



[HF 791](#) – Law Enforcement (LSB2760HV)
Staff Contact: Christin Mechler (515.250.0458) christin.mechler@legis.iowa.gov
Fiscal Note Version – New

Description

[House File 791](#) relates to numerous issues involving law enforcement and public safety, including public records, fraudulent filings, public safety employee benefits and workers' compensation, State and municipal tort claims, eluding law enforcement, and firearms.

Division I: Public Records

Division I expands the definition of persons eligible to participate in the [Address Confidentiality Program](#) under Iowa Code Chapter [9E](#) to include an Iowa resident, adult, minor, or incapacitated person who is one of the following:

- A victim of domestic abuse, including but not limited to assault, stalking, and human trafficking.
- A currently active or retired State or local judicial officer, or a spouse or child thereof.
- A currently active or retired State or local prosecuting attorney, or a spouse or child thereof.
- A currently active or retired peace officer, or a spouse or child thereof.

The existing Open Records Law under Iowa Code Chapter [22](#) states that a person shall not be assessed damages if the person had good reason to believe and in good faith believed facts, which, if true, would have complied with the law. House File 791 defines “good reason to believe and in good faith believed” to mean the person engaged in a balancing test in weighing individual privacy interest against the public’s need to access records based on facts.

Division II: Fraudulent Filings

This Division allows a filing office to refuse to accept a financial filing statement if such is determined to be out of compliance with the Uniform Commercial Code (UCC), is intended for improper use, names the same person as both the debtor and secured party, is outside of the scope of applicable law, and is filed for a purpose other than a transaction within the scope of the UCC. When a filing office becomes aware such a statement or record was filed improperly, it is required to investigate and determine if the record was wrongfully filed. Filings deemed void and ineffective will be removed from the record and the filing office shall inform the person who filed the record.

Division III: Public Safety Employees, Accrued Sick Leave Upon Retirement

This Division provides that a retired public safety employee who has applied for retirement benefits under an eligible retirement system shall receive credit for all accumulated and unused sick leave, which shall be converted to current value and credited to the employee’s account for the purpose of paying monthly health insurance premiums. Upon the death of the employee, the surviving spouse shall be entitled to these same benefits. It is current Department of Public Safety practice to allow retiring employees to convert sick leave upon retirement for this purpose. The provision extends the benefit to the surviving spouse.

Division IV: Workers' Compensation, Actions and Offsets

Division IV amends Iowa Code section [85.26](#) to provide that an original proceeding for benefits shall not be maintained in a contested case unless the proceeding begins within two years of the date of occurrence of the injury, or one year from the date the employee receives denial of liability, whichever is later. Current law limits this provision to two years from the date when the injury occurred. Division IV also provides that any workers' compensation benefits received by a person for past or future medical expenses, or any workers' compensation benefits received for reimbursement of used vacation or sick time, or for any unpaid time off from work shall not be offset against nor considered payable in lieu of any retirement allowance payable under the Iowa Public Employees' Retirement System on account of the same disability.

Division V: Civil Service Commission Examinations

This Division requires the Civil Service Commission to hire persons with expertise to prepare and administer examinations approved by the Commission for entrance and promotional examinations. Under current law, the Commission may choose to hire individuals with expertise.

Division VI: State and Municipal Tort Claims

Division VI establishes immunity from tort claims for State employees and employees of governmental subdivisions for any claim arising out of an act or omission committed by the employee during the execution of or enforcement of any law, unless the act constitutes willful or wanton misconduct. The Bill clarifies that this does not waive a defense of governmental immunity to any claim or action brought against law enforcement, a public safety officer, employee, or volunteer. The Bill also requires that a governing body of a municipality must purchase and maintain insurance or join a local government risk pool for claims for punitive damages in tort actions arising out of alleged actions or omissions brought against law enforcement, public safety officers, employees, and volunteers, whether elected or appointed, in the course of their employment.

Division VII: Law Enforcement

Division VII establishes that in addition to other remedies available, an officer as defined under Iowa Code section [80F.1](#) shall have the right to pursue civil remedies against any person, group of persons, employer, organization or corporation for damages arising out of the filing of a false complaint, or any other violation pursuant to Iowa Code Chapter [80F](#). A formal administrative investigation, informal inquiry, or interview of an officer shall not occur unless the complaint filed against the officer was filed within 180 days of the occurrence of the alleged action. Should an investigation lead to any punitive actions, such will be held in abeyance until the conclusion of any appeal or grievance process exercised by the officer.

