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**SF 562** – Sexual Exploitation (LSB2472SV)

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Fiscal Note Version – As amended by [S-3153](#) and [H-1429](#) and passed by the Senate

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## **Description**

[Senate File 562](#) relates to the crime of sexual exploitation. The Bill amends Iowa Code section [709.15](#) to criminalize sexual exploitation by an adult providing training or instruction.

Senate File 562 also provides that an adult providing training or instruction commits sexual exploitation when either of the following occur:

- When a person engages in a pattern, practice, or scheme of conduct to engage in any sexual conduct<sup>1</sup> with a minor for the purpose of arousing or satisfying the sexual desire of the adult providing training or instruction.
- When a person engages in sexual conduct with a minor for the purpose of arousing or satisfying the sexual desire of the adult providing training or instruction.

A person who engages in a pattern, practice, or scheme of conduct to engage in any sexual conduct with a minor for the purpose of arousing or satisfying the sexual desire of the adult providing training or instruction is guilty of a Class D felony. A person who engages in sexual conduct with a minor for the purpose of arousing or satisfying the sexual desire of the adult providing training or instruction is guilty of an aggravated misdemeanor.

[Amendment S-3153](#) removes the definition of “adult providing training or instruction” as defined in SF 562.

[Amendment H-1429](#) relates to the statute of limitations period for certain criminal sex offenses against minors. The amendment provides that an information or indictment in a criminal case for certain criminal offenses against a minor may be commenced at any time after the commission of the offense. The amendment also provides that an information or indictment for any sexual abuse in the first, second, or third degree must be commenced within 10 years after commission, or identification by DNA profile, whichever is later. The provisions related to the statute of limitations are effective upon enactment.

## **Background**

An aggravated misdemeanor is punishable by confinement for no more than two years and a fine of at least \$855 but no more than \$8,540. A Class D felony is punishable by confinement for no more than five years and a fine of at least \$1,025 but not more than \$10,245.

An individual who violates the provisions of this Bill is subject to a special sentence pursuant to Iowa Code section [903B.2](#). A special sentence is defined as a punishment in addition to the punishment for the underlying criminal offense, and consists of committing the individual to the custody of the Department of Corrections (DOC) for a period of 10 years. An individual serving a special sentence begins the sentence in the same manner as if the individual were on parole or part of a work release program. The special sentence is subject to revocation for up to two

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<sup>1</sup> Senate File 562 defines sexual conduct to include but not be limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in Iowa Code section [702.17](#).

years for a first revocation and up to five years for a second or any subsequent revocation. A person who violates the provisions of SF 562 is also subject to a no-contact order upon release from jail or prison, and hormonal intervention therapy as prescribed under Iowa Code section [903B.10\(3\)\(h\)](#).

Additionally, a person who violates the provisions of this Bill is designated as a Tier II sex offender pursuant to Iowa Code section [692A.102\(1\)\(b\)\(12\)](#) if the victim is 13 years of age or older, or as a Tier III sex offender pursuant to Iowa Code section [692A.102\(1\)\(c\)\(28\)](#) if the victim is under the age of 13. In either scenario, the person committing the offense must register as a sex offender pursuant to Iowa Code section [692A.103](#).

Under current law, an information or indictment for sexual abuse; human trafficking; sexual abuse or exploitation by a counselor, therapist, or school employee; and other sexual offenses under Iowa Code section [802.2B](#) must be found within 10 or 15 years of the person against whom the offense was committed attaining 18 years of age, depending on the criminal offense and circumstances. The penalties for these offenses range from a serious misdemeanor to a Class B felony.

### **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**

Senate File 562 expands an existing criminal offense, and the number of new convictions cannot be estimated. In FY 2020, there were nine total admissions to the correctional system for a violation of Iowa Code section 709.15.

Amendment H-1429 removes the statute of limitations for sexual abuse; human trafficking; sexual exploitation by a counselor, therapist, or school employee; and other sexual offenses under Iowa Code section 802.2B for victims who were minors at the time of the offense. Although it is known that sexual abuse is frequently underreported and victims often wait years to come forward, precise estimates of the correctional impact of this legislation are not available. It is estimated that additional convictions will result, but the increase cannot be determined.

**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 serious misdemeanors and Class B 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/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
Class D Felony (Sex Offense)	85.0%	32.2	\$20.33	45.2%	49.7	\$5.38	6.8%	\$14.78	43.8%	N/A	\$50.00	5.1	\$5.38
Aggravated Misdemeanor (Sex Offense)	78.0%	10.5	\$20.33	58.5%	15.1	\$5.38	1.0%	\$14.78	74.6%	N/A	\$50.00	*2.5	\$5.38
Serious Misdemeanor	2.0%	5.0	\$20.33	56.0%	13.4	\$5.38	1.0%	\$14.78	69.0%	N/A	\$50.00	2.4	\$5.38

**Minority Impact**

The minority impact of SF 562 is unknown. Amendment H-1429 removes the statute of limitations for several criminal sex offenses against minors. In FY 2019, African Americans made up 3.6% of the adult population of the State of Iowa and 22.5% of convictions for sexual abuse in the first, second, or third degree. According to the Criminal and Juvenile Justice Planning Division, this exceeds the population proportion of the State, which would lead to a racial impact if it remains constant. Due to the low numbers of other minorities, the impact on those populations cannot be estimated. 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**

The fiscal impact of SF 562 cannot be estimated. The Bill expands an existing criminal offense, and the resulting cost to the justice system cannot be estimated. Amendment H-1429 removes the statute of limitations for several offenses, and the fiscal impact cannot be estimated due to a lack of conviction data. It is estimated that additional convictions will result, but the fiscal impact cannot be determined. **Table 2** 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 2 — Average State Cost Per Conviction**

Offense Class	Total Cost	
	Minimum	Maximum
Serious Misdemeanor	\$ 410	\$ 7,500
Aggravated Misdemeanor	3,700	7,800
Class D Felony	7,700	13,500
Class C Felony	9,900	19,200
Class B Felony	12,700	35,800

**Sources**

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

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/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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