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[HF 399](#) – Witness Tampering, Penalties (LSB2040HV)  
Staff Contact: Isabel Waller (515.281.6561) [isabel.waller@legis.iowa.gov](mailto:isabel.waller@legis.iowa.gov)  
Fiscal Note Version – New

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**Description**

[House File 399](#) changes the penalty for tampering with witnesses or jurors from an aggravated misdemeanor to a Class C felony.

**Background**

Under Iowa Code section [720.4](#), tampering with witnesses or jurors includes any of the following:

- Offering to bribe any person who the offeror believes has been or may be summoned as a witness or juror in any judicial or arbitration proceeding or any legislative hearing.
- Making threats toward such witness or juror, or forcibly or fraudulently detaining or restraining such witness or juror, with the intent to improperly influence such witness or juror with respect to the witness's or juror's testimony or decision in a case or to prevent such person from testifying or serving in a case.
- Harassing a witness or juror in retaliation for anything lawfully done by any witness or juror in any case.

In FY 2022, nine individuals entered Community-Based Corrections (CBC) and four individuals entered prison for this offense.

An aggravated misdemeanor is punishable by confinement for up to two years and a fine of at least \$855 but not more than \$8,540. A Class C felony is punishable by confinement for up to 10 years and a fine of at least \$1,370 but not more than \$13,660.

**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.
- The marginal cost per day in prison is \$23.42. The marginal cost per day on probation and parole is \$7.27.
- Admissions include only individuals admitted to Department of Corrections (DOC) supervision whose most serious offense is tampering with witnesses or jurors.

**Correctional Impact**

House File 399 is estimated to increase the LOS for individuals admitted to prison and CBC for this offense. The estimated LOS for individuals admitted to prison would increase from 9.7 months to 50.1 months. The estimated LOS for individuals admitted to CBC would increase from 20.8 months to 39.0 months. Additionally, the Bill may increase prison admissions, but the extent of this increase cannot be estimated. Due to increased LOS and additional individuals

admitted to prison, the Bill is estimated to increase the prison population. 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.

**Minority Impact**

House File 399 increases the penalty for tampering with witnesses or jurors and may disproportionately impact African American individuals if trends remain constant. Of the 13 individuals admitted to DOC supervision in FY 2022 for this offense, 76.9% were Caucasian and 23.1% were African American. Iowa’s population is 84.5% Caucasian and 3.6% African American. 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**

House File 399 is estimated to increase costs to the DOC by at least \$151,000 per group of individuals admitted to DOC supervision each year for this offense, as shown in **Table 1**. This cost is incurred across the entire LOS. **Table 1** represents the cost of all individuals admitted to DOC supervision for this offense in one year. This cost would recur for each annual group of admissions.

**Table 1 — Increase in Costs to the DOC Under HF 399**

Supervision Status	Annual Admissions	Cost Per Day	LOS (Days)	Total Cost
<b>Current Penalty — Aggravated Misdemeanor</b>				
Prison	4	\$23.42	294.9	\$27,626
CBC	9	\$7.27	632.3	41,371
<b>Total</b>	<u>13</u>			<u>\$68,997</u>
<b>Penalty Under HF 399 — Class C Felony</b>				
Prison	4	\$23.42	1,523.0	\$142,675
CBC	9	\$7.27	1,185.6	77,574
<b>Total</b>	<u>13</u>			<u>\$220,249</u>

Additionally, the Bill may increase the number of individuals admitted to prison for this offense, but the extent of this cannot be estimated. The marginal prison supervision cost for each individual admitted to prison under the Bill’s enhanced penalties would be approximately \$36,000 and would be incurred over the entire LOS.

**Sources**

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

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 /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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