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[HF 231](#) – Burglary, Sex Abuse (LSB1323HV.1)  
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Fiscal Note Version – Final Action

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## **Description**

[House File 231](#) establishes that a person convicted of sexual abuse committed during a burglary is, in addition to any other punishment provided, to be sentenced to a special sentence committing the person into the lifetime custody of the Director of the Department of Corrections (DOC), with eligibility for parole as provided in Iowa Code chapter [906](#). Under current law, a person commits burglary in the first degree, a Class B felony under Iowa Code section [713.3](#), if, while perpetrating the burglary in or upon an occupied structure where one or more individuals reside, the person performs or participates in a sex act that constitutes sexual abuse under Iowa Code section [709.1](#).

A person who commits sexual abuse during a burglary is classified as a Tier III sex offender under Iowa Code section [692A.102](#)(1)(c)(17), and is required to register as such.

## **Background**

Current law provides that a person convicted of a Class C felony or greater under Iowa Code chapter [709](#) (Sexual Abuse), or a Class C felony under Iowa Code section [728.12](#) (Sexual Exploitation of a Minor), is to be sentenced to a special sentence committing the person into the lifetime custody of the Director of the DOC, with eligibility for parole as provided in Iowa Code chapter 906.

A sex offender who has been sentenced to a special sentence under Iowa Code section [903B.1](#) is required to register on the Sex Offender Registry for a period equal to the term of the special sentence.

Under current law, a Class B felony is punishable by confinement of no more than 25 years.

## **Assumptions**

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; 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 average daily marginal cost per offender under a special sentence is \$7.05 per day and the average daily marginal cost per offender under parole supervision is \$5.38 per day.

## **Correctional Impact**

House File 231 increases the penalty associated with the crime of first-degree burglary by requiring an offender to be sentenced to a special sentence if, during the commission of the crime, the offender performs or participates in a sex act that constitutes sexual abuse. The DOC expects the correctional impact of HF 231 to be minimal as crimes involving burglary in the

first degree and concurrent sexual abuse occur infrequently. In FY 2020, there were two convictions of sexual abuse committed during a burglary, and both of these convicted individuals had already been placed under a lifetime special sentence due to their previous sex-crime-related convictions.

**Table 1** provides estimates for sentencing to State prison, parole, probation, or Community Based Corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for all convictions of Class B 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 — Sentencing Estimates and Length of Stay (LOS)**

Conviction Offense Class	Percent to Prison	Avg Length of Stay Prison (months)	FY 20 Marginal Cost Per 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 B Felony (Persons)	93.0%	85.3	\$20.33	6.6%	38.7	\$5.38	4%	\$14.78	57.9%	N/A	\$50.00	33.2	\$5.38

**Minority Impact**

The minority impact of HF 231 is as follows: African Americans comprised 4.1% of the adult population of the State in FY 2020 and 33.3% of the convictions under Iowa Code section 713.3 in FY 2020. This exceeds the population proportion of the State, which would lead to a racial impact if trends remain constant. Due to low numbers of other minority populations, the impact on those populations cannot be assessed. 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**

Although the average daily marginal cost to supervise an individual under a special sentence is approximately 31.0% higher than parole supervision, at a cost of \$7.05 daily rather than \$5.38 daily, the DOC estimates that the fiscal impact of HF 231 will be minimal. It is already current practice by the DOC to place individuals who commit crimes of this nature under special supervision. In addition, crimes involving burglary in the first degree and concurrent sexual abuse occur infrequently.

**Sources**

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

/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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