



[HF 2160](#) – Assisted Reproduction, Penalties (LSB5089HV.2)
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Fiscal Note Version – As amended by Senate amendment [H-8123](#) as amended by House amendment [S-5113](#)

Description

[House File 2160](#) as amended by Senate amendment [H-8123](#) as amended by House amendment [S-5113](#) creates the Fraud in Assisted Reproduction Act. The Bill as amended prohibits the following:

- A person from engaging in a practice or act the person knows or reasonably should have known provides false information to a patient related to an assisted reproduction procedure or treatment. Violation of this provision is punishable as a Class D felony.
- A physician or health facility from using or providing a patient with human reproductive material for assisted reproduction other than that to which the patient expressly consented in writing, or with human reproductive material for assisted reproduction that is not provided with the donor's consent or in a manner other than that to which the donor consented. Violation of this provision is punishable as a Class C felony.

A person or health facility that violates these provisions is subject to license, permit, or certification revocation.

The Bill as amended provides that an action brought pursuant to these provisions is not subject to a statute of limitations.

The Bill as amended also creates the crime of sexual abuse in the fourth degree under Iowa Code chapter [709](#) and provides penalties. A health care professional commits sexual abuse in the fourth degree when the health care professional implants the health care professional's own human reproductive material through assisted reproduction without the patient's prior knowledge and written consent. Sexual abuse in the fourth degree is punishable as an aggravated misdemeanor. A person who violates this provision of the Bill as amended is a Tier III sex offender and is subject to license discipline.

Background

An aggravated misdemeanor is punishable by up to two years in prison and a fine of at least \$855 but not more than \$8,540. A Class D felony is punishable by up to five years in prison and a fine of at least \$1,025 but not more than \$10,245. A Class C felony is punishable by up to 10 years in prison and a fine of at least \$1,370 but not more than \$13,660. Registration as a Tier III sex offender requires an offender to report in person to verify the offender's registration information every three months.

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

House File 2160 as amended establishes new criminal offenses and applies specifically to health care professionals. The correctional impact cannot be estimated for the Bill as amended due to a lack of existing conviction data. **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 C felonies against persons, Class D felonies against persons, and aggravated misdemeanors for sex offenses. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 18, 2022, for information related to the correctional system.

Table 1 — Sentencing Estimates and Length of Stay (LOS)

Conviction Offense Class	Percent Ordered to State Prison	FY 21 Avg LOS in Prison in Months (All Releases)	FY 21 Marginal Cost Per Day Prison	Percent Ordered to Probation	Avg LOS on Probation in Months	FY 21 Avg Cost Per Day Probation	Percent Sentenced to CBC Residential Facility	FY 21 Marginal Cost Per Day CBC	Percent Ordered to County Jail	Marginal Cost Per Day Jail	Avg LOS on Parole in Months	FY 21 Marginal Cost Per Day Parole
C Felony (Persons)	89.0%	61.0	\$23.33	27.9%	39.0	\$7.01	5.5%	\$17.78	49.1%	\$50.00	17.8	\$7.01
D Felony (Persons)	84.2%	18.8	\$23.33	47.8%	32.8	\$7.01	10.5%	\$17.78	38.6%	\$50.00	11.3	\$7.01
Aggravated Misdemeanor (Sex Offense)	80.1%	14.5	\$23.33	58.5%	25.0	\$7.01	1.1%	\$17.78	74.6%	\$50.00	26.9	\$7.01

Minority Impact

House File 2160 as amended establishes new criminal offenses. As a result, the Criminal and Juvenile Justice Planning Division of the Department of Human Rights cannot use prior existing data to estimate the minority impact of HF 2160 as amended. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 18, 2022, for information related to minorities in the criminal justice system.

Fiscal Impact

House File 2160 as amended establishes new criminal offenses and applies specifically to health care professionals, and the fiscal impact cannot be estimated due to a lack of existing conviction data. The average State cost per offense for an aggravated misdemeanor ranges from \$4,900 to \$9,500. The average State cost per offense for a Class D felony ranges from \$9,100 to \$16,600. The average State cost per offense for a Class C felony ranges from \$11,100 to \$22,100. The estimated impact to the State General Fund includes operating costs incurred by the Judicial Branch, the Indigent Defense Fund, and the Department of Corrections. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Sources

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

/s/ Holly M. Lyons

April 5, 2022

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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