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[HF 202](#) – Explosive or Destructive Devices (LSB1234HV)  
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Fiscal Note Version – New

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### **Description**

[House File 202](#) relates to explosive materials including blasting agents, detonators, and destructive devices and provides penalties. The Bill amends the definition of “blasting agent” and “explosive material” and defines the terms “destructive device” and “detonator.” The Bill amends the following offenses to reflect those definitions:

- Provides that any person who uses fire, explosives, or destructive devices to recklessly endanger the property or safety of another commits a serious misdemeanor.
- Provides that a person who possesses any explosive material or destructive device with the intent to commit a public offense commits a Class C felony.
- Provides that a person who possesses any explosive material or destructive device commits an aggravated misdemeanor.
- Provides that a person who, with the intent to intimidate, annoy, or alarm another person, places a simulated explosive or simulated destructive device in a place that the person reasonably believes is likely to cause public alarm or inconvenience commits a serious misdemeanor.

The Bill amends the definition of “offensive weapon” to include the definition of a destructive device as defined in the Bill. Any unauthorized person who knowingly possesses an offensive weapon commits a Class D felony.

The Bill establishes a Class C felony for when a person uses any explosive material or destructive device to commit any public offense or possesses an explosive material or destructive device during the commission of a felony.

### **Background**

Iowa Code chapter [101A](#) currently establishes the definitions of the terms “blasting agents” and “explosive materials.” Iowa Code chapter [712](#) establishes and penalizes the criminal offense of arson. Under Iowa Code section [712.5](#), any person who uses fire or any incendiary or explosive device or material to recklessly endanger the property or safety of another is guilty of a serious misdemeanor. Iowa Code section [712.6](#) creates offenses for possessing incendiary or explosive devices or a simulated explosive or incendiary device. Iowa Code chapter [724](#) creates laws related to weapons. Iowa Code section [724.1](#) establishes different types of offensive weapons, which range from a machine gun to a ballistic knife. Iowa Code section [724.3](#) establishes a Class D felony for a person who knowingly possesses an offensive weapon.

A serious misdemeanor is punishable by confinement for up to one year and a fine of at least \$430 but not more than \$2,560. An aggravated misdemeanor is punishable by confinement of up to two years and a fine of at least \$855 but not more than \$8,540. A Class D felony is punishable by confinement of up to five years and a fine of at least \$1,025 but not more than \$10,245. A Class C felony is punishable by confinement of up to 10 years and a fine of at least \$1,370 but not more than \$13,660.

In FY 2022, there were a total of 88 convictions under Iowa Code sections 712.5, 712.6, and 724.1. Over the last five fiscal years, no individuals have been admitted to prison under Iowa Code section 712.5. There were 10 individuals admitted to Community-Based Corrections (CBC) in FY 2022 under Iowa Code section 712.5.

**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 procedures.
- 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 202 creates new definitions, modifies existing definitions, and creates a new penalty, and the correctional impact cannot be estimated. In FY 2022, there were 75 convictions under Iowa Code sections 712.5 and 712.6. The Bill may increase the number of convictions but the extent of this increase cannot be estimated. Also, the correctional impact for the newly established crime cannot be determined as it is unknown how many new convictions would result under the Bill.

**Table 1** shows estimates for sentencing to State prison, parole, probation, or CBC residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of Class C felonies, Class D felonies, aggravated misdemeanors, and serious misdemeanors. Marginal county jail costs are estimated to be \$50 per day. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 20, 2023, 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 22 Avg LOS In Prison In Months (All Releases)	FY 22 Marginal Cost Per Day Prison	Percent Ordered to Probation	FY 22 Avg LOS on Probation In Months	FY 22 Avg Cost Per Day Probation	Percent Sentenced to CBC Residential Facility	FY 22 Marginal Cost Per Day CBC	Percent Ordered to County Jail	Marginal Cost Per Day Jail	FY 22 Avg LOS on Parole In Months	FY 22 Marginal Cost Per Day Parole
C Felony Persons	89.8%	50.1	\$23.42	27.6%	39.0	\$7.27	3.6%	\$20.67	43.2%	\$50.00	19.5	\$7.27
D Felony Persons	79.6%	19.7	\$23.42	59.0%	33.2	\$7.27	8.6%	\$20.67	26.3%	\$50.00	14.4	\$7.27
Agg Misd Persons	45.5%	9.7	\$23.42	64.9%	--	\$7.27	3.8%	\$20.67	55.6%	\$50.00	7.0	\$7.27
Serious Misd	1.9%	5.5	\$23.42	51.2%	13.7	\$7.27	0.9%	\$20.67	73.3%	\$50.00	0.5	\$7.27

**Minority Impact**

House File 202 establishes a new offense and expands the definitions of existing offenses. As a result, the Division of Criminal and Juvenile Justice Planning (CJJP) of the Department of Human Rights cannot use existing data to estimate the minority impact of the Bill. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 20, 2023, for information related to minorities in the criminal justice system.

**Fiscal Impact**

The total fiscal impact cannot be determined due to a lack of existing conviction data. **Table 2** shows the average State cost per offense for a Class C felony, Class D felony, aggravated misdemeanor, and serious misdemeanor. 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 (DOC). The cost would be incurred across multiple fiscal years for prison and parole supervision.

**Table 2 – Average State Cost Per Offense**

Classification of Offense	Minimum	Maximum
Class C Felony	\$12,100	\$25,100
Class D Felony	\$9,500	17,400
Aggravated Misdemeanor	\$5,000	\$9,600
Serious Misdemeanor	\$400	\$5,600

**Sources**

Department of Corrections  
Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Public Safety

/s/ Jennifer Acton

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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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