iowa Code section [321.279](#)(3), guilty of a Class D felony. A violation of Iowa Code section [321.279](#)(3) occurs when the driver of a motor vehicle willfully fails to bring a motor vehicle to a stop or otherwise eludes or attempts to elude a marked law enforcement vehicle, and in doing so, exceeds the speed limit by 25 miles per hour or more, and any of the following also occur:

- The driver participates in a public offense as defined in Iowa Code section [702.13](#) that is classified as a felony.
- The driver violates Iowa Code section [321J.2](#) by operating a motor vehicle while under the influence of alcohol or a drug or while having a blood alcohol concentration of .08 or more, or while committing a controlled substance violation under Iowa Code section [124.401](#).
- The offense results in bodily injury to a person other than the driver.

In FY 2019, there were 35 convictions newly admitted to prison as a result of the most serious violations of Iowa Code section [321.279](#). Of these new convictions, 12 were classified as aggravated misdemeanors, and 23 were classified as Class D felonies. Additionally, in FY 2019 there were 31 individuals who entered prison as a result of probation revocation for a most serious offense of Iowa Code section [321.279](#). Of these 31 probation revocations, three were classified as aggravated misdemeanors, and 28 were classified as Class D felonies.

In FY 2019, a total of 135 offenders entered probation for a most serious offense of Iowa Code section [321.279](#), and a total of 25 offenders entered parole.

A serious misdemeanor is punishable by confinement for no more than one year and a fine of at least \$315, but no more than \$1,875.

An aggravated misdemeanor is punishable by confinement for no more than two years and a fine of at least \$650, but no more than \$6,500.

A Class D felony is punishable by confinement for no more than five years and a fine of at least \$750, but no more than \$7,500.

A Class C felony is punishable by confinement for no more than 10 years and a fine of at least \$1,000, but no more than \$10,000.

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.
- In order to extrapolate length of stay cost per month using daily cost data, it is assumed that the average length of one month is 30.4 days.

Correctional Impact

The correctional impact of [HF 2338](#) on new admissions to the correctional system cannot be determined. The Bill enhances penalties for all second or subsequent offenses of Iowa Code section [321.279](#), and the number of new convictions, as well as the number of any potentially redistributed convictions, cannot be determined. The Department of Corrections (DOC) expects that the proposed enhanced penalties will likely increase costs for the Department, as the redistribution of convictions into a higher crime class will result in an increase in the number of prison admissions and the average length of stay per offender. See the Fiscal Impact at the end of this Fiscal Note.

Table 1 provides estimates for sentencing to State prison, parole, probation, or Community Based Corrections (CBC) residential facilities; length of stay under those supervisions; and supervision marginal costs per day for all serious misdemeanor, aggravated misdemeanor, Class D felony, and Class C felony convictions. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 16, 2020, for information related to the correctional system.

Table 1 — Sentencing and Length of Stay Estimates

Conviction Offense Class	Percent to Prison	FY 19 Avg Length of Stay Prison (months)	FY 19 Marginal Cost/Day Prison	FY 19 Avg Length of Stay Parole (months)	FY 19 Marginal Cost/Day Parole	Percent to Probation	FY 19 Avg Length of Stay Probation (months)	FY 19 Avg Cost/Day Probation	Percent to CBC Residential Facility	FY 19 CBC Marginal Cost/Day	Percent to County Jail	Avg Length of Stay in County Jail	Marginal Cost per Day
Class C Felony (Non-Persons)	77.0%	15.6	\$20.38	18.7	\$6.12	64.0%	35.6	\$6.12	13.0%	\$12.58	30.0%	N/A	\$50.00
Class D Felony (Non-Persons)	76.0%	12.2	\$20.38	13.0	\$6.12	64.0%	31.8	\$6.12	12.0%	\$12.58	29.0%	N/A	\$50.00
Aggravated Misdemeanor (Non-Persons)	32.0%	6.9	\$20.38	5.9	\$6.12	51.0%	19.3	\$6.12	3.0%	\$12.58	68.0%	N/A	\$50.00
Serious Misdemeanor	2.0%	5	\$20.38	2.4	\$6.12	56.0%	13.4	\$6.12	1.0%	\$12.58	69.0%	N/A	\$50.00

