



[SF 560](#) – Public Defenders, Discovery Request Fees (LSB1205SV)
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Fiscal Note Version – New

Description

[Senate File 560](#) relates to the assessment of fees when a public defender or designee requests copies of certain documents. The Bill requires an agency to furnish copies of any document in the possession of the agency that the agency has the technological capacity to duplicate at a cost not to exceed \$10 per document, upon request of the State Public Defender, a public defender office, or an attorney or nonprofit legal organization appointed by the court as a designee of the State Public Defender. The Bill defines “agency” and details the documents applicable under the Bill. Under the Bill, when a document is provided on a storage system, the agency must, upon request, include the software necessary to access the storage system.

Background

Currently, State agencies and local governments may charge a fee to the State Public Defender for discovery documents. The fees vary by the local or State agency providing the document and the document being provided. The fees are paid from the Indigent Defense Fund.

Assumptions

- The Bill will not change existing discovery practices and procedures other than to impose an upper limit on the amount that can be charged for the production of documents to an indigent defendant or person during a criminal case or other proceeding in which the indigent person is entitled to representation at State expense.
- Entities will charge the maximum amount allowed by the Bill, \$10 per document.
- A minimum of three documents will be produced in each criminal and juvenile case.
- The number of claims filed and closed in a fiscal year will reflect the number of cases where documents will be requested.
- The Bill does not require clerks’ offices to provide paper copies of electronic documents that are already available electronically.
- The average annual total paid by the Indigent Defense Fund for the production of documents is \$114,000, and the State Public Defender processes and closes an average of 132,000 cases annually. It is assumed that the number of claims to the Indigent Defense Fund for discovery requests will remain consistent in future fiscal years.

Fiscal Impact

Senate File 560 is estimated to result in a cost increase to the Indigent Defense Fund of approximately \$3.9 million per year beginning in FY 2022. This increase is due to the fact that entities may charge \$10 per document, rather than per request, which is estimated to result in an increase in costs to the Indigent Defense Fund. **Table 1** provides the annual estimated costs to the Indigent Defense Fund under this Bill and current law.

Table 1 — Indigent Defense Fund — Annual Discovery Request Fee Costs

<u>Annual Cases</u>	<u>Current Law</u>	<u>SF 560</u>	<u>SF 560 Cost Increase</u>
132,000	\$ 114,000	\$ 3,960,000	\$ 3,846,000

Additionally, SF 560 is estimated to have an impact on several local agencies applicable under the Bill, including but not limited to local law enforcement and county attorneys. Due to the varying nature of fees charged by local agencies for discovery materials, the overall local impact of the \$10 fee cap per document cannot be determined and will vary on a case-by-case basis.

Sources

Office of the State Public Defender
Judicial Branch
LSA analysis

/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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