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[HF 2239](#) – Dissemination of Obscene Materials to Minors, Penalty (LSB5234HV)  
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Fiscal Note Version – New

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### **Description**

[House File 2239](#) increases the penalty for a person who disseminates or exhibits obscene material to a minor from a serious misdemeanor to an aggravated misdemeanor.

### **Background**

Under Iowa Code section [728.2](#), the dissemination or exhibition of obscene material to a minor is a serious misdemeanor.

In FY 2023, there were nine convictions under Iowa Code section 728.2. Of these, there were no admissions to prison or probation. A violation of Iowa Code section 728.2 is a Tier I sex offense and a person convicted of the offense is required to register as a sex offender for a period of 10 years.

An aggravated misdemeanor is punishable by up to two years in confinement and a fine of at least \$855, but not more than \$8,540. A serious misdemeanor is punishable by up to one year of confinement and a fine of at least \$430 but not more than \$2,560.

### **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 delay 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 2239 increases the penalty for an existing offense under Iowa Code section 728.2. The correctional impact cannot be determined due to a lack of conviction data, but is anticipated to be minimal. **Figure 1** shows estimates for sentencing to State prison, parole, probation, or community-based corrections (CBC) residential facilities; LOS in months under those supervisions; and supervision marginal costs per day for aggravated misdemeanors and serious misdemeanors. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 16, 2024, for information related to the correctional system.

**Figure 1 — Sentencing Estimate and Length of Stay (LOS)**

Conviction Offense Class	Percent Ordered to State Prison	FY 2023 Avg LOS in Prison (All Releases)	Marginal Prison Cost Per Day	Percent Ordered to Probation	FY23 Field Avg LOS on Probation	Avg Cost Per Day on Probation	Percent Sentenced to CBC Residential Facility	Marginal CBC Cost Per Day	Percent Ordered to County Jail	Avg LOS in County Jail	Marginal Cost Per Day Jail	FY23 Field Avg LOS on Parole	Marginal Cost Per Day Parole
Aggravated Misdemeanor (Sex)	80.1%	8.6	\$24.94	61.0%	25.6	\$ 7.67	7.7%	\$ 20.00	38.1%	N/A	\$ 50.00	N/A	\$ 7.67
Serious Misdemeanor	1.7%	6.6	\$24.94	53.0%	19.2	\$ 7.67	1.2%	\$ 20.00	74.2%	N/A	\$ 50.00	N/A	\$ 7.67

**Minority Impact**

House File 2239 increases the penalty for an existing offense under Iowa Code section 728.2. The minority impact cannot be estimated due to a lack of data. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 16, 2024, for information related to minorities in the criminal justice system.

**Fiscal Impact**

The fiscal impact cannot be determined, but is anticipated to be minimal. **Figure 2** shows the average State cost per offense for an aggravated misdemeanor and a 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.

**Figure 2 — Average State Cost Per Offense**

Offense Class	Average Cost
Aggravated Misdemeanor	\$7,500 to \$10,800
Serious Misdemeanor	\$400 to \$6,900

**Sources**

Department of Corrections  
 Criminal Juvenile Justice Planning, Department of Management  
 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.

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