



SF 88 – Simulated Firearms and Explosives Use, Criminal Penalties (LSB1109XS)

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Fiscal Note Version – New

Description

Senate File 88 enhances the penalty when a simulated firearm or explosive is used in the commission of a crime if it appears to be a firearm or explosive when displayed, or is represented to be a firearm or explosive. Currently, these crimes may be classified as robbery in the second or third degree, aggravated theft, or harassment.

Background

Current law states that:

- Intimidation with a dangerous weapon is a Class C felony when there is intent to injure, or provoke fear or anger in another when the offender shoots, throws, launches, or discharges a dangerous weapon. A Class C felony is punishable by confinement of no more than 10 years and a fine of at least \$1,000 but no more than \$10,000.
- Intimidation with a dangerous weapon is a Class D felony when an offender shoots, throws, launches, or discharges a dangerous weapon. A Class D felony is punishable by confinement for no more than five years and a fine of at least \$750 but no more than \$7,500.
- Robbery in the first degree is a Class B felony and is committed when a person purposely inflicts or attempts to inflict serious injury, or is armed with a dangerous weapon. A Class B felony is punishable by confinement for no more than 25 years, and is subject to a mandatory minimum sentence.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- 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.
- Marginal costs for county jails cannot be estimated 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.
- 20.0% of the current robbery in the second degree prison admissions involved a simulated weapon, therefore it is assumed that 20.0% of current intimidation with a dangerous weapon offenses involved simulated weapons.

Impact

Correctional Impact

There will be no additional convictions under this Bill, but penalties will be enhanced for instances where simulated weapons have been used. This will increase the length of stay for those convicted of intimidation with a dangerous weapon and robbery in the first degree.

Robbery in the first degree is subject to a 70.0% mandatory minimum sentence under Iowa Code section [902.12](#). This Bill would gradually increase the prison population annually. **Table 1** below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for convictions of Class B, Class C, and Class D felonies

against persons. Refer to the LSA memo addressed to the General Assembly, [Correctional Impact Memo](#), dated January 30, 2017, for information related to the correctional system.

Table 1 – Sentencing Estimates and LOS

	Percent to Prison	Avg LOS Prison (months)	FY 16 Marginal Cost/Day Prison	Avg LOS Parole (months)	Percent to Probation	Avg LOS Probation (months)	FY 16 Avg Cost/Day Parole & Probation	Percent to CBC	FY 16 Marginal Cost/Day CBC	Percent to County Jail	Avg LOS County Jail (days)	Marginal Cost/Day Jail
Class B Felony (Persons)	93.0%	132	\$18.51	36.5	9.0%	8.0	\$4.59	0.0%	\$10.28	44.0%	N/A	\$15.00
Class C Felony (Persons)	92.0%	38.2	\$18.51	19.8	29.0%	34.6	\$4.59	4.0%	\$10.28	42.0%	N/A	\$15.00
Class D Felony (Persons)	79.0%	16.6	\$18.51	10.5	52.0%	31.9	\$4.59	7.0%	\$10.28	33.0%	N/A	\$15.00

Minority Impact

This Bill would have a minority impact to the African-American community. In FY 2016, 53.8% of the persons convicted of robbery in the second degree were African-American. The U.S. Census estimate as of July 1, 2015, states that the Iowa population was 3.5% African-American. In the second year of enactment, there would be five less admissions to probation or parole (those five would be State prison admissions instead), and four of those five would be a minority. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2017, for information related to minorities in the criminal justice system.

Fiscal Impact

There would be an estimated seven additional Class B felony convictions in FY 2018, and 15 additional Class B felony convictions in FY 2019. Of these, 93.0% would be sentenced to prison. There would be a net decrease in the number of Class C and Class D felonies. The cost increase range for FY 2018 would be \$16,400 to \$118,300, and \$33,600 to \$245,400 in FY 2019. Taking into account the disposition of conviction, the cost increase estimate is \$114,000 for FY 2018 and \$234,000 for FY 2019. Again, this would not be due to additional convictions, but due to increased LOS over time for those convicted of more serious felonies.

Table 2 – Estimated Costs

Offense	Cost Range	Conviction Shift		Cost Increase Range		Cost Increase Estimate	
		FY 2018	FY 2019	FY 2018	FY 2019	FY 2018	FY 2019
Class B Felony	\$9,500-\$33,700	7	15	\$66,500 - \$235,900	\$142,500 - \$505,500	\$219,000	\$480,000
Class C Felony	\$7,500-\$18,600	-5	-12	(\$37,500 - \$93,000)	(-\$90,000 - -\$223,200)	(\$86,000)	(\$213,000)
Class D Felony	\$6,300-\$12,300	-2	-3	(\$12,600 - \$24,600)	(\$18,900 - \$36,900)	(\$19,000)	(\$33,000)
Net Change		<u>0</u>	<u>0</u>	\$16,400 - \$118,300	\$33,600 - \$245,400	\$114,000	\$234,000

Sources

Department of Human Rights, Division of Criminal and Juvenile Justice Planning

Department of Corrections

Office of the State Court Administrator

Office of the State Public Defender

/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.
