

Withdrawn
2/12/04

JAN 13 2004
JUDICIARY

HOUSE FILE 2014
BY PAULSEN

(COMPANION TO LSB 5200SS
BY MCKIBBEN)

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

A BILL FOR

1 An Act establishing a child endangerment offense for permitting
2 the presence of a child or minor at a location where a
3 controlled substance manufacturing or possession violation
4 occurs and providing a penalty.

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

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HF 2014

1 Section 1. Section 702.11, subsection 2, paragraph e, Code
2 Supplement 2003, is amended to read as follows:

3 e. Child endangerment ~~resulting-in-bodily-injury-to-a~~
4 ~~child-or-a-minor-in-violation-of~~ subject to penalty under
5 section 726.6, subsection 5.

6 Sec. 2. Section 726.6, subsection 1, Code 2003, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. g. Knowingly permits a child or minor to
9 be present at a location where a controlled substance is
10 manufactured or possessed with the intent to manufacture in
11 violation of section 124.401, subsection 1, or where a product
12 is possessed in violation of section 124.401, subsection 4.

13 Sec. 3. Section 726.6, subsections 5 and 6, Code 2003, are
14 amended to read as follows:

15 5. A person who commits child endangerment resulting in
16 bodily injury to a child or minor or child endangerment in
17 violation of subsection 1, paragraph "g", is guilty of a class
18 "D" felony.

19 6. A person who commits child endangerment that is not
20 ~~resulting-in-bodily-injury-or-serious-injury-to-a-child-or~~
21 ~~minor~~ subject to penalty under subsection 4 or 5 is guilty of
22 an aggravated misdemeanor.

23 EXPLANATION

24 This bill establishes a child endangerment offense for
25 permitting the presence of a child or minor at a location
26 where a controlled substance manufacturing or possession
27 violation occurs.

28 The child endangerment offense occurs when a child or a
29 minor is permitted to be present at a location where a
30 controlled substance is either manufactured or possessed with
31 the intent to manufacture in violation of Code section
32 124.401, subsection 1, or where a product is possessed with
33 the intent to manufacture a controlled substance in violation
34 of Code section 124.401, subsection 4. Code section 124.401
35 is part of the offenses and penalties division of the

1 controlled substances chapter. The referenced subsections
2 include defined terms such as "manufacture" and a threshold
3 for the amounts of controlled substances for which possession
4 triggers a violation.

5 The bill classifies the new child endangerment offense as a
6 class "D" felony, punishable by confinement for no more than
7 five years and a fine of at least \$750 but not more than
8 \$7,500.

9 The bill includes conforming amendments to Code sections
10 702.11 and 726.6 to provide that the new offense is not a
11 forcible felony.

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**EIGHTIETH GENERAL ASSEMBLY
2004 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

