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**SF 2305** – Workers’ Compensation Fraud (LSB5360SV)  
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Fiscal Note Version – New

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**Description**

[Senate File 2305](#) relates to workers’ compensation and insurance fraud and other prohibited health service provider practices. The Bill establishes a Workers’ Compensation Fraud Unit within the Insurance Fraud Bureau within the Insurance Division of the Department of Commerce. The Bill requires the Unit to employ at least one full-time prosecuting attorney to prosecute all criminal actions which may be brought under this Bill.

The Bill sets forth criminal penalties for engaging in workers’ compensation fraud, including fraud committed by employers, workers, insurers, health service providers, employees of insurers, and attorneys. Specifically, the Bill penalizes as a Class D felony the following forms of workers’ compensation fraud: benefit fraud, insurance coverage fraud, employer fraud, health service provider fraud, insurance carrier fraud, and attorney fraud. The elements for each crime are enumerated in the Bill. A Class D felony is punishable by confinement for no more than five years and a fine of at least \$750 and not more than \$7,500. The Bill provides that in addition to any other applicable penalties, if a person commits an offense of workers’ compensation fraud, a court is required to order the person to pay restitution to persons aggrieved by the violation. The Bill requires 50.0% of the criminal penalty collected to be deposited in the Workers’ Compensation Fraud Penalty Fund created in the Bill. Moneys in the Fund are appropriated to the Insurance Division of the Department of Commerce for the benefit of the Workers’ Compensation Fraud Unit.

The Bill amends Iowa Code chapter [85](#) to provide that an employer retains the right to choose an employee’s care throughout the course of treatment, including the choice of specialists. The employer is not obliged to authorize a referral for care with a specific provider of services.

The Bill also amends Iowa Code chapter [85](#) to provide that medical services provided under Iowa Code chapters [85](#), [85A](#), or [85B](#) must not be billed at a rate higher than the health service provider’s standard retail rate for that medical service.

The Bill takes effect upon enactment and applies to acts of fraud or prohibited health service providers’ practices committed on or after enactment.

**Assumptions**

- The penalties going to the Workers’ Compensation Fraud Penalty Fund will result in little or no revenue in the first year, a minimal amount of revenue the second year, and an unknown amount of revenue for the Fund in subsequent years. Since the origin of the Insurance Fraud Bureau in 1994, there is no record of seeking recoveries for the costs of investigation and prosecution.
- The Iowa Department of Workforce Development, Workers’ Compensation Division, has 10 deputy workers’ compensation commissioners hearing cases with an average case load of 567.
- The Workers’ Compensation Division will add an additional deputy workers’ compensation commissioner to address the increase in the number of medical fee disputes.

- The Workers' Compensation Division will add an additional deputy workers' compensation commissioner to address the increase in the number of alternate medical care petitions being filed.
- The Insurance Fraud Bureau is required to employ at least one full-time prosecuting attorney, and the prosecuting attorney requires the support of a criminal intelligence analyst and special investigators. The Bureau will add the following additional staff:
  - Attorney 3 1.0 full-time equivalent (FTE) position
  - Criminal Intelligence Analyst 1.0 FTE position
  - Special Investigators 6.0 FTE positions
- Each criminal intelligence analyst would work on 25 cases each year.
- Salary costs include benefits and are estimated at entry level with the exception of the Attorney 3 that is estimated using the middle of the salary range.
- The new positions will start April 1, 2018.

### **Correctional Impact**

The correctional impact of [SF 2305](#) is estimated to be minimal. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018.

### **Minority Impact**

The minority impact of the Bill is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to the minorities in the criminal justice system.

### **Fiscal Impact**

Expanding employers' control over injured workers' treatment will not have a significant impact on the overall cost of workers' compensation claims.

The Workers' Compensation Fraud Penalty Fund will receive little or no revenue in the first two years and an unknown amount of revenue in subsequent years due to the time required to start the Program and collect any penalties.

Implementation of [SF 2305](#) will require the expenditure of an estimated \$338,000 in FY 2018 and \$970,000 in FY 2019 and each subsequent year from the Workers' Compensation Fraud Penalty Fund for expenses related to the employment of 8.0 FTE positions by the Insurance Fraud Bureau, as displayed in **Table 1**.

Implementation of [SF 2305](#) will require the expenditure of an estimated \$67,000 in FY 2018 and \$235,000 in FY 2019 and each subsequent year from the General Fund for the expenses related to the employment of 2.0 FTE positions by the Iowa Department of Workforce Development, Workers' Compensation Division, as displayed below in **Table 2**.

**Table 1**

<b>Estimated Workers' Compensation Fraud Penalty Fund Revenue and Expenditures</b>			
	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Fraud Fund			
Revenue			
Penalties	\$ 0	Minimal	Unknown
<b>Total Revenue</b>	<b>\$ 0</b>	<b>Minimal</b>	<b>Unknown</b>
Insurance Division			
Expenditures			
Salaries	\$ 217,500	\$ 870,000	\$ 870,000
Support	57,000	100,000	100,000
Capital Outlay	63,000	0	0
<b>Insurance Div. Total Expenditures</b>	<b>\$ 337,500</b>	<b>\$ 970,000</b>	<b>\$ 970,000</b>
<b>Insurance Div. Total FTE Positions</b>	<b>8.0</b>	<b>8.0</b>	<b>8.0</b>
<b>Net Impact</b>	<b>\$ (337,500)</b>	<b>\$ (970,000)</b>	<b>\$ (970,000)</b>
<b>FTE Positions</b>	<b>8.0</b>	<b>8.0</b>	<b>8.0</b>

**Table 2**

<b>Estimated General Fund Revenue and Expenditures</b>			
	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Workers' Comp. Div.			
Expenditures			
Salaries	\$ 52,500	\$ 210,000	\$ 210,000
Support	14,250	25,000	25,000
<b>Workers' Comp. Div. Total Expenditures</b>	<b>\$ 66,750</b>	<b>\$ 235,000</b>	<b>\$ 235,000</b>
<b>Workers' Comp. Div. Total FTE Positions</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

**Sources**

Iowa Department of Workforce Development, Workers' Compensation Division  
Iowa Department of Commerce, Insurance Division  
Iowa Department of Administrative Services  
Iowa Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Iowa Public Employees' Retirement System

/s/ Holly M. Lyons

February 21, 2018

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.