



[HF 2239](#) – Rape Shield Protection (LSB5279HV)
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Fiscal Note Version – New

Description

[House File 2239](#) applies the provisions of the rule of evidence 5.412 relating to the victim’s past sexual behavior in sexual abuse cases to discovery conducted in a criminal case or in a postconviction relief proceeding, including depositions. The Bill also applies substantially the same procedural requirements of evidence to be offered at trial to discovery involving evidence subject to rule of evidence 5.412.

Background

In Iowa’s [Rules of Evidence](#), rule 5.412 relates to sexual abuse cases and the victim’s past sexual behavior. According to the rule, the following evidence is not admissible in criminal cases, with some exceptions: reputation or opinion evidence offered to prove that a victim engaged in other sexual behavior, and evidence of a victim’s other sexual behavior other than reputation or opinion evidence.

However, the court may admit the following in a criminal case:

- Evidence of specific instances of a victim’s sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence.
- Evidence of specific instances of a victim’s sexual behavior with respect to the person accused of sexual abuse, if the defendant offers it to prove consent.
- Evidence whose exclusion would violate the defendant’s constitutional rights.

Rule 5.412 lays out the procedure to determine admissibility for these exceptions, which includes filing a motion to offer the evidence at least 14 days before trial and conducting a hearing in camera to determine if the evidence is admissible.

Assumptions

- House File 2239 could impact the Office of the State Public Defender in cases in which sexual abuse is charged and contested, including pretrial, trial, post-trial, and postconviction proceedings.
- The Bill provides that the rules of evidence as to admissibility also apply at the discovery stage, which could increase attorney time for State Public Defender attorneys and contract attorneys.

Fiscal Impact

The fiscal impact to the Office of the State Public Defender cannot be determined at this time due to a lack of data. However, the impact to indigent defense costs is likely to be significant. The Office of the State Public Defender is funded from the General Fund through both an operating budget and the Indigent Defense Fund.

Sources

Office of the State Public Defender
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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