



HF 258 – Peace Officer Sexual Misconduct with Offenders and Juveniles (LSB1160HV)
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Fiscal Note Version – New
Requested by Representative Chip Baltimore

Description

House File 258 amends Iowa Code section **709.16** (Sexual Misconduct with Offenders and Juveniles) to prohibit a peace officer from engaging in a sex act with an offender under the supervision of the Department of Corrections (**DOC**) or Community-Based Corrections (CBC) District Departments, or with a juvenile in a juvenile placement facility, or a prisoner in a county jail. The penalty is an aggravated misdemeanor.

Background

Correctional and Fiscal Information

- There are about 6,000 sworn peace officers in Iowa.
- The total number of offenders under State correctional supervision was 39,814 offenders on February 20, 2015. These offenders were supervised in the State prison system (8,194) or CBC District Departments (31,620).
- There are 98 counties that maintain jails. Three of those facilities are temporary holding facilities; they can detain an inmate for a maximum of 24 hours. The 98 county facilities have 7,033 beds, with about 832 temporary holding beds and 6,201 standard county jail beds.
- There are 10 juvenile detention centers in Iowa that are licensed for 262 detention beds per Iowa Code section **232.142(5)**.
- The average cost per case for the **Judicial Branch** is \$213 for an aggravated misdemeanor. This estimate does not include bench or jury trial costs.
- The cost for the **Indigent Defense Fund** is \$1,200 for an aggravated misdemeanor case.
- Convictions under the provisions of Iowa Code section **709.16** are rare. The most recent occurred in FY 2011 when there were three convictions. Two of the offenders were sentenced to probation supervision while one received a State prison sentence.
- Offenders sentenced under the provisions of this Bill are subject to sentencing enhancements because they are sex offenders. These offenders are subject to the requirements of the Sex Offender Registry (**SOR**) for at least 10 years per Iowa Code chapter **692A**. The SOR is administered by the Department of Public Safety (**DPS**). These offenders are also subject to the Special Sentence imposed under Iowa Code section **903B.2**. Offenders on Special Sentence are supervised by the CBC District Departments.
- According to the Justice Data Warehouse, the Criminal and Juvenile Justice Planning Division (**CJJPD**), and the DOC, the following are estimates for sentencing, length of stay under supervision, and costs for an offender convicted of an aggravated misdemeanor sex offense.

Corrections Supervision Information

Percent Sentenced to State Prison	Avg Length of Stay in Prison	Marginal Cost per Day	Avg Length of Stay on Parole Including Special Sentence	Percent Sentenced to Probation	Avg Length of Stay on Probation Including Special Sentence	Percent Sentenced to CBC Residential 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
31.5%	12.9 months	\$18.92	26.8 months	58.2%	76.3 months	9.6%	5.8 months	\$11.55	15.7%	79 days	\$15.00

- The percent sentenced to State prison, probation, CBC residential facility, or county jail is 115.0%. The disposition of sentences exceeds 100.0% because certain offenders are sentenced to county jail and then probation supervision; certain offenders are sentenced to a CBC residential facility and then probation supervision.
- Approximately 81.2% of the marginal cost per day for CBC residential facilities is paid from local sources.
- 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.
- Offenders sentenced to prison are required to participate in a Sex Offender Treatment Program (SOTP). The table above does not include the average length of stay in treatment or the average daily cost of State prison-based SOTP.
- Sex offenders can be revoked from probation, parole, or special sentence supervision for technical violations or new convictions. The average length of stay in prison does not include time served for revocations.
- Offenders convicted of a sex offense and supervised by a CBC District Department are usually placed on intensive supervision and gradually progress to normal supervision if they are successful. These offenders are usually placed on electronic monitoring for a period of their supervision. Sex offenders are required to participate in a SOTP while under CBC supervision. The table below shows supervision length of stay and costs that are unique to sex offenders convicted of an aggravated misdemeanor and supervised by CBC District Departments.

Information for Sex Offender Supervision in CBC District Departments

Avg Length of Stay on Special Sentence Only	Avg Length of Stay on Intensive Supervision While on Parole or Probation	Avg Daily Cost of Intensive Supervision for Sex Offenders	Avg Length of Stay on Normal Probation or Parole Supervision	Avg Daily Cost for Probation or Parole	Avg Length of Stay on Electronic Monitoring	Avg Daily Cost of Electronic Monitoring Device	Avg Length of Stay in SOTP CBC Only	Avg Daily Cost for SOTP CBC Only
54.9 months	42 months	\$12.80	34.3 months	\$4.26	26.4 months	\$3.15	38.8 months	\$5.08

- The [Fifth](#) CBC District Department's State General Fund appropriation includes funds for the statewide command center and electronic monitoring system. Electronic monitoring devices range in cost by type of device. Global Positioning System (GPS) Active devices are \$3.15 per day while GPS Passive devices are \$3.10 per day. Refer to the [Electronic Monitoring Report](#) issued by the DOC in October 2014 and published on the General Assembly's [website](#) for additional information.
- Some offenders receive a jail sentence without a probation sentence. The special sentence starts once the jail sentence is served. They are then placed on CBC supervision.

Minority Data Information

According to the Justice Data Warehouse, two of the offenders convicted in FY 2011 were White and one was Hispanic. Two of the offenders were men and one was a woman.

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 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.
- The fiscal impact on the Indigent Defense Fund and the Judicial Branch operating budget is expected to be minimal because convictions under current law are rare.
- Offenders convicted under this Bill are likely to receive probation, given current sentencing pattern trends.

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

Summary of Impacts

Correctional Impact

The correctional impact will be minimal. Convictions under Iowa Code section [709.16](#) are rare.

Minority Impact

The minority impact is minimal. Few convictions are anticipated under the provisions of this Bill.

Fiscal Impact

The fiscal impact is expected to be minimal because few criminal cases are anticipated under the provisions of this Bill. The majority of any fiscal impact will be incurred in the corrections system.

Sources

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

/s/ Holly M. Lyons

March 2, 2015

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.
