



[HF 309](#) – Tax-Exempt Organizations, Public Disclosure of Information (LSB1731HV.3)
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Fiscal Note Version – Final Action

Description

[House File 309](#) prohibits a public agency from seeking the disclosure of, or publishing, personal information from a tax-exempt organization under Section 501(c) of the federal Internal Revenue Code that would reveal the identity of a member, supporter, volunteer, or donor of a tax-exempt organization without permission, or from requesting from a contractor a list of tax-exempt organizations that the contractor has supported. The Bill also requires any court-ordered inspection of corporate records containing personal information to be made under seal from public disclosure and prohibits corporate disclosure from being used to obtain personal information. House File 309 makes the following exceptions:

- Lawful warrants or discovery requests in which the requestor shows a compelling need for the information and obtains a protective order barring unnecessary disclosure.
- Agreements between a tax-exempt organization and a public agency.
- Information that must be reported to the Secretary of State pursuant to Iowa Code chapter [504](#) or the Attorney General or State Auditor pursuant to Iowa Code chapter 504, chapter [537](#), or section [714.16](#).
- Personal information disclosed in public judicial proceedings.

The Bill does not affect any provision of Iowa Code chapter [68A](#), which relates to campaign finance.

A person who violates a provision of the Bill is subject to a civil penalty, and a person who knowingly violates a provision of the Bill commits a serious misdemeanor. The Bill allows a court to award to the complainant an amount equal to all or a portion of the costs of litigation.

Background

A civil penalty includes a fine of no less than \$2,500 per violation and no more than \$7,500 per intentional violation. A serious misdemeanor is punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000 or both.

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

The correctional impact of HF 309 cannot be determined. The Bill establishes a new criminal offense, and no historical data exists to make a reliable estimate.

Table 1 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 serious misdemeanors. 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 LOS

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	Marginal Cost Per Day	Avg LOS on Parole	FY 20 Average Cost Per Day Parole
Serious Misdemeanor	2.0%	5.0	\$20.33	56.0%	13.4	\$5.38	1.0%	\$14.78	69.0%	\$50.00	2.4	\$5.38

Minority Impact

House File 309 establishes a new criminal offense, and a minority impact cannot be estimated due to a lack of data. 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 — Correctional System

The fiscal impact of House File 309 to the correctional system cannot be determined as the Bill establishes a new criminal offense, and the resulting cost to the justice system cannot be determined. The Department of Corrections (DOC) estimates that public agencies are likely to comply with the Bill. **Table 2** shows estimates for the average State cost for one serious misdemeanor conviction. The cost estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC for one conviction.

Table 2 — Average State Cost Per Offense Class Type

Offense Class	Total Minimum Cost	Total Maximum Cost
Serious Misdemeanor	\$410	\$7,500

The new offense established by HF 309 may also result in an increase in civil penalty revenue, but the impact is unknown.

Fiscal Impact — Department of Revenue

According to the Department of Revenue, the Bill would not alter tax liability but would impact the Department’s capacities in enforcing tax obligations. For this reason, the impacts are not estimated but may be substantial and increase over time. The following were provided as areas where the administration and collection of taxes may be impacted:

- Requiring nonprofit organizations’ responsible officials to identify themselves on tax returns and other documentation, impairing collection of withholding tax.
- Auditing returns to identify ineligible deductions.
- Obtaining information sought in discovery in litigation.
- Administering some aspects of the tax code under current law, such as the School Tuition Organization Tax Credit.

Sources

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

/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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