

# Fiscal Services Division

## Legislative Services Agency

### Fiscal Note

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SF 529 – Contraband in Jails (LSB 2758 SV)

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Fiscal Note Version - New

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#### **Description**

Senate File 529 expands the definition of the criminal offense of possessing contraband in correctional institutions to include possessing such contraband in a secure facility for the detention or custody of juveniles, a detention facility, or a jail. The Bill also imposes the \$125.00 law enforcement initiative surcharge on offenders convicted of possessing contraband.

#### **Background**

- Under current law, a graduated system of penalties is imposed for possessing different types of contraband. The penalties range from an aggravated misdemeanor to a Class C felony.
- In FY 2006, there were 33 charges for possession of contraband (Class D felony) and no failures to report the possession of contraband (aggravated misdemeanor). The conviction rate was 61.0%. Only 30.0% were convicted as charged; two were convicted for failure to report the possession of contraband. There were no Class C felony convictions.
- There are 97 jails operating in Iowa, 11 juvenile detention facilities, and 12 city holding facilities that would be covered under this Bill.
- The prison incarceration rate for a Class D felony conviction is 42.3% for public order offenses. The average length of stay in prison is 12 months. Those paroled from prison serve 13 months on average. Class D felons who receive probation serve 31 months on average.
- The jail incarceration rate for an aggravated misdemeanor conviction is 56.0% for public order offenses. The average length of stay in jail is 28 days. Offenders convicted of an aggravated misdemeanor serve 16 months on average on probation.
- The fee limit for court-appointed counsel for indigent defendants is \$1,200 for a Class D felony or aggravated misdemeanor. The Judicial Branch incurs costs of \$110 per aggravated misdemeanor and \$300 for a Class D felony. The marginal cost per day for State prisons is \$14.80 per inmate. The average cost per day for probation or parole supervision in Community-Based Corrections (CBC) is \$3.18 per offender.
- Costs for convictions will be incurred across multiple fiscal years while the offender is supervised in the corrections system, either in the community or the prison.
- The marginal cost per day for county jails is \$15.00 per inmate.
- The collection rate for the law enforcement surcharge initiative was 24.4% in FY 2006. Receipts generated by the surcharge are deposited into the State General Fund.

#### **Assumptions**

- The law 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 will be 37 new convictions in FY 2008.
- There will be no jury trials.
- Juveniles who possess contraband will not be waived to adult court.

- If each facility had a minimum of one charge per year with a 61.0% conviction rate, there will be 73 new convictions annually under the Bill in FY 2009 and beyond.
- The jail incarceration rate for a Class D felony conviction may be similar to the jail incarceration rate for an aggravated misdemeanor conviction.

### **Correctional Impact**

During FY 2008, it is estimated there will be 37 new convictions. There will be 11 new Class D felony convictions under the Bill (30.0% convicted as charged). Of these, five offenders will be sentenced to prison for an average length of stay of one year (42.3% prison incarceration rate). They will then be paroled to CBC supervision for an average length of stay of 13 months. Six of the Class D felony offenders will receive probation for an average length of stay of 31 months. Three of the six offenders (56.0% jail incarceration rate) who receive probation will serve time in the county jail; each offender will serve 28 days on average. There will be 26 new aggravated misdemeanor convictions in FY 2008. All of these offenders will be sentenced to probation for an average length of stay of 16 months. Of these, 15 (56.0%) will serve time in the county jail. Each offender will serve 28 days on average.

During FY 2009, it is estimated there will be 73 convictions, 22 new Class D felony and 51 new aggravated misdemeanor convictions under the Bill. Nine of the Class D felons will be sentenced to prison for one year, on average. They will then be paroled to CBC supervision for an average length of stay of 13 months. Thirteen of the Class D felons will receive probation for an average length of stay of 31 months, seven of these will serve an average of 28 days in the county jail. There will be 51 new aggravated misdemeanor convictions in FY 2009. All of these offenders will be sentenced to probation for an average length of stay of 16 months. Of these, 29 will serve an average of 28 days in the county jail.

The prison population will increase by five offenders in FY 2008 and nine offenders each year thereafter.

### **Fiscal Impact**

The fiscal impact of SF 529 to the State General Fund is an increase in expenditures of approximately \$83,000 in FY 2008 and approximately \$276,000 in FY 2009, as indicated in the chart below.

<b><u>Department</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>
State Public Defender	\$ 44,400	\$ 87,600
Judicial Branch	6,200	12,200
Corrections	32,100	176,500
	<b><u>\$ 82,700</u></b>	<b><u>\$ 276,300</u></b>

The cost increase is significantly higher in the second year due to the average length of stay on supervision. New offenders will be placed on supervision, either in prison or probation or parole, while offenders from the previous year remain on supervision.

If 36 offenders annually are held in county jails for 28 days each, the increase in county jail operating costs would be approximately \$15,000 annually. This amount includes offenders convicted of the Class D felony or the aggravated misdemeanor.

The above estimates are based upon one charge per year per facility. Charging practices depend upon the county sheriffs and county attorneys. If some facilities deal with more than one contraband incident per year, the correctional and fiscal impact will be greater than indicated in this fiscal note. If some facilities deal with less than one contraband incident per year, the correctional and fiscal impact will be less than indicated in this fiscal note.

The new revenue generated by imposing the law enforcement surcharge on contraband offenses is estimated to be no more than \$2,000 annually.

**Sources**

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

/s/ Holly M. Lyons

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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.

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