



**HF 158** – Bus Driver Assault (LSB1419HV)

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Fiscal Note Version – New

**Description**

**House File 158** expands protected occupation classes under Iowa Code section **708.3A** to include public transit bus operators. A person convicted of assaulting a member of a protected class is subject to enhanced penalties.

**Background**

Currently, the protected class of occupations includes peace officers, jailers, correctional staff, members or employees of the Board of Parole, health care providers, employees of the Department of Human Services, employees of the Department of Revenue, and paid or volunteer fire fighters. Current law provides for a graduated system of penalties ranging from a serious misdemeanor to a Class D felony, depending on the circumstances of the assault on a protected class. Felony convictions under Iowa Code section **708.3A** (assaults on persons engaged in certain occupations) are forcible felonies with a mandatory sentence to prison.

**Correctional and Fiscal Information**

- The impact to the Judicial Branch operating budget is the cost difference between an aggravated misdemeanor (\$213 per case) and a Class D felony (\$436 per case). The case costs are approximately the same for a serious and an aggravated misdemeanor.
- The table below shows FY 2014 offender-based convictions for assaults on a protected class, according to the Justice Data Warehouse:

Offense Class	FY 2014 Convictions
Serious Misdemeanor	380
Aggravated Misdemeanor	114
Class D Felony	25
Total Convictions	549

- According to the Justice Data Warehouse, the Criminal and Juvenile Justice Planning Division, and the Department of Corrections, the following are estimates for sentencing, length of stay by offense class, and costs for assaults on a protected class:

Conviction Offense Class	Percent Sentenced to State Prison	Average Length of Stay in Prison	Marginal Cost Per Day	Percent Sentenced to Probation	Average Length of Stay on Probation	Average Cost per Day for Prob/Parole	Percent Sentenced to CBC Facility	Avg. Length of Stay in CBC	Marginal Cost Per Day	Percent Sentenced to County Jail	Average Length of Stay in County Jail	Marginal Cost Per Day*
Serious Misdemeanor	3.1%	6.2 months	\$18.92	26.5%	12.0 months	\$4.26	1.1%	5.8 months	\$11.55	59.2%	41	\$15.00
Aggravated Misdemeanor	12.8%	13.7 months	\$18.92	59.8%	18.8 months	\$4.26	3.7%	5.8 months	\$11.55	33.0%	45	\$15.00
Class D Forcible Felony	100.0%	23.9 months	\$18.92	44.0%	31.4 months	\$4.26	5.5%	0	\$0.00	0.0%	0	\$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 \$15.00 per day.

- Approximately 81.2% of the marginal cost per day for Community-Based Corrections (CBC) residential facilities is paid from local resources.

## **Minority Data Information**

The table below shows the FY 2014 offender-based convictions for assaults on a protected class by race/ethnicity, according to the Justice Data Warehouse. Minority offenders are disproportionately convicted compared to their percentage of the Iowa population.

Conviction Offense Class	White	Black	Hispanic	Native American	Asian	Other or Unknown
Serious Misdemeanor	61.6%	18.7%	3.2%	1.8%	1.3%	13.4%
Aggravated Misdemeanor	52.1%	22.2%	1.4%	2.1%	0.0%	22.2%
Class D Felony	44.0%	24.0%	4.0%	4.0%	0.0%	24.0%
Total Convictions	58.1%	19.8%	2.7%	2.0%	0.9%	16.5%

Refer to the [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 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.
- A percentage of current convictions for serious misdemeanors will become aggravated misdemeanors under this Bill. A percentage of aggravated misdemeanors will become Class D felony convictions under this Bill.
- The impact on the indigent defense budget is expected to be minimal. The fee cap for a serious misdemeanor conviction is \$600. The fee cap for an aggravated misdemeanor is the same as a Class D felony (\$1,200).

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

## **Summary of Impacts**

### **Correctional Impact**

The correctional impact cannot be estimated due to a lack of data. However, a percentage of offenders currently convicted of a serious misdemeanor and sentenced to probation will be convicted of an aggravated misdemeanor and sentenced to State prison or county jail with probation. A percentage of offenders currently convicted of an aggravated misdemeanor and sentenced to county jail will now be convicted of a Class D felony and sentenced to State prison. The sentencing changes in the bill will result in longer sentences and supervision periods.

### **Minority Impact**

The minority impact cannot be estimated but may be significant. Approximately 25.4% of offenders convicted under this Bill may be minorities. This Bill shifts a percentage of serious misdemeanor convictions to aggravated misdemeanor convictions, and a percentage of aggravated misdemeanor convictions to Class D forcible felony convictions. Enhanced penalties will result in an increased number of minority offenders supervised in the correctional system, and they will be supervised for a longer period than under current law.

## **Fiscal Impact**

The fiscal impact cannot be estimated but may be significant, depending on the number of convictions under the provisions of this Bill. State General Fund costs for one serious misdemeanor assault conviction total approximately \$5,400. State General Fund costs for one aggravated misdemeanor assault conviction total approximately \$10,000. State General Fund costs for one Class D forcible felony assault conviction total approximately \$17,700. Cost estimates for all offense classes will be increased across multiple fiscal years while the offender is supervised in the correctional system, either in prison or in the community.

The Bill is expected to increase indigent defense costs if the defendant is indigent. The costs of indigent criminal defense increase in relation to the severity of the crime charged and potential punishment. It is not possible to calculate an exact cost as the number of cases that will be prosecuted in each enhanced category is not known.

## **Sources**

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

/s/ 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.

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