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[HF 2506](#) – Indecent Exposure (LSB5318HV)  
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Fiscal Note Version – New

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**Description**

[House File 2506](#) relates to the criminal offense of indecent exposure and makes penalties applicable. The Bill expands the existing definition of indecent exposure in Iowa Code section [709.9](#) to include masturbating in public in the presence or view of another adult, or in public in the presence or view of a child. A person who masturbates in public in the presence or view of another adult, not a child, commits a serious misdemeanor. A person who masturbates in public in the presence or view of a child commits an aggravated misdemeanor.

Under the Bill, masturbation is defined as the rubbing or other physical stimulation of a person's own genitals or pubic area for the purpose of sexual gratification or arousal of the person, regardless of whether the genitals or pubic area of that individual are exposed or covered.

**Background**

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.

In FY 2019, there were 44 convictions of indecent exposure under Iowa Code section [709.9](#). Of these 44 convictions, 27 offenders were committed to community-based corrections supervision.

Additionally, a person who violates Iowa Code section [709.9](#) is designated as a Tier I sex offender under Iowa Code section [692A.102\(1\)\(a\)\(5\)](#), and must follow the requirements related to registering as a sex offender pursuant to Iowa Code section [692A.103](#).

**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.
- The daily cost of a person under sex offender intensive supervision totals approximately \$9.80.

**Correctional Impact**

The correctional impact of [HF 2506](#) cannot be determined. The Bill establishes a new criminal offense by amending the definition of indecent exposure, and the number of convictions cannot be estimated. It is likely that [HF 2506](#) will increase the number of persons entering into community-based corrections as a result of this new offense, but the extent of that increase cannot be estimated.

In FY 2019, the average length of stay for an offender serving a violation of indecent exposure totaled approximately 435 days under community-based corrections supervision. **Table 1** displays the 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 a serious misdemeanor and an aggravated misdemeanor. 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 Estimates**

| Offense Type                 | Percent to Prison | FY 19 Avg LOS Prison (months) | FY 19 Marginal Cost/Day Prison | Percent to Probation | FY 19 Avg LOS Probation (months) | FY 19 Marginal Cost/Day Probation | Percent to CBC | FY 19 Marginal Cost/Day CBC | FY 19 Avg LOS Parole (months) | FY 19 Marginal Cost/Day Parole | Percent to County Jail | Marginal Cost/Day County Jail |
|------------------------------|-------------------|-------------------------------|--------------------------------|----------------------|----------------------------------|-----------------------------------|----------------|-----------------------------|-------------------------------|--------------------------------|------------------------|-------------------------------|
| Serious Misdemeanor          | 2.0%              | 5                             | \$ 20.38                       | 56.0%                | 13.4                             | \$ 6.12                           | 1.0%           | \$ 12.58                    | 2.4                           | \$ 6.12                        | 69.0%                  | \$ 50                         |
| Aggravated Misdemeanor (Sex) | 32.0%             | 9.3                           | \$ 20.38                       | 56.0%                | 22.2                             | \$ 6.12                           | 4.0%           | \$ 12.58                    | 1.9                           | \$ 6.12                        | 33.0%                  | \$ 50                         |

**Minority Impact**

The minority impact of [HF 2506](#) is as follows: African Americans comprised 3.6% of the adult population of the State in FY 2019 and 15.9% of the convictions for Iowa Code section [709.9](#) 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** below provides a breakdown of the demographics of the FY 2019 convictions for indecent exposure with respect to percentage of the State’s population.

**Table 2 — FY 2019 Convictions and Population Percentage**

| Demographic      | Percentage of FY 2019 Indecent Exposure Convictions | Demographic Percentage of Iowa’s Total Population |
|------------------|---|---|
| White            | 70.5%   | 90.2%   |
| African American | 15.9%   | 3.6%  |
| Hispanic         | 4.6%  | 6.2%  |
| Other/ Unknown   | 4.6%  | 3.0%  |

**Fiscal Impact**

The fiscal impact of [HF 2506](#) cannot be determined. The Bill expands the definition of indecent exposure and creates a new criminal offense. The resulting number of convictions and cost to the justice system cannot be estimated. **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 would be incurred across multiple fiscal years for prison and parole supervision.

**Table 3 — Average State Cost per Defense Class Type**

| <b>Offense</b>         | <b>Total Minimum Cost</b> | <b>Total Maximum Cost</b> |
|------------------------|---------------------------|---------------------------|
| Serious Misdemeanor    | \$ 410                    | \$ 4,900                  |
| Aggravated Misdemeanor | \$ 5,600                  | \$ 8,000                  |

In FY 2019, the cost of admission to community-based corrections of one additional offender for a violation of indecent exposure totaled approximately \$4,263 annually. This cost was based on an assumed daily cost of \$9.80 per day for an individual under sex offender intensive supervision for an average length of stay of 435 days.

**Sources**

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Department of Corrections  
U.S. Census Bureau

/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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