Section 17 of Division VII increases the penalty for willfully failing to bring a vehicle to a stop or otherwise eluding or attempting to elude a marked official law enforcement vehicle driven by a peace officer after being given a visual and audible signal to stop from a serious to an aggravated misdemeanor. This Section also expands the crime of eluding law enforcement to include eluding law enforcement in an unmarked vehicle, or an officer who is ununiformed. The driver of a motor vehicle who commits a second or subsequent violation of eluding law enforcement is guilty of a Class D felony. Under current law, a driver who commits a violation in this manner is guilty of an aggravated misdemeanor.

Section 17 also provides the following penalties for eluding or attempting to elude law enforcement:

- If, on a first offense, the driver of a motor vehicle eludes or attempts to elude law enforcement after a visual and audible signal has been given, and in doing so exceeds the speed limit by 25 miles per hour (mph), the driver is guilty of a Class D felony. Under

current law, a person who commits a violation in this manner is guilty of an aggravated misdemeanor. A person who commits a second or subsequent violation in this manner is guilty of a Class C felony. Under current law, a person who commits a second or subsequent violation is guilty of a Class D felony.

- A driver who eludes or attempts to elude a law enforcement vehicle and has previously eluded or attempted to elude a law enforcement vehicle and when doing so committed an offense that resulted in bodily injury to another person is guilty of a Class B felony.
- A driver who eludes or attempts to elude law enforcement after a visual and audible signal has been given, exceeds the speed limit by 25 mph, and is operating under the influence of alcohol or drugs with a blood alcohol content of .08% or more, or is manufacturing, delivering, or possessing illegal substances under Iowa Code section [124.401](#) is guilty of a Class D felony. A person who commits a second or subsequent violation in this manner is guilty of a Class C felony.
- A driver who eludes or attempts to elude law enforcement after being given a signal and in doing so commits an offense that results in bodily injury to another person is guilty of a Class C felony. A person who commits a second or subsequent violation in this manner is guilty of a Class B felony.
- A person commits a Class B felony if the person unintentionally causes the death of another by eluding or attempting to elude a law enforcement vehicle.
- A person commits a Class C felony if the person unintentionally causes serious injury of another by eluding or attempting to elude a law enforcement vehicle.

Section 17 allows law enforcement to retain possession of a motor vehicle of a person suspected to be in violation of the above until the final disposition of a criminal proceeding, if the person was the registered owner of the vehicle at the time of the violation.

Section 18 of Division VII relates to vehicular homicide and provides that a person is guilty of a Class C felony when the person unintentionally causes the death of another person by driving a motor vehicle with willful or wanton disregard for the safety of persons and property. The section explicitly states a person's use of a hand-held electronic communication device to write, send, or view an electronic message while driving is considered evidence sufficient to establish a fact or raise presumption that the person was driving in a reckless manner with willful or wanton disregard of the safety of persons or property.

Section 19 of Division VII establishes the requirement that a peace officer carry a firearm at all times while engaged in the performance of official duties.

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

Divisions I through VI are not estimated to have a correctional impact.

Division VII

House File 791 increases several penalties related to the crime of eluding or attempting to elude law enforcement. In FY 2020, a total of 284 individuals entered into the correctional system for violations under Iowa Code section [321.279](#). **Table 1** provides the total cost of prison and

probation admissions for one cohort of convictions of eluding or attempting to elude law enforcement under current law.

Table 1 — Estimated Cost to the Correctional System, Eluding Law Enforcement, Current Law

Current Law				
Offense Class	Admissions	LOS (in days)	Cost/Day (Marginal)	Total Cost
Prison				
Class D Felony	48	353	\$ 20.33	\$ 344,472
Aggravated Misdemeanor	9	216	20.33	39,522
Probation				
Class C Felony	1	1,113	\$ 5.83	\$ 6,489
Class D Felony	53	1,015	5.83	313,625
Aggravated Misdemeanor	38	614	5.83	136,026
Serious Misdemeanor	15	459	5.83	40,140
Parole				
Class D Felony	40	383	\$ 5.83	\$ 89,316
Aggravated Misdemeanor	14	182	5.83	14,855
Residential				
Class D Felony	42	88	\$ 95.83	\$ 354,188
Aggravated Misdemeanor	19	88	95.83	160,228
Serious Misdemeanor	5	88	95.83	42,165
			Total	\$ 1,541,023

Table 2 provides the estimated total cost of prison and probation admissions for one cohort of convictions under Iowa Code section 321.279 as proposed by HF 791.

