



HF 2064 – Child Endangerment Resulting in Death (LSB5578YH.2)
Analyst: Alice Wisner (Phone: 515-281-6764) (alice.wisner@legis.iowa.gov)
Fiscal Note Version – As amended by Senate amendment **H-8196**

Description

House File 2064, as amended by Senate amendment **H-8196** (strike everything after the enacting clause), addresses child endangerment resulting in the death of a child or minor and allows for nonviolent drug offenders who are not high-risk to reoffend to be eligible for parole after serving at least 50.0% of their mandatory minimum sentence.

Background

Currently, Iowa Code section **726.6(4)** states that a person convicted of committing child endangerment resulting in the death of a child or minor is guilty of a Class B felony and is required to be confined for no more than 50 years in prison. Prison time is mandatory and the offender becomes automatically eligible for parole.

This bill requires that anyone convicted of child endangerment resulting in the death of a child or minor serve a minimum of 30.0% to 70.0% of a 50-year Class B felony sentence. The average length of stay for a person convicted of child endangerment resulting in the death of a child or minor under current law is 55.4 months, or 4.6 years. This bill will make the minimum length of stay 180 to 420 months, or 15 to 35 years.

The bill as amended also allows for nonviolent drug offenders (not evaluated as high-risk) to be eligible for parole after serving at least 50.0% of their mandatory minimum sentence as sentenced under Iowa Code section **124.401(1)**, paragraph a, b, or c. This proposal will be retroactive and impact current inmates as well as new prison admissions. It allows, but does not require, the Board of Parole (BOP) to release offenders. It does not apply to offenders assessed as high-risk to reoffend for either violence or victimization, and it will not eliminate minimum mandatory sentences.

Culturally specific intensive parole programs in Black Hawk County and Polk County have been implemented since early 2009. These programs utilize smaller groups and caseloads, and include community investment and involvement. Members from the African-American community donate their time to help provide guidance, support, encouragement, and accountability to the parolees. Recidivism rates in Waterloo and Des Moines have been reduced since these programs have been set into place. Statewide, the recidivism rate for the African-American population was 36.0% in FY 2000 (compared to 32.0% for the White Non-Hispanic population), and had decreased to 34.6% in FY 2009 (compared to 31.1% for the White Non-Hispanic population).

As of January 11, 2016, there were 673 drug offenders in prison serving drug mandatory minimum sentences. The majority of these sentences were mandatory minimums under **Iowa Code section 124.413**. Of these, 564 (83.9%) were assessed as low or medium risk for violence and other victim offenses, and could be affected by this proposal. During FY 2015, there were 348 new prison admissions of drug offenders sentenced to serve mandatory minimum terms under Iowa Code chapter **124**. Of these, 316 (90.8%) were assessed as low-risk or medium-risk for violence and other victim offenses, and could be impacted by this proposal.

There are a large number of offenders currently in prison whose expected length of stay will be reduced. The initial impact of early release will likely stabilize after three years, as the average length of parole is approximately 24 months.

