



[HF 678](#) – Probation (LSB1853HV)
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Fiscal Note Version – New

Description

[House File 678](#) relates to probation and provides penalties.

Discharge from Probation

House File 678 allows a defendant to be discharged from probation if the court determines that the purposes of probation have been fulfilled, and fees and court debt have been paid or are subject to a payment plan. The Bill requires a probation officer to submit a report with a recommendation for termination, modification, or continuance of the probation if the defendant has successfully completed one-half of the length of the defendant's probation. If the probation officer's recommendation is against early termination, the defendant may request a hearing on the matter. The Bill outlines the circumstances the court must consider during the hearing.

Under this Bill, if at the expiration of the period of probation, fees and court debt have been paid or are subject to a payment plan, the court is required to order the discharge of the person from probation and the defendant's record must be expunged in accordance with Iowa Code section [907.9\(4\)\(b\)](#). The court is required to send the Governor a recommendation for or against restoration of citizenship rights to that person upon discharge. If the court's recommendation to the Governor is against restoration, the court must provide a written explanation and give notice to the defendant of the defendant's right to appear at a hearing.

Discharge and Education Credits

House File 678 provides that a defendant must earn a discharge credit of 14 days reduction from the term of probation for each full calendar month in which the defendant has not violated any terms of probation. A defendant on probation shall earn an educational credit and have the defendant's probation sentence reduced by 90 days if, during the period of probation, the defendant earns a high school diploma or high school equivalency certificate or successfully completes a certified vocational program, certified technical program, certified career education program, or training program.

Probation Violations — Revocation and Resentencing

Under the Bill, upon violation of probation, the court must not impose a sentence of imprisonment unless the defendant has been convicted of a new crime or, based on the testimony of the defendant's probation officer, the conduct of the defendant indicates that it is likely that the defendant will commit another crime and no other condition of supervision or treatment would decrease this likelihood. If the court finds any of these factors, the court must follow the following sentencing guidelines:

- The court must not sentence the defendant to imprisonment on a first or second technical violation.
- The court may impose a sentence of up to seven days of imprisonment upon a third technical violation.

- The court may impose a sentence of up to 15 days of imprisonment upon a fourth technical violation.
- The court may sentence the defendant to up to 30 days in prison for a technical violation of certain conditions of probation specified at the beginning of the defendant's period of probation.

The Bill requires a technical revocation hearing and sets out provisions for the hearing, including the defendant's right to be heard. The court may revoke probation if the defendant has been convicted of a new crime.

Payment of Fines and Fees

House File 678 provides that the court shall direct a defendant to pay fines and fees in conjunction with a term of probation, and the court must create a payment plan based on the defendant's ability to pay. Upon the receipt of a petition from a probation officer for termination of a defendant's probation, the court must not consider the defendant's lack of payment of fines and fees as a disqualifying factor for early termination of the defendant's probation unless the defendant has been found to be able to afford payments but has purposefully avoided making those payments. The Bill provides that a defendant who is compliant with the conditions of probation is not precluded from obtaining an Iowa driver's license due to lack of payment of fines and fees, unless the defendant is found to be able to afford payments and is purposefully avoiding making payments.

Background

Iowa law provides that upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the trial court may defer judgment and place the defendant on probation upon conditions as it may require, defer the sentence and assign the defendant to a judicial district department of correctional service, or suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community residential treatment facility to be followed by a period of probation.

Current law requires fees and court debt to be paid before a defendant can be discharged from probation. In addition, upon a defendant's discharge from probation, if the defendant's judgment has been deferred, the court's criminal record of the deferred judgment and other related information must be expunged, but expungement is only allowed if the defendant has paid for all restitution, civil penalties, court costs, fees, or other obligations.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends, prisoner length of stay (LOS), 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 number of reviews would be 75.0% of the number of probation admissions per year, or 11,110. It is assumed that an average of 20 minutes of court time would be required for each probation review, which would involve reviewing criminal records and probation officer reports, hearing from defendants, and issuing orders related to the hearing.
- Courts would recommend against restoration of citizenship one time for every 10 probation admissions or 1,481. It would require an average of 30 minutes of court time for a judge to

make a written report, and also schedule and conduct a hearing in cases where restoration of citizenship rights is not recommended.

- The Bill would require approximately 3,703 hours of court time for probation review hearings per year and 741 hours of court time for courts to make written recommendations and conduct hearings related to recommendations against restoration of citizenship rights.
- Half of the additional court time from this Bill will involve hearings before a district court judge and the other half will involve hearings before a district associate judge (DAJ).
- The cost for a one-hour hearing before a DAJ and staff is \$202. The cost for a one-hour hearing before a district court judge and staff is \$214.