Table 2 — Estimated Cost of Assault Prison and Probation Admissions, HF 791

Proposed Law				
Offense Class	Admissions	LOS (in days)	Cost/Day (Marginal)	Total Cost
Prison				
Class C Felony	48	517	\$ 20.33	\$ 504,509
Class D Felony	9	353	20.33	64,588
Probation				
Class B Felony	1	1,316	\$ 5.83	\$ 7,672
Class C Felony	53	1,113	5.83	343,906
Class D Felony	38	1,015	5.83	224,863
Aggravated Misdemeanor	15	614	5.83	53,694
Parole				
Class C Felony	40	562	\$ 5.83	\$ 131,058
Class D Felony	14	383	5.83	31,260
Residential				
Class C Felony	42	88	\$ 95.83	\$ 354,188
Class D Felony	19	88	95.83	160,228
Aggravated Misdemeanor	5	88	95.83	42,165
			Total	\$ 1,918,133

The Department of Corrections (DOC) estimates that the increase in penalties related to eluding law enforcement proposed in HF 791 will lead to an increase of \$377,110 in costs to the correctional system.

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.

Minority Impact

Divisions I through VI are not estimated to have a minority impact.

Division VII

House File 791 increases penalties for eluding or attempting to elude law enforcement. Of the 284 individuals who entered the correctional system for a violation of Iowa Code section 321.279 in FY 2020, 211, or 74.2% were Caucasian, and 54, or 19.0% were African American. In FY 2020, Caucasians and African Americans made up 89.9% and 4.1% of the Iowa adult population, respectively. The conviction rate for African Americans exceeds the population proportion of the State, which would lead to a racial impact if trends remain constant.

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

Divisions I through III, Division V, and Division VI are not expected to have a fiscal impact.

Division IV

Division IV of HF 791 extends the time period an injured employee may file for litigation for a worker’s compensation claim. The Department of Workforce Development estimates that this would result in an increase in filed claims of up to 300 claims annually. The IWD charges \$100 per workers’ compensation filing claim. In order to accommodate the increased workload related to the increase in claims, the IWD estimates that it will need to hire an additional Deputy Commissioner, Clerk, and Word Processor. Additionally, the Department states that updates would need to be made to existing workstations. **Table 3** shows the total cost to the IWD, including the accounting for fee revenue, should HF 791 be enacted.

Table 3 — Estimated Costs and Fee Revenue to IWD, HF 791

Expenses	FY 2022	FY 2023
Clerk I		
Salary/Benefits	\$ 40,100	\$ 41,300
Word Processor I		
Salary/Benefits	44,500	45,835
Deputy Commissioner		
Salary/Benefits	113,500	116,890
Workstation Updates	\$ 20,000	0
Fee Revenue		
Filing Fees	\$ 30,000	\$ 30,000
Total Cost	\$ 188,100	\$ 174,025

Division VII

House File 791 establishes new crimes related to eluding law enforcement and reckless driving, and increases the penalties for several existing crimes related to eluding law enforcement. The fiscal impact of this section cannot be determined due to the lack of data. **Table 4** depicts the increase in cost for the average State cost per offense class type for one conviction of disorderly conduct. 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 4 — Average State Cost Per Offense Class Type, HF 791

Offenses with Increased Penalties		
Offense and Offense Class	Total Cost	
	Minimum	Maximum
<i>Eluding Law Enforcement</i>		
Aggravated Misdemeanor	\$ 3,700	\$ 7,800
Serious Misdemeanor	410	7,500
Cost Increase	\$ 3,290	\$ 300
<i>Eluding Law Enforcement - 2nd Offense or 1st Offense over 25 mph</i>		
Class D Felony	\$ 7,700	\$ 13,500
Aggravated Misdemeanor	3,700	7,800
Cost Increase	\$ 4,000	\$ 5,700
<i>Eluding Law Enforcement over 25 mph - 2nd Offense</i>		
Class C Felony	\$ 9,900	\$ 19,200
Class D Felony	7,700	13,500
Cost Increase	\$ 2,200	\$ 5,700
New Offenses		
Offense and Offense Class	Total Cost	
	Minimum	Maximum
<i>Eluding Law Enforcement, Bodily Injury</i>		
Class C Felony	\$ 9,900	\$ 19,200
<i>Eluding Law Enforcement, Bodily Injury-2nd Offense</i>		
Class B Felony	\$ 12,700	\$ 35,800
<i>Eluding Law Enforcement, Serious Injury</i>		
Class C Felony	\$ 9,900	\$ 19,200
<i>Eluding Law Enforcement, Death</i>		
Class B Felony	\$ 12,700	\$ 35,800

The establishment of new crimes and changes to existing crimes and existing criminal penalties as provided by HF 791 may impact criminal fine and surcharge revenue, but the impact of these changes cannot be determined at this time.

Sources

Department of Corrections
Criminal and Juvenile Justice Planning Division, Department of Human Rights
Judicial Branch
Department of Workforce Development
LSA analysis

/s/ Holly M. Lyons

March 22, 2021

Doc ID 1216880

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.

www.legis.iowa.gov