

Davis, Chair
Baudler
Kreiman

HSB 558

JUDICIARY
S. _____ d By
SF/HF) 2252

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LARSON)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the criminal penalties for possession of a
2 controlled substance.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 124.401, subsection 5, unnumbered
2 paragraph 1, Code Supplement 1999, is amended to read as
3 follows:

4 It is unlawful for any person knowingly or intentionally to
5 possess a controlled substance unless such substance was
6 obtained directly from, or pursuant to, a valid prescription
7 or order of a practitioner while acting in the course of the
8 practitioner's professional practice, or except as otherwise
9 authorized by this chapter. Any person who violates this
10 subsection is guilty of a serious misdemeanor for a first
11 offense. A person who commits a violation of this subsection
12 and who has previously been convicted of violating this
13 subsection chapter or chapter 124A, 124B, or 453B is guilty of
14 an aggravated misdemeanor. A person who commits a violation
15 of this subsection and has previously been convicted two or
16 more times of violating this subsection chapter or chapter
17 124A, 124B, or 453B is guilty of a class "D" felony.

18 EXPLANATION

19 This bill amends Code section 124.401, subsection 5, which
20 relates to the unlawful possession of a controlled substance.
21 The bill provides that a person who has a prior conviction
22 for any drug-related offense under Code chapter 124, 124A,
23 124B, or 453B, who then commits the offense of possession of a
24 controlled substance under Code section 124.401, subsection 5,
25 is guilty of an aggravated misdemeanor. The bill further
26 provides that a person who has been convicted of two or more
27 drug-related offenses who then commits the offense of
28 possession of a controlled substance, is guilty of a class "D"
29 felony. Under existing law, a person who has a prior
30 conviction of possession of a controlled substance under Code
31 section 124.401, subsection 5, who then commits another
32 possession offense, is guilty of an aggravated misdemeanor,
33 and a person who has two or more prior convictions of
34 possession, who then commits another possession offense, is
35 guilty of a class "D" felony.

1 An aggravated misdemeanor is punishable by confinement for
2 no more than two years and a fine of at least \$500 but not
3 more than \$5,000. A class "D" felony is punishable by
4 confinement for no more than five years and a fine of at least
5 \$750 but not more than \$7,500.

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S. 2/29/00 *judiciary*

FEB 15 2000

Place On Calendar

HOUSE FILE 2252
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 558)

^(p.482)
Passed House Date 2/29/00
Vote: Ayes 81 Nays 18
Approved _____

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to the criminal penalties for possession of a
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HF 2252

1 Section 1. Section 124.401, subsection 5, unnumbered
2 paragraph 1, Code Supplement 1999, is amended to read as
3 follows:

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5 possess a controlled substance unless such substance was
6 obtained directly from, or pursuant to, a valid prescription
7 or order of a practitioner while acting in the course of the
8 practitioner's professional practice, or except as otherwise
9 authorized by this chapter. Any person who violates this
10 subsection is guilty of a serious misdemeanor for a first
11 offense. A person who commits a violation of this subsection
12 and who has previously been convicted of violating this
13 subsection chapter or chapter 124A, 124B, or 453B is guilty of
14 an aggravated misdemeanor. A person who commits a violation
15 of this subsection and has previously been convicted two or
16 more times of violating this subsection chapter or chapter
17 124A, 124B, or 453B is guilty of a class "D" felony.

18

EXPLANATION

19 This bill amends Code section 124.401, subsection 5, which
20 relates to the unlawful possession of a controlled substance.

21 The bill provides that a person who has a prior conviction
22 for any drug-related offense under Code chapter 124, 124A,
23 124B, or 453B, who then commits the offense of possession of a
24 controlled substance under Code section 124.401, subsection 5,
25 is guilty of an aggravated misdemeanor. The bill further
26 provides that a person who has been convicted of two or more
27 drug-related offenses who then commits the offense of
28 possession of a controlled substance, is guilty of a class "D"
29 felony. Under existing law, a person who has a prior
30 conviction of possession of a controlled substance under Code
31 section 124.401, subsection 5, who then commits another
32 possession offense, is guilty of an aggravated misdemeanor,
33 and a person who has two or more prior convictions of
34 possession, who then commits another possession offense, is
35 guilty of a class "D" felony.

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2 no more than two years and a fine of at least \$500 but not
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**HOUSE FILE 2252
FISCAL NOTE**

The estimate for House File 2252 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2252 expands the list of prior offenses that can be considered in sentencing an offender for possession of a controlled substance to include other drug-related convictions.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns and trends will remain constant for the projection period.
2. Prisoner length of stay, revocation rates, and other Department of Corrections and Parole Board policies and practices will remain constant for the projection period.
3. There will be a six-month lag as offenders are processed through the court system and the first offenders enter the correctional system.
4. It is estimated that there will be three more Class D felonies, 112 more aggravated misdemeanors, and 115 fewer serious misdemeanors in FY 2001. In subsequent years, there will be 7 more Class D felonies, 223 more aggravated misdemeanors, and 230 fewer serious misdemeanors.
5. The Public Defender's cost for a Class D felony and an aggravated misdemeanor is \$1,000 per case. The cost of defending a serious misdemeanor is \$500 per case.
6. It is assumed that the prosecution costs are similar to the defense costs.
7. The marginal cost of adding an inmate to the prison system is \$12 per day.
8. An offender committed to a residential facility will spend four months at the facility, followed by six months of intensive supervision, and the remainder of his or her time on street supervision. Overall, offenders average two years on probation.
9. The marginal cost of adding an offender to a Community-Based Corrections residential facility is \$14 per day. Intensive supervision costs \$9.41 per day. Street supervision costs \$1.53 per day.
10. It is assumed that the marginal cost for a jail is the same as a Community-Based Corrections residential facility or \$14 per day.
11. The average jail length of stay is estimated to be 36 days.

CORRECTIONAL IMPACT

The corrections system populations are projected to have the following increases:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Prison population	1	3	3

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Residential facilities	1	2	2
Probation/Parole pop.	59	179	241
Jail population	4	7	7

FISCAL IMPACT

House File 2252 will result in increased expenditures to the General Fund as follows:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Public Defender and Indigent Defense	\$ 58,000	\$115,000	\$115,000
Prisons	4,000	13,000	13,000
Community-Based Corr.	<u>40,000</u>	<u>117,000</u>	<u>152,000</u>
Total General Fund	<u>\$102,000</u>	<u>\$245,000</u>	<u>\$280,000</u>

The total increased costs to the counties are distributed as follows:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Prosecution	\$ 58,000	\$115,000	\$115,000
Jails	<u>18,000</u>	<u>36,000</u>	<u>36,000</u>
Total County Cost	<u>\$ 76,000</u>	<u>\$151,000</u>	<u>\$151,000</u>

SOURCES

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

(LSB 5136hv, MDF)

FILED FEBRUARY 21, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR