



SF 253 – Sex Abuse, Second Degree, Definition (LSB1326SV.1)
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Fiscal Note Version – Final Action

Description

Senate File 253 relates to sexual abuse in the second degree under Iowa Code section [709.3](#) and provides that such abuse includes sexual abuse of a child. Iowa Code section [702.5](#) defines a child as any person under the age of 14 years old. A person who commits sexual abuse in the second degree is guilty of a Class B felony.

The Bill also makes conforming changes relating to the Sex Offender Registry under Iowa Code section [692A.102](#) and relating to sexual abuse in the third degree under Iowa Code section [709.4](#).

Background

Under current law, sexual abuse in the second degree occurs when such abuse includes a person under the age of 12.

A Class B felony is punishable by confinement of no more than 25 years. 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 \$13,600.

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.
- As a result of the modification of the age of a victim of sexual abuse in the second degree and subsequent conforming changes, the Department of Corrections (DOC) estimates that it is likely that the convictions of some offenders currently convicted of sexual abuse in the third degree will move to convictions of sexual abuse in the second degree. This would result in an increased length of stay for an offender.

Correctional Impact

Senate File 253 modifies the definition of an existing crime and the full correctional impact cannot be determined at this time, as it remains unknown how many existing offenders will be moved from a Class C to Class B penalty, or how many new convictions and prison admissions will occur.

Table 1 below shows 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 B and Class C felonies (involving sex crimes). 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 (Sex Offense)	95.0%	285.2	\$20.33	9.4%	--	\$5.38	3.1%	\$14.78	15.6%	N/A	\$50.00	29.4	\$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

The minority impact of SF 253 is as follows: In FY 2020, there were 63 individuals convicted for the crime of sexual abuse in the third degree under Iowa Code section 709.4, and 23 individuals convicted for the crime of sexual abuse in the second degree under Iowa Code section 709.3. Of the total of 86 individuals, 27 people 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. 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

Senate File 253 amends the age of a victim of sexual abuse for the conviction to be classified as sexual abuse in the second degree, which would likely lead to the convictions of some existing offenders currently convicted of sexual abuse in the third degree to move to convictions of sexual abuse in the second degree. This would result in an increased length of stay for an offender and increased supervision costs for the DOC.

Under current law, sexual abuse in the third degree carries a penalty of a Class C felony, and sexual abuse in the second degree carries a penalty of a Class B felony. The average LOS for a Class C felony is 76.0 months, while the average LOS for a Class B felony is approximately 258.0 months. An increased LOS will lead to increased supervision costs for the DOC over the course of incarceration. **Table 2** displays the estimated difference of DOC supervision costs for a Class B and Class C felony for one additional offender.

Table 2 — Supervision Costs, Class B and C Felony, Sexual Abuse

Offense Class Type	Penalty	Length of Stay (in months)	Cost Per Day	Total Cost
Sexual Abuse, 2nd Degree	Class B Felony	258.0	\$20.33	\$ 176,263
Sexual Abuse, 3rd Degree	Class C Felony	76.0	\$20.33	\$ 46,970
			Difference	\$ 129,293

The Bill modifies an existing criminal offense, and the resulting cost to the justice system cannot be estimated. **Table 3** shows estimates for the average State cost per offense class type. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC for one additional conviction. The cost would be incurred across multiple fiscal

years for prison and parole supervision.

Table 3 — Average State Cost Per Offense Class Type

Offense Class	Total Minimum Cost	Total Maximum Cost
Class C Felony	\$9,900	\$19,200
Class B Felony	\$12,700	\$35,800

The modification of an existing offense and subsequent conforming changes established by SF 253 may also result in an increase in fine and surcharge revenue, but the impact is unknown.

Sources

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

/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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