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[HF 646](#) – Sexual Exploitation of a Minor, Penalties (LSB1440HV)  
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Fiscal Note Version – New

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## **Description**

[House File 646](#) enhances the penalties for sexual exploitation of a minor by one offense class. The Bill also provides that a court is not permitted to defer judgment for an offense of sexual exploitation of a minor.

The Bill creates a 50.0% to 70.0% mandatory minimum sentence for a person convicted of sexual exploitation of a minor under Iowa Code section [728.12](#)(1). At the time of sentencing, the court will determine the mandatory minimum sentence based upon all pertinent information including the person's criminal record, a validated risk assessment, and the negative impact the offense has had on the victim or other persons.

The Bill increases the time under supervision as part of the special sentence from 10 years to life for individuals convicted of sexual exploitation of a minor under Iowa Code section [728.12](#)(2) or a second offense under Iowa Code section [728.12](#)(3).

The Bill requires the court to order restitution when the offender is convicted of certain categories of sexual exploitation of a minor and details the minimum amount.

## **Background**

Under Iowa Code section [728.12](#), the penalties for sexual exploitation of a minor range from an aggravated misdemeanor to a Class C felony, depending on the circumstances of the offense, as follows:

- Iowa Code section [728.12](#)(1): A Class C felony for causing or attempting to cause a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act, with the knowledge of or intent that the act may be photographed, filmed, or otherwise preserved in a visual depiction.
- Iowa Code section [728.12](#)(2): A Class D felony for knowingly promoting any material visually depicting a live performance of a minor engaging in a prohibited sexual act or in the simulation of a prohibited sexual act.
- Iowa Code section [728.12](#)(3): An aggravated misdemeanor for a first offense of knowingly purchasing or possessing a visual depiction of a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act.
- Iowa Code section [728.12](#)(3): A Class D felony for a second or subsequent offense of knowingly purchasing or possessing a visual depiction of a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act.

According to Iowa Code chapter [903B](#), individuals convicted of sexual exploitation of a minor under Iowa Code section [728.12](#)(1) are sentenced to supervision under the special sentence for life. All other individuals convicted of sexual exploitation of a minor are sentenced to supervision under the special sentence for 10 years. 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). An individual

servicing 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 years for a first revocation and up to five years for a second or any subsequent revocation.

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 D felony is punishable by confinement for 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 for up to 10 years and a fine of at least \$1,370 but not more than \$13,660. A Class B felony is punishable by confinement for no more than 25 years.

**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 \$23.32.
- Prison admissions include only individuals admitted to prison whose most serious offense is sexual exploitation of a minor.

**Correctional Impact**

House File 646 increases the penalties for sexual exploitation of a minor and is estimated to increase the LOS for individuals admitted to prison for this offense. In FY 2022, 14 individuals were admitted to prison for sexual exploitation of a minor. **Table 1** shows the estimated increase in LOS under the Bill for those annually admitted to prison for this offense.

**Table 1 — Increase in LOS Under HF 646**

Offense Category	Annual Admissions	Increase in LOS (Months)
728.12(1)	3	119.5
728.12(2)	2	39.4
728.12(3) 1st Offense	9	13.0
728.12(3) 2nd or Subsequent Offense	0	39.4

The Bill is also estimated to increase the length of time for supervision under the special sentence for some individuals, as more individuals would be supervised under the special sentence for life. 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 646 increases penalties and may disproportionately impact African American individuals if trends remain constant. Of the 193 convictions of sexual exploitation of a child in FY 2022, 89.5% of offenders were Caucasian, 7.7% were African American, and 2.8% were other races. Iowa’s population is 84.5% Caucasian, 3.6% African American, and 11.9% other races. 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 646 is estimated to increase costs to the DOC by approximately \$395,000 per group of individuals admitted to prison each year for this offense, as shown in **Table 2**. This cost is incurred across the entire LOS. **Table 2** represents the cost of all individuals admitted to prison for this offense in one year. This cost would recur for each yearly group of admissions.

**Table 2 — Increase in Cost Under HF 646**

Iowa Code Section	Penalty	Annual Admissions	Cost Per Day	LOS (Days)	Total Cost
<b>Current Penalties</b>					
728.12(1)	Class C Felony	3	\$23.42	1,976	\$138,834
728.12(2)	Class D Felony	2	\$23.42	778	36,442
728.12(3) 1st Offense	Aggravated Misdemeanor	9	\$23.42	383	80,729
728.12(3) 2nd Offense	Class D Felony	0	\$23.42	778	0
<b>Total</b>		<u>14</u>			<u>\$256,005</u>
<b>Penalties Under HF 646</b>					
728.12(1)	Class B Felony	3	\$23.42	5,609	\$394,088
728.12(2)	Class C Felony	2	\$23.42	1,976	92,556
728.12(3) 1st Offense	Class D Felony	9	\$23.42	778	163,987
728.12(3) 2nd Offense	Class C Felony	0	\$23.42	1,976	0
<b>Total</b>		<u>14</u>			<u>\$650,631</u>

Additionally, the Bill may result in more admissions to prison due to the increased penalties. This would lead to additional costs to the DOC, but the extent of this increase in costs cannot be estimated. The fiscal impact to the DOC due to increasing the length of the special sentence for some individuals cannot be estimated.

## **Sources**

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

/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.