



[HF 526](#) – Invasion of Privacy, Distribution of Materials (LSB1308HV)
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Fiscal Note Version – New

Description

[House File 526](#) creates two additional criminal offenses related to invasion of privacy.

Background

Current law states that a person commits invasion of privacy if the person knowingly views, photographs, or films another person for the purpose of arousing or gratifying the sexual desire of any person if all of the following applies:

- The other person does not consent or is unable to consent to being viewed, photographed, or filmed.
- The other person is in a state of full or partial nudity.
- The other person has a reasonable expectation of privacy while in a state of full or partial nudity.

Current law does not address situations where the victim had given prior consent to being photographed or filmed, but not to dissemination of the photograph or film. This Bill establishes two additional invasion of privacy criminal offenses that would be aggravated misdemeanors punishable by confinement for no more than two years and a fine of at least \$625 but no more than \$6,250. Those offenses are:

- Knowingly disseminating, publishing, distributing, posting, or causing the dissemination, publication, distribution, or posting of a photograph or film showing another person in a state of full or partial nudity or engaged in a sex act without the consent of the other person.
- Knowingly creating a photograph or film that shows another person in a state of full or partial nudity or engaged in a sex act, if the other person did not or was unable to consent to the creation.

Assumptions

- In FY 2016, there were 30 charges under Iowa Code section [709.21](#) that were dismissed or acquitted. It is assumed that 50.0% of these (15) would have been aggravated misdemeanor convictions under this Bill.
- 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 per day.

The Bill also states that if a juvenile commits invasion of privacy in violation of these newly created offenses, the juvenile court will have exclusive jurisdiction in related proceedings.

Impacts

Minority Impact

There is no minority impact expected under [HF 526](#). Offenders previously convicted and admitted to prison for violations of Iowa Code section [709.21](#) were predominantly Caucasian. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2017, for information related to minorities in the criminal justice system.

Correctional Impact

Based upon past history, it is estimated that there would be an annual increase of 15 aggravated misdemeanor convictions under this Bill. Ten of these would result in a prison sentence, and five in jail orders. The net increase to the prison population would be three individuals in the first year of implementation (FY 2018), and six individuals annually after that.

Table 1 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 aggravated misdemeanor crimes against persons.

Table 1 – Marginal Costs 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
Agg Misd (Persons)	47.0%	8.7	\$18.51	6.5	71.0%	20.1	\$4.59	4.0%	\$10.28	56.0%	37	\$15.00

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

Fiscal Impact

[House File 526](#) will have a minimal fiscal impact to both the General Fund and to local governments. **Table 2** summarizes the estimated General Fund expenditures under this Bill.

Table 2 – Estimated Costs

<u>Offense</u>	<u>Cost Range</u>	<u>Additional Convictions</u>		<u>Cost Increase Range</u>		<u>Cost Increase Estimate</u>	
		<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2018</u>	<u>FY 2019</u>
Aggravated Misdemeanor	\$3,100 - \$7,000	3	6	\$9,300 - \$21,000	\$18,600 - \$42,000	\$14,799	\$29,598

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
Department of Public Safety

/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.
