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[SF 388](#) – Human Trafficking, Massage Therapy Enforcement (LSB2286SV)  
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Fiscal Note Version – New

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**Description**

[Senate File 388](#) relates to certain civil and criminal enforcement activities involving the practice of massage therapy, cosmetology, and human trafficking, and provides penalties. The Bill creates several new crimes punishable as serious misdemeanors, including the following:

- Iowa Code section 152C.5B — A person who is licensed or who purports to be licensed refuses to present a copy of the person’s valid license and government-issued identification to a peace officer immediately upon request.
- Iowa Code section 152C.5C — A person, in an announcement to the public, is prohibited from representing that another person is licensed as a massage therapist or a cosmetologist, when the person knows or has reason to know the other person is not licensed.
- Iowa Code section 157.4B — A person is prohibited from falsely representing the person’s self as being licensed as a massage therapist or a cosmetologist.

Senate File 388 also expands the definition of human trafficking and states that a person engages in human trafficking when:

- A person knowingly provides or facilitates the provision of a forged, altered, or fraudulent license to another person in order to force, coerce, entice, assist, facilitate, or permit the other person to perform labor or services.
- Knowingly forcing, coercing, enticing, assisting, facilitating, or permitting another person in possession of a fraudulent license to produce such license to a peace officer upon request.

Violation of these provisions is an aggravated misdemeanor. If the victim is under 18, the person is guilty of a Class D felony.

Senate File 388 establishes a crime relating to the premises used for human trafficking. A person who has possession of a building where there is reason to suspect human trafficking occurs is guilty of a Class D felony.

The Bill also provides that a court may order restorative expenses for a period of 10 years as part of a human trafficking victim’s restitution and defines restorative expenses. The court is prohibited from considering a defendant’s ability to pay in the court’s decision to order restorative expenses.

**Background**

The penalties for human trafficking under this Bill range from a serious misdemeanor to a Class D felony. Felonies and misdemeanors are punishable by the terms defined in Iowa Code chapters [902](#) and [903](#), respectively.

### **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**

Senate File 388 establishes several new offenses and expands offenses related to human trafficking. The Department of Corrections (DOC) estimates this Bill will result in an increase in convictions in regard to the new licensure requirements as well as the expanded definition for human trafficking. However, a correctional impact cannot be estimated for the portions of this Bill establishing new penalties relating to licensure due to the lack of existing conviction data.

In FY 2019 and FY 2020, there were no human trafficking convictions. Over the last five fiscal years, there have been zero prison admissions for an Iowa Code chapter [710A](#) offense. Similarly, over the course of the last five years, there have been zero admissions to probation for the same offense. It is unknown how many more convictions may result under the expanded definition of human trafficking in Iowa Code chapter 710A, and therefore a correctional impact cannot be estimated. It is important to note that the current correctional impact for offenders convicted of Iowa Code chapter 710A offenses is small due to the low conviction rate.

**Table 1** provides 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 ranging from serious misdemeanors to Class D felonies.

**Table 1 — Sentencing Estimates and LOS**

Offense Class	Ordered to Prison	Prison LOS (months)	Ordered to Probation	Probation LOS (Months)
Serious Misdemeanor	2.1%	10.5	58.5%	15.1
Aggravated Misdemeanor	46.5%	8.9	71.9%	20.2
Class D Felony	86.8%	16.0	47.8%	30.5

Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 26, 2021, for information related to the correctional system.

### **Minority Impact**

Senate File 388 establishes several new offenses and expands offenses related to human trafficking. In FY 2019 and FY 2020, there were no human trafficking convictions. As a result, the Criminal and Juvenile Justice Planning Division (CJJP) of the Department of Human Rights cannot use prior existing data to estimate the minority impact of SF 388. Refer to the LSA

memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 26, 2021, for information related to minorities in the criminal justice system.

**Fiscal Impact**

Senate File 388 establishes several new offenses and expands offenses related to human trafficking, and the fiscal impact cannot be estimated due to the lack of existing conviction data.

**Table 2** contains cost estimates for the average State cost per offense class type for one conviction. The cost estimate includes 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 — Average State Cost Per Offense Class Type**

<u>Offense Class</u>	<u>Total Cost</u>	
	<u>Minimum</u>	<u>Maximum</u>
Serious Misdemeanor	\$ 410	\$ 7,500
Aggravated Misdemeanor	3,700	7,800
Class D Felony	7,700	13,500

The new offense established by SF 388 may also result in an increase in fine and surcharge revenue, but the impact is unknown.

**Sources**

CJJP, Department of Human Rights  
Department of Corrections  
Judicial Branch

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/s/ Holly M. Lyons

February 18, 2021

Doc ID 12133011213301

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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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