

Fiscal Services Division

Legislative Services Agency

Fiscal Note

SF 524 - Sexual Offenses Against Minors (LSB 2254 SV)

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Fiscal Note Version – New

Description

Senate File 524 enhances the criminal penalty for sexual abuse in the second degree, lascivious acts with a child, and sexual exploitation of a minor by creating and imposing a new Class B1 felony for these offenses. The offender must be at least 18 years old and the victim must be 12 years old or younger. Conviction of a B1 felony is a sentence of 25 years to life in prison. Offenders convicted of the new B1 felony are not eligible for parole, work release, or earned time reduction of sentence. The Bill also imposes a Class D felony penalty for knowingly aiding a sex offender in not registering with the Sex Offender Registry. Senate File 524 does not permit deferred judgments, or deferred or suspended sentences for a Class C felony conviction of sexual exploitation of a minor.

Background

- According to the Criminal and Juvenile Justice Planning Division of the Department of Human Rights, approximately 80.0% of victims of sex offenses knew the offender. Based on information in the Uniform Crime Reports provided by the Department of Public Safety, about 73.8% of all sex offenses occurred in the residence or home of the victim.
- The Bill imposes a Class D felony for knowingly assisting an offender to not comply with the conditions of the Sex Offender Registry. According to data in the Iowa Justice Data Warehouse, there were 560 convictions for failure to register as a sex offender in FY 2006. It is not known how many of these offenders received assistance to be noncompliant. The correctional and fiscal impacts of the new Class D felony may be significant, depending upon the number of convictions. The average State costs for one Class D felony conviction ranges from \$2,700 to \$7,900. The maximum costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.
- Enhancing penalties increases the average length of stay in prison and the incarceration rate (number of offenders sentenced to prison). The prison incarceration rate for sex offenders is 51.5% for Class D felons, 74.2% for Class C felons, and 90.4% for Class B felons. It is assumed the incarceration rate will be 100.0% for the new Class B1 felony.
- Under current law, offenders convicted of sexual abuse in the second degree are sentenced to a Class B felony (25 years) and are required to serve at least 70.0% of the sentence in prison before being considered for parole. The average length of stay in prison for these offenders is 232 months (19.33 years). These offenders are not included in the correctional impact because their average length of stay (19.33 years) exceeds the scope of this analysis (10 years).
- Under current law, offenders convicted of lascivious acts with a child are sentenced to either a Class D or Class C felony. In FY 2006, offenders convicted of the Class C felony served an average of 53 months (4.4 years) in prison. Offenders convicted of the Class D felony served an average of 26 months (2.2 years) in prison in FY 2006.
- The penalties for sexual abuse in the second degree, lascivious acts with a child, and sexual exploitation of a minor were enhanced by the enactment of HF 619 (FY 2006 Sex Offender Act). Under current law, offenders convicted of sexual abuse in the second degree, lascivious acts with a child, and sexual exploitation of a minor are subject to a special sentence of 10 years or a life term of correctional supervision. The special sentence starts

after serving the penalty for the Class B, C, or D felony. These offenders are also subject to the requirements of the Sex Offender Registry, supervision and treatment in prison or CBC, and electronic monitoring.

- Sentence disposition data and average length of stay in prison data will be impacted by the enhanced sentencing provisions of HF 619, so the data may be significantly different in FY 2007.
- According to the Criminal and Juvenile Justice Planning Division, average time served prior to death for an inmate serving a life sentence in prison is 197 months (16.4 years) based on data from 1990 to October 2003. Average age at death is 57 years. It is likely offenders serving a sentence for the new B1 felony under this Bill will die in prison because the sentence (25 years to life) is long.
- The current sex offender treatment budget for the Mount Pleasant Correctional Facility is approximately \$1.7 million. The DOC estimates treatment costs of \$60,000 for every 35 offenders admitted to treatment.
- The current sex offender treatment, supervision, and electronic monitoring budget is approximately \$6.4 million for Community-Based Corrections (CBC) District Departments. The DOC estimates an additional \$1.8 million is required to meet current demand for treatment, supervision, and electronic monitoring of sex offenders using Global Positioning System (GPS) bracelets.
- The marginal cost per day for State prisons is \$14.80 per inmate.

Assumptions

- Fiscal Year 2006 offender-based convictions are used for estimating the number of future offenders. The estimates of the percentage of crimes that involved a child are based on prison intake information.
- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- The criminal sentencing enhancements will become effective July 1, 2007. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
- There were 23 offenders convicted of second degree sexual abuse in FY 2006. Approximately 68.0% of these offenders had a child victim. Therefore, it is estimated there will be 16 new B1 felony convictions for this offense. An additional two offenders will be sentenced under the new B1 felony to reflect the 100.0% incarceration rate. However, the impact of this sentencing enhancement will not be realized until FY 2027, because the current length of stay in prison is 19.33 years.
- There were 82 offenders convicted of lascivious acts with a child in FY 2006. All of the victims were aged 12 or under. Therefore, it is estimated there will be 82 new B1 felony convictions for this offense. Under current law, 54 were convicted of Class D felonies while 28 were convicted of Class C felonies.
- There were 3 offenders convicted of sexual exploitation of a minor in FY 2006. It is assumed 33.3% had a child victim. Therefore, there will be an estimated one new B1 felony conviction for this offense.
- The DOC will offer, and a certain portion of the offenders sentenced under SF 524 will accept, sex offender treatment in prison.

Correctional Impact

While there will be an estimated 101 offenders convicted annually of the new B1 felony, there will only be 35 new admissions to prison annually under SF 524. There will be a corresponding

decrease in admissions to Community-Based Corrections (CBC) probation supervision of 35 offenders annually.

Most of the 101 offenders are sentenced to prison under current law. Their length of stay in prison will be longer under SF 524 than current law. The chart below shows the correctional impact on the prison population.

Correctional Impact - Prison Population Increase

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Offenders	18	54	100	165	236

By FY 2017, there will be an additional 569 offenders in prison. The impact on the prison population is more significant with the passage of time. The correctional impact of this proposal becomes significant after the offender serves his current length of stay in prison, and then begins serving the additional years under SF 524. The prison population will continue to increase until FY 2033, when the first offender will have served the minimum 25-year sentence in prison and be released to life time supervision in CBC.

The correctional impact of the new Class D felony cannot be estimated but may be significant.

Fiscal Impact

The overall fiscal impact is estimated to be \$1.3 million in FY 2008 and \$2.9 million in FY 2009. The additional costs for the DOC include operating costs for housing more offenders, and treatment costs associated with housing more sex offenders. Costs will continue to increase in future fiscal years due to anticipated cost increases for the prison system, including operating and treatment costs.

Fiscal Impact

<u>Department</u>	<u>FY 2007</u>	<u>FY 2008</u>
State Public Defender	\$ 1,200,000	\$ 2,400,000
Judicial Branch	42,000	83,000
Corrections	79,000	384,000
	<u>\$ 1,321,000</u>	<u>\$ 2,867,000</u>

The fiscal impact of the new Class D felony penalty for knowingly aiding a sex offender in not registering, cannot be estimated but may be significant.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
 Department of Corrections
 Office of the State Public Defender
 Judicial Branch

 /s/ Holly M. Lyons

March 21, 2007

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
