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**SF 2061** – Indigent Defense in Cases of Possible Imprisonment (LSB5139SV.2)  
Analyst: Laura Book (Phone: 515-725-0509) ([laura.book@legis.iowa.gov](mailto:laura.book@legis.iowa.gov))  
Fiscal Note Version – As amended and passed by the House and Senate

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### **Description**

**Senate File 2061**, as amended and passed by the House and Senate, requires the State Public Defender to coordinate the representation of indigent persons under arrest or charged with a crime and facing the possibility of imprisonment under the applicable criminal statute or ordinance. The bill does not require the appointment of an attorney for an indigent person if the indigent person does not request the appointment of an attorney or waives the right to an appointed attorney.

House amendment **S-5093** requires the State Public Defender to seek reimbursement for the compensation and expenses paid from the Indigent Defense Fund for the defense of an indigent person that violates a local ordinance and faces the possibility of imprisonment. The Office of the State Public Defender must seek reimbursement from the political subdivision of the state that was the plaintiff in the case.

Senate amendment **H-8167** to House amendment **S-5093** relates to the juror selection process, eliminates the use of jury commissions to draw juror lists, and requires the master jury list to be updated annually using an electronic data processing system. The amendment provides that jury managers and the State Court Administrator are responsible for implementing the provisions of the amendment.

### **Background**

The State Public Defender currently provides representation for indigent persons for misdemeanors if there is a potential for a jail sentence.

In [\*State v. Young\*, 863 N.W.2d 249 \(Iowa 2015\)](#), the Iowa Supreme Court held, as a matter of Iowa constitutional law, an indigent person charged with a crime and facing the possibility of imprisonment under the applicable criminal statute has the right to court appointed counsel, including simple misdemeanor offenses. **Senate File 2061** codifies the holding of *State v. Young*.

### **Jury System Update**

In November 2015, the Governor's Working Group on Criminal Justice Policy Reform made several strategy proposals, including increasing the diversity of jury pools.

**Jury Commissions/Manager:** Under current law, counties may use jury commissions or a jury manager to draw up a master jury list of eligible jurors, return a list of grand jurors and petit jurors to the clerk of district court, and select the number of required jurors from the grand juror or petit juror list. Senate amendment **H-8167** eliminates jury commissions. As a result, counties will be required to use jury managers to draw master jury lists and select jurors. The amendment also requires an electronic data processing system to be used to create a master jury list and for the random drawing of jurors.

**Master Jury List:** Under current law, the master jury list must be updated once every two years. The master jury list includes names taken from all source lists, including the voter registration list and the motor vehicle operators list, for possible jury service. Senate

amendment [H-8167](#) requires the master jury list to be updated every year, and to include the nonoperators identification list as a source list.

### **Assumptions**

- The rate of increase in the number of attorneys appointed by the court in stand-alone simple misdemeanor cases between July 1, 2015, and the end of calendar year 2015, will remain the same in the future.
- The average cost of representation of those indigents charged with stand-alone misdemeanor offenses will remain the same as it was during the first half of FY 2016.
- The cost expended by the Judicial Branch to maintain and operate the existing automated jury management system will remain the same.

### **Fiscal Impact**

[Senate File 2061](#) has no fiscal impact since it codifies the holding of *State v. Young*. However, the holding in *State v. Young* has had an impact, and will continue to have an impact by increasing the number of indigent persons that receive a court-appointed attorney in stand-alone misdemeanor cases. From July 1, 2015, through January 8, 2016, the cost of representation for indigents in stand-alone misdemeanors increased by \$219,484. Annualizing this increase to the Indigent Defense Fund results in an increase of approximately \$440,000 per year going forward.

House amendment [S-5093](#) will reduce the fiscal impact of *State v. Young* on the Indigent Defense Fund. The reduction is estimated to be relatively small, approximately \$30,000 per year. The table below summarizes claims to the Indigent Defense Fund for city ordinance violations over the past five years:

<b>City Criminal Violation Claims</b>		
<b><u>Fiscal Year</u></b>	<b><u>Claims</u></b>	<b><u>Cost</u></b>
2015	142	\$ 29,700
2014	105	21,000
2013	67	14,000
2012	52	11,900
2011	71	16,100

It should be noted that the Office of the State Public Defender is expected to incur some additional administrative costs from collecting the reimbursements from the political subdivisions, but those costs are estimated to be less than \$5,000 per year.

Senate amendment [H-8167](#) to House amendment [S-5093](#) will have a minimal fiscal impact on the Judicial Branch and the State General Fund. The amendment could impose some additional work time for local jury managers to supplement the source list with state nondriver photo identification, but it is unlikely to be substantial. In addition, the Judicial Branch has the ability to meet the demands of [H-8167](#) with the existing automatic jury management system.

It should also be noted that the existing automatic jury management system is 18 years old, and the Judicial Branch is planning on purchasing a new system. Upgrading the application will substantially improve the utility and flexibility of the jury list management system. The Judicial Branch currently spends \$117,000 per year to maintain and operate the existing automated jury management system. The Judicial Branch has included an additional \$400,000 in its FY 2017 budget request to the Governor and the General Assembly to cover the cost of upgrading to a new automated jury list and juror management system. The \$400,000 is in addition to the funds currently spent to maintain the system.

**Source**

Office of the State Public Defender

/s/ Holly M. Lyons

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April 12, 2016

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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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