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**SF 219** – Marijuana Possession, Small Amounts (LSB1927SV)  
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Fiscal Note Version – Revised  
Requested by Senator Steve Soddors

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**Description**

**Senate File 219** provides that an offender convicted of possessing five grams or less of marijuana commits a simple misdemeanor for a first offense.

**Background**

**Correctional and Fiscal Information**

- Current law provides a graduated system of penalties for marijuana possession, ranging from a modified serious misdemeanor to an aggravated misdemeanor for repeat offenses. An offender convicted of first offense possession of marijuana is convicted of a modified serious misdemeanor, punishable by confinement of no more than six months in county jail, a maximum fine of \$1,000, or both. An offender convicted of second offense possession of marijuana is convicted of a serious misdemeanor, punishable by confinement of no more than one year and a fine of at least \$315 but no more than \$1,875. An offender convicted of third or subsequent offense of possession of marijuana is convicted of an aggravated misdemeanor, punishable by confinement of up to two years and a fine of at least \$625 but no more than \$6,250.
- The Bill's scope is limited to first offense possession of five grams or less of marijuana. Offenders convicted of first offense possession of more than five grams of marijuana will be punished by the modified serious misdemeanor under current law.
- The impact to the **Judicial Branch** operating budget is the case cost difference between a serious misdemeanor (\$213) and a simple misdemeanor (\$28), or \$185 per case.
- The impact to the **Indigent Defense Fund** is the case cost difference between a serious misdemeanor (\$600) and a simple misdemeanor (\$300), or \$300.
- There were 1,134 offenders convicted of first offense possession of a controlled substance – marijuana under Iowa Code section **124.401(5)** in FY 2014. Under current law, about 94.4% of these convicted offenders receive some type of correctional supervision, by either being sentenced to State prison, probation, Community-Based Corrections (CBC) residential facilities, or county jail. The remaining offenders may be sentenced to community service, a financial penalty, or both.
- Approximately 13.1% of offenders convicted of a simple misdemeanor offense are sentenced to county jail or probation. The remaining offenders may be sentenced to community service, a financial penalty, or both.
- According to the **Justice Data Warehouse**, the Criminal and Juvenile Justice Planning Division (**CJJPD**), and the Department of Corrections (**DOC**), the following are estimates for sentencing, length of stay under supervision, and criminal justice system costs for the current serious misdemeanor and the proposed simple misdemeanor penalty for first offense possession of marijuana.

## Criminal Justice System Information

Conviction Offense Class	Percent Sentenced to State Prison	Avg Length of Stay in Prison	Marginal Cost per Day	Percent Sentenced to Probation	Avg Length of Stay on Probation	Avg Cost per Day on Probation	Percent Sentenced to CBC Res. Facility	Avg Length of Stay in CBC Res. Facility	Marginal Cost per Day	Percent Sentenced to County Jail	Avg Length of Stay in County Jail	Marginal Cost per Day*
Current Serious Misdemeanor	1.0%	6.9 months	\$18.92	53.80%	15.3 months	Range	0.8%	5.8 months	\$11.55	38.8%	20 days	\$15.00
Proposed Simple Misdemeanor	0.0%	NA	NA	1.80%	9.4 months	Range	0.0%	NA	NA	11.3%	7 days	\$15.00

Marginal costs for county jails cannot be determined due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15.00 per day.

- Approximately 81.2% of the marginal cost per day for CBC residential facilities is paid from local sources.
- The table below shows the supervision level and average daily costs by supervision status for offenders on probation for first offense possession of marijuana on February 9, 2015. The source of the information is the Iowa Corrections Offender Network ([ICON](#)). The probation supervision level is shown for the current simple misdemeanor of drug paraphernalia under Iowa Code section [124.414](#) to illustrate what the supervision level may be for the Simple Misdemeanor offense proposed in SF 219. There are offenders that are sentenced to, but not supervised by, the [CBC](#) District Departments. Their information is entered into the [ICON](#). These offenders may receive a sentence to county jail or community service, or a financial penalty, or some combination thereof.

### Probation Supervision Level and Costs

Conviction Offense Class	Percent Intensive Supervision	Avg Cost Per Day	Percent Normal Supervision	Avg Cost per Day	Percent Minimum Risk Supervision	Avg Cost per Day	Percent Low Risk Supervision	Avg Cost per Day	Percent No Supervision
Current Serious Misdemeanor	8.0%	\$8.73	24.5%	\$4.26	4.4%	\$1.28	51.3%	\$0.52	11.8%
Current Simple Misdemeanor - Drug Paraphernalia	NA	NA	37.5%	\$4.26	25.0%	\$1.28	37.5%	\$0.52	NA

- There were 39,821 offenders under State correctional supervision on February 16, 2014. Of these, 8,205 offenders were in the State prison system. There were 31,616 offenders under CBC supervision, including 29,568 on field services supervision and 2,048 on CBC residential supervision. Field services supervision included the following offenders by correctional status: 22,328 on probation, 3,709 on parole, 678 on special sentence, 1,571 on pretrial release with supervision, and 1,282 on some other status, such as interstate compact.
- Refer to the LSA memo addressed to the General Assembly, [Correctional Impact Statements](#), dated January 30, 2015, for information related to criminal justice system costs for nonperson crimes.

### Minority Data Information

The table below shows the FY 2014 offender-based convictions for possession of marijuana according to the CJJPD. Minority offenders, such as Blacks and Native Americans, are disproportionately convicted compared to their percentage of the Iowa population.

