



[SF 2097](#) – Indecent Exposure (LSB5318SV)
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Fiscal Note Version – As amended by [S-5087](#)

Description

[Senate File 2097](#) as amended by the House, relates to the criminal offense of indecent exposure and makes penalties applicable. The Bill expands the definition of indecent exposure in Iowa Code section [709.9](#) to include masturbation, which is defined as the 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 is exposed or covered. The Bill specifies that indecent exposure includes an act in which a person exposes the person’s genitals or pubic area to another individual who is not the person’s spouse, or commits a sex act in the presence of or view of a third person, if all of the following apply:

- The person does so to arouse or satisfy the desires of either party.
- The person knows or reasonably should know that the act is offensive to the viewer.

The Bill provides that a person who masturbates in public in the presence of another person, not a child, commits a serious misdemeanor.

The Bill further provides that a person who masturbates in public in the presence of a child commits an aggravated misdemeanor.

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 \$625, but no more than \$6,250.

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 SF 2097, as amended by the House, cannot be determined. The Bill establishes new criminal offenses by amending the definition of indecent exposure, and the number of convictions cannot be estimated. It is likely that SF 2097 will increase the number of persons entering into community-based corrections as a result of these new offenses, but the extent of that increase cannot be estimated.

In FY 2019, the average length of stay for an offender serving a violation of Iowa Code section [709.9](#) totaled approximately 435 days under community-based corrections supervision. 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.

Minority Impact

The minority impact of SF 2097 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 1 provides a breakdown of the demographics of the FY 2019 convictions under Iowa Code section [709.9](#) with respect to percentage of the State’s population.

Table 1 — 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 SF 2097, as amended by the House, cannot be determined. The Bill expands the definition of indecent exposure and creates two new criminal offenses related to masturbation. The resulting number of convictions and 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 additional conviction. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Table 2 — Average State Cost Per Defense Class Type

Offense	Cost Increase	
	Minimum	Maximum
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 Iowa Code section [709.9](#) 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

June 9, 2020

Doc ID 11372121137212

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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