



[SF 2356](#) – Sex Offenders and Sexually Violent Predators (LSB5295SV)
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Fiscal Note Version – New

Description

[Senate File 2356](#) relates to sexually violent predators and the accumulation of earned time by offenders, and provides penalties. The Bill makes various changes to provisions relating to release of sexually violent predators under Iowa Code chapter [229A](#).

[Senate File 2356](#) specifies that an inmate committed to the Department of Corrections (DOC) who is required to participate in a sex offender or domestic abuse treatment program shall not be eligible for any reduction of sentence until the inmate participates in and completes a sex offender or domestic abuse treatment program. The Bill specifies that an inmate committed to the DOC may be ordered to forfeit any or all earned time if the inmate has failed to complete a sex offender or domestic abuse treatment program as specified in Iowa Code section [903A.2](#).

Background

Under Iowa Code section [903A.2\(1\)\(a\)\(2\)](#), an inmate required to participate in a sex offender treatment program (SOTP) shall not be eligible for a reduction of sentence unless the inmate participates in and completes an SOTP. Failure to complete treatment includes refusal to attend or removal by corrections officers. Prior to 2016, the DOC policy interpreted this language to mean that an inmate could no longer accrue any earned time after refusing to attend the DOC's SOTP, but would not lose any previously accrued earned time. In January 2016, the DOC revised its policy to also include the forfeiture of previously accrued earned time. In 2017, the Iowa Supreme Court ruled in [State v. Iowa District Court for Jones County](#) that the DOC policy prior to 2016 applied and the DOC could not lawfully forfeit an offender's earned time accrued prior to refusal or removal from the SOTP.

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.
- In FY 2017, 33 offenders were unsuccessful in the Domestic Abuse Treatment Program. It is assumed that 33 offenders will be unsuccessful in the program annually.
- In FY 2017, 43 offenders were unsuccessful in the SOTP. It is assumed that 43 offenders will be unsuccessful in the program annually.
- The maximum sentence imposed on average would add six years after loss of earned time for those unsuccessful in the SOTP and seven years for those unsuccessful in the Domestic Abuse Treatment Program.
- The annual marginal cost of prison per day is equal to the daily marginal cost multiplied by 365 days ($\$17.52 \times 365 = \$6,394.80$).

Correctional Impact

No additional persons will be convicted because of the provisions in this Bill. The impact will occur because the length of stay for offenders who were unsuccessful in the treatment programs will increase due to loss of earned time. This impact will begin in FY 2019 and continue to increase until FY 2024. The additional costs are outlined in the Fiscal Impact section of this Fiscal Note. The Bill is expected to increase the prison population due to the increased length of stay after forfeiture of earned time.

Table 1 — SF 2356 Estimated Prison Population Changes

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
SOTP	43	86	129	172	215	215
Domestic Abuse Treatment	33	66	99	132	165	198
Total Additional Population	76	152	228	304	380	413

*On average, SOTP offenders stay an additional 6 years and DAP stay an additional 7 years.

Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

Minority Impact

Of the current active offenders, three of the six offenders unsuccessful in the Domestic Abuse Treatment Program and four of the 22 offenders unsuccessful in the SOTP are African-American. This Bill is not estimated to have a minority impact. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to minorities in the criminal justice system.

Fiscal Impact

[Senate File 2356](#) will have a fiscal impact on the operating budget of the DOC due to the increased length of stay for offenders who are unsuccessful in the SOTP or the Domestic Abuse Treatment Program. It is estimated there will be 43 unsuccessful participants in the SOTP and 33 unsuccessful participants in the Domestic Abuse Treatment Program annually. The marginal costs are estimated to increase until FY 2024 when the prison population is no longer expected to further increase as a result of the Bill.

Table 2 — SF 2356 Additional Prison Costs Per Year

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Additional Population	76	152	228	304	380	413
Annual Marginal Cost Per Inmate	\$ 6,395	\$ 6,395	\$ 6,395	\$ 6,395	\$ 6,395	\$ 6,395
Total Additional Cost Per Year	\$ 486,005	\$ 972,010	\$1,458,014	\$1,944,019	\$2,430,024	\$2,641,052

*Totals may not add up due to rounding of marginal cost.

Sources

Department of Corrections
CJJP

[State of Iowa v. Iowa District Court for Jones County](#), 909 N.W.2d 811 (2017).

/s/ Holly M. Lyons

February 20, 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.