#### FY 2014 Convictions for First Offense Possession of Marijuana by Race/Ethnicity

Possession of Marijuana	Percent White	Percent Black	Percent Hispanic	Percent Native American	Percent Asian	Percent Other or Unknown
Serious Misdemeanor	65.8%	13.6%	5.9%	1.9%	1.0%	11.8%

Refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2015, for information related to minorities in the criminal justice system.

## Assumptions

### **Correctional and Fiscal Information**

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice system policies and practices will not change over the projection period.
- The law will become effective July 1, 2015. 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.
- Half of the defendants will be indigent. Collection of revenue is likely to be low for any financial penalty imposed under the provisions of this Bill.
- There were 1,134 offenders convicted of first offense possession of a controlled substance – marijuana under Iowa Code section [124.401\(5\)](#) in FY 2014. Half of these offenders will be convicted of a simple misdemeanor under this Bill.

**Minority Data Information:** The impact on minorities will remain consistent with current data.

## Summary of Impacts

### **Correctional Impact**

On an annual basis, there will be an estimated 567 offenders convicted of a simple misdemeanor under this Bill. There will be 567 offenders convicted of a serious misdemeanor as under current law. It is estimated the offenders will be sentenced as shown in the following table.

#### **Estimated Disposition of Sentences Under SF 219**

Admissions	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Current Law - Prison	-6	-11	-11	-11	-11
SF 219 - Simple Misdemeanor	0	0	0	0	0
SF 219 - Serious Misdemeanor	3	6	6	6	6
Net Prison Admissions	<u>-3</u>	<u>-5</u>	<u>-5</u>	<u>-5</u>	<u>-5</u>
Current Law - County Jail	-220	-440	-440	-440	-440
SF 219 - Simple Misdemeanor	32	64	64	64	64
SF 219 - Serious Misdemeanor	110	220	220	220	200
Net County Jail Admissions	<u>-78</u>	<u>-156</u>	<u>-156</u>	<u>-156</u>	<u>-176</u>
Current Law - CBC Facilities	-4	-9	-9	-9	-9
SF 219 - Simple Misdemeanor	0	0	0	0	0
SF 219 - Serious Misdemeanor	2	5	5	5	5
Net CBC Facilities	<u>-2</u>	<u>-4</u>	<u>-4</u>	<u>-4</u>	<u>-4</u>
Current Law - Probation	-305	-610	-610	-610	-610
SF 219 - Simple Misdemeanor	5	10	10	10	10
SF 219 - Serious Misdemeanor	144	289	289	289	289
Net Probation	<u>-156</u>	<u>-311</u>	<u>-311</u>	<u>-311</u>	<u>-311</u>

There is expected to be 493 offenders convicted of a simple misdemeanor that will either receive a community service sentence, a financial penalty, or both.

On an annual basis, there will be five fewer prison admissions, four fewer admissions to a CBC residential facility, 156 fewer admissions to county jail, and 311 fewer admissions to probation supervision. Based on the current number of offenders on State correctional supervision, the decrease in admissions is not significant. The table on the following page shows the correctional impact.

**Projected Net Decrease in Admissions to the Correctional System**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
State Prison	-3	-5	-5	-5	-5
CBC Residential	-2	-4	-4	-4	-4
County Jail	-78	-156	-156	-156	-156
CBC Probation	-156	-311	-311	-311	-311
	<u>-239</u>	<u>-476</u>	<u>-476</u>	<u>-476</u>	<u>-476</u>

**Minority Impact**

It is expected this Bill will reduce the disproportionate impact on minorities in the criminal justice system. Offenders convicted of the offense of possessing five grams or less of marijuana will serve less time or no time under correctional supervision, compared to current law. It is more likely convicted minorities will receive a financial penalty or community service sentence, rather than correctional supervision, under the provision of this Bill.

**Fiscal Impact**

The fiscal impact is expected to be a decrease in expenditures of \$186,300 in FY 2016 and \$487,600 in FY 2017. The table below shows the fiscal impact by funding source. County jail operating costs are expected to decrease by \$15,000 in FY 2016 and \$30,000 in FY 2017. State General Fund costs are expected to decrease for the Judicial Branch operating budget, the Indigent Defense Fund, the State prison system, and probation.

	FY 2016				FY 2017			
	County Budgets	CBC Local	General Fund	Total	County Budgets	CBC Local	General Fund	Total
County Jail	\$ -15,000	\$ 0	\$ 0	\$ -15,000	\$ -30,000	\$ 0	\$ 0	\$ -30,000
State Prison	0	0	-12,000	-12,000	0	0	-20,000	-20,000
CBC - State	0	0	-60,000	-60,000	0	0	-241,000	-241,000
CBC - Local	0	-3,300	0	-3,300	0	-6,600	0	-6,600
Judicial Branch	0	0	-53,000	-53,000	0	0	-105,000	-105,000
Indigent Defense	0	0	-43,000	-43,000	0	0	-85,000	-85,000
Total	<u>\$ -15,000</u>	<u>\$ -3,300</u>	<u>\$ -168,000</u>	<u>\$ -186,300</u>	<u>\$ -30,000</u>	<u>\$ -6,600</u>	<u>\$ -451,000</u>	<u>\$ -487,600</u>

**Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
 Office of the State Public Defender  
 Office of the State Court Administrator  
 Department of Corrections

Holly M. Lyons

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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.