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[SF 533](#) – Marijuana Possession (LSB2773SV)  
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Fiscal Note Version – New

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### **Description**

[Senate File 533](#) provides that for a first offense, a person who possesses five grams or less of marijuana commits a simple misdemeanor. The Bill does not modify the existing penalties for a second or third offense of marijuana possession.

### **Background**

Under current law, a person who commits a first offense possession of marijuana is subject to no more than six months imprisonment in a county jail, a fine of \$1,000, or both and is guilty of a serious misdemeanor.

A simple misdemeanor is punishable by confinement of no more than 30 days and a fine of at least \$105 but not more than \$855. A serious misdemeanor is punishable by confinement for no more than one year and a fine of at least \$430 but not more than \$2,560.

### **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.
- Information regarding drug amounts in relation to individual offender sentences is difficult to extract from existing Department of Corrections (DOC) data systems. For estimating purposes, it is assumed that 50.0% of the individuals in one cohort of probation and residential admissions will be affected by SF 533 and experience a sentencing reduction.
- For estimating LOS, one month is assumed to consist of 30 days.

### **Correctional Impact**

Senate File 533 lowers the criminal penalty for a first offense possession of marijuana. In FY 2020, there were 587 individuals who entered probation and 93 individuals who entered residential supervision on a most serious offense of Iowa Code section [124.401\(5\)](#). The DOC estimates that of the 680 individual admissions, 341 fewer individuals would be admitted to probation or parole if SF 533 is enacted. **Table 1** provides the estimated total cost of parole and probation admissions for one cohort of most serious first offense possession of marijuana convictions under current law in comparison to estimated total cost of parole and probation admissions for one cohort of most serious first offense possession of marijuana convictions under SF 533. 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 — Estimated Cost of First Offense Marijuana Parole and Probation Admissions, Current Law and Proposed Law, SF 533**

<b>Current Law</b>				
	<u>Admissions</u>	<u>LOS (in months)</u>	<u>Cost (per day)</u>	<u>Total Cost</u>
Probation	587	13	\$ 5.38	\$ 1,234,643
Residential	93	3	95.38	798,331
			<b>Total</b>	<b>\$ 2,032,974</b>
<b>Proposed Law</b>				
	<u>Admissions</u>	<u>LOS (in months)</u>	<u>Cost (per day)</u>	<u>Total Cost</u>
Probation	294	13	\$ 5.38	\$ 616,871
Residential	46	3	95.38	394,873
			<b>Total</b>	<b>\$ 1,011,744</b>

The DOC estimates that the changes that SF 533 makes to the penalties of a first offense possession of marijuana under five grams or less in related penalties will result in a cost savings of \$1.0 million to the correctional system.

**Minority Impact**

Senate File 533 is estimated to have a positive minority impact. The Bill decreases the criminal penalty associated with a first offense marijuana possession conviction. In FY 2020, of the total 680 individuals admitted to parole and probation, 451 individuals, or 66.0%, were Caucasian, and 123 individuals, or 18.0%, were African American. In FY 2020, Caucasians and African Americans made up 89.9% and 4.1% of the Iowa adult population, respectively. This indicates a conviction rate for African Americans that exceeds the population proportion of the State. The decrease of the criminal penalty associated with a first offense of marijuana possession may also lead to a decrease in the disproportionate minority impact. 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 533 lowers the criminal penalty for a first offense possession of marijuana. **Table 2** shows the decrease in cost for the average State cost per offense class type for one first offense possession of marijuana conviction. The cost estimate includes operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC 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>Cost Per Conviction</u>	
	<u>Minimum</u>	<u>Maximum</u>
Simple Misdemeanor	\$ 40	\$ 350
Serious Misdemeanor	410	7,500
	\$ -370	\$ -7,150

Utilizing the data related to one cohort of FY 2020 first offense marijuana admission, SF 533, if enacted, may result in an estimated cost savings ranging from \$252,000 to \$4.9 million. This estimate includes the cost savings of the DOC as listed under the correctional impact section.

**Sources**

Department of Corrections  
Criminal and Juvenile Justice Planning Division, Department of Human Rights  
LSA analysis

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/s/ Holly M. Lyons

March 12, 2021

Doc ID 1216823

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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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