Assumptions

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Revocation rates and other corrections policies and practices will not change over the projection period.
- The percent of the mandatory minimum term for drug offenders to serve is based on the calculated date and includes any earned time. An analysis by the Criminal and Juvenile Justice Planning Division (CJJPD) shows that 205 inmates could be released in FY 2017, and 204 inmates in FY 2018, based on the individual amount of time served in their mandatory minimum sentence and their nonviolent risk assessment qualification.
- The law will become effective July 1, 2016. There is a six-month lag between enactment of the bill and when the first case will come through the process. While it is estimated by the CJJPD that 205 inmates could possibly be released in FY 2017 due to the change in nonviolent drug offender sentences, the fiscal impact on savings is calculated using a more conservative number based on parole planning and the need for program participation prior to release.
- The law will apply to offenders currently serving drug mandatory minimum sentences for nonviolent drug offenses, as well as new admissions.
- One additional Probation/Parole 3 Officer FTE position will handle a caseload of up to 50 offenders at a cost of \$70,000 annually per position. Two additional FTE positions will be needed for FY 2017, and four additional FTE positions will be needed in FY 2018.
- Cost savings for the Department of Corrections (DOC) institutions are calculated using a five-year average of 180 offenders released annually (in FY 2017, the first year of implementation, this number is 90 because of an assumed six-month time lag before the first releases). The average marginal cost for a DOC prison inmate is \$18.43 per day (\$6,750 a year). Savings are calculated with varying individual release dates during the fiscal year.
- There will be two convictions subject to a 30.0% to 70.0% minimum sentence each year under Iowa Code section [726.6\(4\)](#) for child endangerment resulting in death.
- The first persons convicted under the 30.0% to 70.0% minimum for child endangerment resulting in death in FY 2017 will not fiscally impact the system until FY 2021.

MINORITY IMPACT

Child Endangerment Resulting in Death

For a minimum 30.0% to 70.0% sentence for child endangerment resulting in death, the minority impact is estimated to be minimal. In FY 2015, the only two individuals convicted under Iowa Code section [726.6\(4\)](#) were Caucasian.

Change in Mandatory Minimum Sentences for Nonviolent Drug Offenders

It is expected the bill as amended will reduce the disproportionate impact on minorities in the criminal justice system. As of 2014, 3.4% of Iowa's population was African American. Approximately 11.5% of new prison admissions of drug offenders sentenced to mandatory minimum terms is African American. Of those drug offenders currently in prison serving mandatory minimum terms, 17.8% are African American. Given this, it is estimated 14.6% of the inmates released under this proposal will be African American.

Refer to the Legislative Services Agency (LSA) [Minority Impact Statement Memo](#) dated January 26, 2016, for information related to minorities in the criminal justice system.

CORRECTIONAL IMPACT

Child Endangerment Resulting in Death

This bill does not create any new crimes. It will lengthen the sentence for convictions of the rare crime of child endangerment resulting in a death. The correctional impact will not impact the cost to the corrections system until year five (FY 2021) for child endangerment resulting in death.

Change in Mandatory Minimum Sentences for Nonviolent Drug Offenders

Convictions will not change under the bill as amended, but offenders could possibly be released to work release or intensive parole sooner. This change is expected to decrease the prison population as follows:

- FY 2017: 205
- FY 2018 204
- FY 2019 214
- FY 2010 187
- FY 2021 179

Refer to the LSA [Correctional Impact Statements Memo](#) dated February 18, 2016, for additional information related to costs.

FISCAL IMPACT

Child Endangerment Resulting in Death

The fiscal impact of this bill will begin in FY 2021. That is 4.6 years after an initial conviction of child endangerment resulting in death under this bill (and also accounts for a six-month lag between enactment of the bill and the first possible case), and two additional convictions will be experienced yearly thereafter. Additional costs are estimated to be:

- FY 2021 - \$13,500
- FY 2022 - \$27,000
- FY 2023 - \$40,500
- FY 2024 - \$54,000
- FY 2025 - \$67,000

Change in Mandatory Minimum Sentences for Nonviolent Drug Offenders

The fiscal impact is estimated to be a decrease in expenditures of \$227,000 in FY 2017 and \$757,000 in FY 2018. There will also be increased costs for additional parole officers. There is a compounding effect for the number of parole officers needed that will stabilize in FY 2019. **Table 2** shows the fiscal impact.

Table 2 — Estimated Fiscal Impact

	FY 2017	FY 2018	FY 2019
Cost savings due to sentencing change	\$ -227,000	\$ -757,000	\$ -757,000
Cost increase for parole officers	140,000	350,000	630,000
Net savings	\$ -87,000	\$ -407,000	\$ -127,000

Sources

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

/s/ Holly M. Lyons

April 18, 2016

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 LSA upon request.