Correctional Impact

House File 678 is estimated to have a correctional impact and reduce the number of individuals entering prison on a probation violation, the number of individuals actively under probation supervision, and the length of stay for some under probation supervision. The impact is detailed by each section below.

Discharge from Probation

At the end of FY 2020, there were 36,069 individuals actively under probation supervision. The Department of Corrections (DOC) expects that some of those actively supervised would be eligible for discharge. The number of those eligible for discharge consideration cannot be determined.

Discharge and Education Credits

This portion of the Bill will reduce the length of stay for some under probation supervision, but the extent of that decrease will be specific to each individual. The number of clients who serve their probation term with or without violations varies, therefore the impact is difficult to estimate.

Probation Violations

This portion of the Bill is estimated to reduce the admissions to prison as a result of probation revocations. The current proportion of probation revocations which are the result of arrests versus technical violations is unknown, therefore an estimate showing a 25.0% reduction and a 50.0% reduction in probation admissions is provided. **Table 1** shows the proportion of FY 2020 prison admissions by offense class type who were admitted to prison as a result of probation revocations and the potential reduction in admissions.

Table 1 — Estimated Reduction in Prison Admissions from Probation Revocations

	Current Prison Admissions	Estimated HF 678 Admissions			
		25.0% Reduction in Admissions	50.0% Reduction in Admissions	Total with 25.0% Reduction	Total with 50.0% Reduction
Class B Felony	20	-5	-10	15	10
Class C Felony	278	-70	-139	209	139
Class D Felony	761	-190	-381	571	381
Other Felony	71	-18	-36	53	36
Aggravated Misd.	331	-83	-166	248	166
Serious Misd.	5	-1	-3	4	3
Total	1466	-367	-733	1100	733

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

This Bill will likely have a minority impact based on the current Iowa and probation population demographics. **Table 2** provides the probation demographic as of the end of FY 2020 compared to the 2020 Iowa population.

Table 2 — Probation Population and Iowa Population Demographics

	<u>Probation Population</u>	<u>Iowa Population</u>
Caucasian	74.0%	89.9%
African American	19.0%	4.1%
Hispanic	5.0%	6.3%
Asian/Pacific Islander	1.0%	0.1%
Native American	1.0%	0.4%

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

Department of Corrections

Several provisions in this Bill will potentially reduce probation time for those under probation supervision. Based on the estimated correctional impact range, the cost of prison admissions from probation revocations could be reduced by 25.0% to 50.0%. The reduction in probation revocations is estimated to result in a cost savings ranging from \$2.9 million to \$5.8 million (**Table 3**). This cost savings would be experienced over the course of one group's incarceration term.

Table 3 — HF 678 Estimated Cost Reduction

	<u>Current Prison Admissions</u>	<u>Prison LOS (Day)</u>	<u>Marginal Costs Per Day</u>	<u>Total Current Costs</u>	<u>25.0% Cost Reduction</u>	<u>50.0% Cost Reduction</u>
Class B Felony	20	1302	\$ 20.33	\$ 529,393	\$ 132,348	\$ 264,697
Class C Felony	278	532	20.33	3,006,726	751,681	1,503,363
Class D Felony	761	359	20.33	5,554,136	1,388,534	2,777,068
Other Felony	71	642	20.33	926,682	231,671	463,341
Aggravated Misd.	331	234	20.33	1,574,640	393,660	787,320
Serious Misd.	5	262	20.33	26,632	6,658	13,316
Total	<u>1466</u>			<u>\$ 11,616,209</u>	<u>\$ 2,904,552</u>	<u>\$ 5,809,104</u>

In addition, the provisions relating to discharge from probation and education credits may reduce the population under probation supervision, further increasing the cost savings to the DOC.

Judicial Branch

House File 678 is estimated to have an increased cost of \$924,000 per year on the Judicial Branch operating budget. The 4,444 additional hours of court time for probation review and hearings related to recommendations against restoration of citizenship rights would result in this increase in court costs related to staff and district court judge or district associate judge time.

General Fund — Payment of Fines and Fees

The provisions of HF 678 related to payment of fines and court debts, including provisions requiring payment plans to be set up, may affect the rate of payment and collection of court debt, but the extent of the impact cannot be estimated at this time.

Sources

Department of Corrections
Judicial Branch

/s/ Holly M. Lyons

March 2, 2021

Doc ID 1214163

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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