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[HF 2248](#) – Sexual Abuse, Age of Consent (LSB5163YH)  
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Fiscal Note Version – New

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### **Description**

[House File 2248](#) establishes the criminal offense of sexual activity with an individual 16 or 17 years of age under certain circumstances and provides penalties. The Bill provides that an individual who is 27 years of age or older commits an aggravated misdemeanor when that person engages in sexual activity as defined under Iowa Code section [702.17](#), with another person who is 16 or 17 and is not at the time cohabitating with the person as the person's spouse. The Bill also provides that a person convicted of sexual activity with an individual 16 or 17 years of age under certain circumstances is not subject to a special sentence pursuant to Iowa Code section [903B.2](#).

### **Background**

Pursuant to Iowa Code section [709.4\(1\)\(b\)](#), the age of consent to sexual activity is 16.

In FY 2019, there were 132 convictions under Iowa Code section [709.4](#). Of these convictions, 51 resulted in new prison admissions, and 81 resulted in probation. 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.

### **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.

### **Correctional Impact**

The correctional impact of [HF 2248](#) cannot be determined. [House File 2248](#) establishes a new criminal offense, and the Department of Corrections (DOC) estimates that the provisions of the Bill will result in an increase in the number of convictions under Iowa Code section [709.4](#). However, the extent of that increase cannot be estimated at this time.

**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 of all convictions of a Class D felony in crimes involving sex offenses. 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 and LOS**

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/Day County Jail
Aggravated Misdemeanor (Sex)	78.0%	9.3	\$20.38	1.9	\$6.12	56.0%	22.2	\$6.12	4.0%	\$12.58	33.0%	N/A	\$50.00

**Minority Impact**

[House File 2248](#) creates a new criminal offense and the minority impact cannot be estimated due to a lack of data. 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.

**Fiscal Impact**

The fiscal impact of [HF 2248](#) cannot be determined, as the Bill establishes a new criminal offense, and the resulting cost to the Justice System cannot be determined. The DOC anticipates that the increase in the number of admissions to prison or to probation will result in an increase in operating costs for the Department, but the extent of that increase cannot be determined.

**Table 2** shows estimates for the average State cost for an aggravated misdemeanor. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC 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	Total Minimum Cost	Total Maximum Cost
Aggravated Misdemeanor	\$ 5,600	\$ 8,000

**Sources**

Legislative Services Agency  
 Criminal and Juvenile Justice Planning Division, Department of Human Rights  
 Department of Corrections

/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.