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[HF 2395](#) – Sexual Misconduct with Offenders and Juveniles (LSB5712HV)  
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Fiscal Note Version – New

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### **Description**

[House File 2395](#) relates to the criminal elements and penalties for the commission of sexual misconduct with offenders and juveniles. The Bill raises the criminal penalty from an aggravated misdemeanor to a Class D felony for the following offenses:

- A peace officer, officer, employee, contractor, vendor, volunteer, or agent of the Department of Corrections (DOC) who engages in a sex act with an inmate committed to the custody of the DOC, if such a person has specific and actual knowledge the inmate is committed to the custody of the DOC.
- An officer, employee, or agent of a judicial district department of correctional services who engages in a sex act with an individual under supervision of a judicial district department, with specific and actual knowledge the person is under supervision.
- A peace officer, officer, employee, contractor, vendor, volunteer, or agent of a juvenile placement facility who engages in a sex act with a juvenile placed at such a facility.
- A peace officer, officer, employee, contractor, vendor, volunteer, or agent of a county who engages in a sex act with a prisoner incarcerated in a county jail or municipal holding facility, if such person has specific and actual knowledge the inmate is incarcerated.
- The Bill takes effect January 1, 2019.

### **Background**

Under current law, an offense under Iowa Code section [709.16](#) is considered an aggravated misdemeanor. A person who violates this provision is also subject to a special sentence under Iowa Code section [903B.2](#). The Bill increases the penalty for those offenses to a Class D felony. An aggravated misdemeanor is punishable by confinement for no more than two years and a fine of at least \$625 but not more than \$6,250. A Class D felony is punishable by confinement for no more than five years and a fine of at least \$750 but not more than \$7,500. A special sentence is a punishment in addition to the punishment for the underlying criminal offense by committing the person into the custody of the Director of the DOC for a period of 10 years.

### **Assumptions**

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay (LOS); 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 \$50 per day.

### **Impact**

#### **Correctional Impact**

The correctional impact of [HF 2395](#) is estimated to be minimal. From FY 2013 to FY 2017, there were two convictions under Iowa Code section [709.16\(2\)](#). The Bill is estimated to increase the prison population by two inmates annually and one additional jail order annually.

**Table 1** below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of aggravated misdemeanors and Class D felonies in crimes involving persons. 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.

**Table 1 – Sentencing Estimates and LOS**

Conviction Offense Class	Percent to Prison	FY 17 Avg Length of Stay in Prison (months)	FY 17 Prison Marginal Cost per Day	Avg Length of Stay on Parole (months)	FY 17 Marginal Cost per Day Parole	Percent Sentenced to Probation	Avg Length of Stay on Probation (months)	FY 17 Avg Cost per Day on Probation	Percent Sentenced to CBC	FY 17 Marginal Cost CBC per Day	Percent Sentenced to County Jail	Marginal Cost per Day
Class D Felony (Persons)	77%	15.4	\$17.52	10.9	\$4.93	51%	29.7	\$4.93	8%	\$10.56	25%	\$50.00
Aggravated Misd (Persons)	47%	9	\$17.52	4.9	\$4.93	70%	19.3	\$4.93	4%	\$10.56	51%	\$50.00

### Minority Impact

The minority impact of [HF 2395](#) is unknown. 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

The fiscal impact of [HF 2395](#) is estimated to be minimal. The estimated impact to the State General Fund includes operating costs incurred by the Judicial Branch, the Indigent Defense Fund, and the DOC. **Table 2** contains estimates for the average State cost per offense class type and the estimated cost increase for two convictions from raising the penalties under the Bill.

**Table 2 – HF 2395 Estimated Cost**

Offense	Cost Range	Cost Increase Estimate	
		Minimum	Maximum
Class D Felony	\$7,900 - \$12,100	\$ 15,800	\$ 24,200
Aggravated Misdemeanor	\$3,300 - \$6,600	6,600	13,200
<b>Additional Cost</b>		<u>\$ 9,200</u>	<u>\$ 11,000</u>

### Sources

Department of Human Rights, Criminal and Juvenile Justice Planning

/s/ Holly M. Lyons

February 22, 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.