



[SF 529](#) – Fertility Fraud (LSB2551SV)
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Fiscal Note Version – New

Description

[Senate File 529](#) creates the “Fraud in Assisted Reproduction Act.” The Bill prohibits the following:

- A person from engaging in a practice or act the person knows or reasonably should have known provides false information to a patient related to an assisted reproduction procedure or treatment.
- A physician from using or providing human reproductive material for assisted reproduction other than that to which the patient consented in writing, and prohibits a health facility from providing a patient with human reproductive material for assisted reproduction other than that agreed to in writing between the patient and the health facility or that is not provided in compliance with the agreement between the donor and the health facility.

A person who violates these provisions of the Bill is guilty of a Class C felony. Additionally, a violation of these provisions by a physician, health care professional, or health facility is grounds for sanction related to the practice of the profession or maintenance of a facility regulated by the State. The Bill provides for a private cause of action to be brought for compensatory and punitive damages against any person who engaged in prohibited practice or act in violation of this Bill.

Senate File 529 also provides that a physician commits sexual abuse in the third degree when the physician violates the Bill by implanting the physician’s own human reproductive material through assisted reproduction without the patient’s prior knowledge and written consent. Sexual abuse in the third degree is also a Class C felony.

Background

A Class C felony is punishable by confinement for no more than 10 years and a fine of at least \$1,370 but not more than \$13,660.

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.

Correctional Impact

Senate File 529 establishes a new offense and expands the definition of sexual abuse in the third degree, and a correctional impact cannot be estimated due to a lack of existing conviction data. **Table 1** provides estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of Class C felonies. Refer to the

Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 22, 2021, for information related to the correctional system.

Table 1 — LOS and Sentencing Estimates

Conviction Offense Class	Percent to Prison	Avg Length of Stay Prison (months)	FY 20 Marginal Cost/Day Prison	Percent Ordered to Probation	Avg LOS on Probation	Avg Cost Per Day on Probation	Percent Sentenced to CBC Residential Facility	FY 20 Marginal Cost CBC Per Day	Percent Ordered to County Jail	Avg Length of Stay in County Jail	Marginal Cost Per Day	Avg LOS on Parole	FY 20 Average Cost Per Day Parole
Class C Felony (Persons)	89.0%	38.6	\$20.33	27.9%	34.1	\$5.38	5.5%	\$14.78	49.1%	N/A	\$50.00	21.5	\$5.38
Class C Felony (Sex Offense)	91.0%	76.0	\$20.33	34.1%	50.0	\$5.38	5.5%	\$14.78	32.7%	N/A	\$50.00	7.2	\$5.38

Minority Impact

Senate File 529 establishes a new offense and expands the definition of sexual abuse in the third degree. 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 529. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 27, 2021, for information related to minorities in the criminal justice system.

Fiscal Impact

Senate File 529 establishes several new offenses, and the fiscal impact cannot be estimated due to the lack of existing conviction data. The average State cost per one conviction of a Class C felony ranges from \$9,900 to \$19,200. 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.

Sources

CJJP, Department of Human Rights
 Department of Corrections
 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.