Minority Impact

The minority impact of [HF 2338](#) is as follows: African Americans comprised 3.6% of the adult population of the State in FY 2019 and 19.6% of the convictions for Iowa Code section [321.279](#) offenses in FY 2019. This exceeds the population proportion of the State, which would lead to a racial impact if trends remain constant. Due to low numbers of other minority populations, the impact on those populations cannot be assessed. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 15, 2020, for information related to minorities in the criminal justice system. **Table 2** provides a breakdown of the demographics of FY 2019 convictions under Iowa Code section [321.279](#) in relation to the percentage of the State’s population.

Table 2 — FY 2019 Convictions and Population Percentage

Demographic	Percentage of FY 2019 Convictions under Iowa Code section 321.279	Demographic Percentage of Iowa's Total Population
White	66.9%	90.2%
African American	19.6%	3.6%
Hispanic	3.2%	6.2%
Other/Unknown	2.7%	3.0%

Fiscal Impact

The change in the number of admissions that will result from [HF 2338](#) cannot be determined. However, if the same number of admissions occur in FY 2021 that occurred in FY 2019, and those offenses reclassified to the new offenses under [HF 2338](#), there would be an estimated cost increase to the DOC of \$164,500 in FY 2021 and \$329,000 in subsequent fiscal years.

Table 3 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 additional conviction. The cost for prison and parole supervision would be incurred across multiple fiscal years.

Table 3 — Average State Cost per Offense Type

Offense	Total Minimum Cost	Total Maximum Cost
Class C Felony	\$ 11,600	\$ 19,400
Class D Felony	\$ 10,000	\$ 14,700
Aggravated Misdemeanor	\$ 5,600	\$ 8,000

Table 4 shows the costs to the DOC associated with the FY 2019 admissions and **Table 5** shows the estimated cost for FY 2021 based on the reclassification of offenses under [HF 2338](#). Both tables utilize the sentencing and length of stay data provided in **Table 2**.

Table 4 — Supervision Costs, FY 2019 Admissions for a Most Serious Violation of Iowa Code Section 321.279 Offenses (Current Law)

Admission Type (Current Law)	Crime Class (Current Law)	Admission Count	Fiscal Estimate (Current Law)
New Prison Admission	Class D Felony	23	\$ 173,846
	Aggravated Misdemeanor	12	\$ 51,299
Prison Admission - Probation Revocation	Class D Felony	28	\$ 211,639
	Aggravated Misdemeanor	3	\$ 12,285
Probation Admission	Class D Felony	76	\$ 449,641
	Aggravated Misdemeanor	48	\$ 172,355
	Serious Misdemeanor	11	\$ 45,433
Parole Admission	Class D Felony	21	\$ 50,791
	Aggravated Misdemeanor	4	\$ 18,977
		Total	\$ 1,186,266

Table 5 — Supervision Costs and Admissions for a Most Serious Violation of Iowa Code Section 321.279 Offenses (Proposed Law)

Admission Type (Proposed Law)	Crime Class (Proposed Law)	Admission Count	Fiscal Estimate (Proposed Law)
New Prison Admission	Class C Felony	23	\$ 222,295
	Class D Felony	12	\$ 90,702
Prison Admission - Probation Revocation	Class C Felony	28	\$ 270,620
	Class D Felony	3	\$ 22,676
Probation Admission	Class C Felony	76	\$ 503,371
	Class D Felony	48	\$ 283,984
	Aggravated Misdemeanor	11	\$ 39,293
Parole Admission	Class C Felony	21	\$ 73,061
	Class D Felony	4	\$ 9,674
		Total	\$ 1,515,678

Sources

Criminal & Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections
Department of Public Safety
Legislative Services Agency

/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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