FEBRUARY 4, 2004

**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

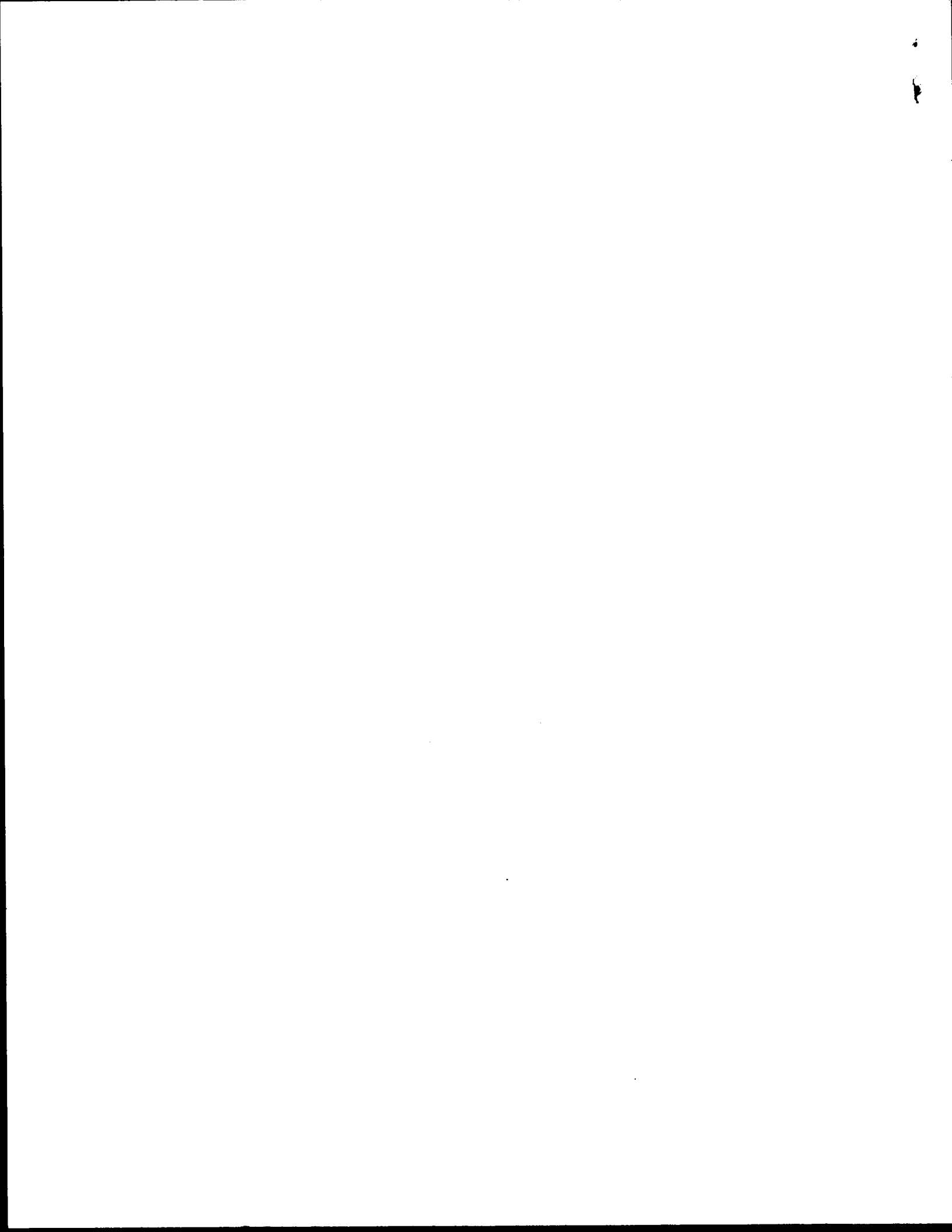
HF 2014 - Child Endangerment - Controlled Substances (LSB 5200 HH)
Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)
Fiscal Note Version — New
Requested by Representative Jim Van Fossen

Description

House File 2014 establishes a child endangerment offense for permitting the presence of a child or minor at a location where a controlled substance is either manufactured or where products are possessed with the intent to manufacture a controlled substance. The offense is punishable as a Class D felony.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. There is a six-month lag time from the effective date (July 1, 2004) of the proposed legislation to the date of first entry of affected offenders into the correctional system.
4. There were 438 child victims of abuse due to parents manufacturing methamphetamine or possessing its precursors in FY 2003. To the extent that persons endanger children or minors during the manufacture of controlled substances other than methamphetamine, there will be a higher correctional and fiscal impact than shown in this fiscal note.
5. Half of the cases will result in one person being charged with a Class D felony while half of the cases will result in both parents being charged with a Class D felony. This results in 657 people being charged under HF 2014. Half of these defendants will also be charged with a drug offense under current law. This results in 329 additional trials annually under HF 2014.
6. The FY 2003 conviction rate for Class D felony child endangerment was 58.0%, with 36.0% of convictions as charged. The remaining 64.0% of the convictions were pled down to a lesser offense, assumed to be aggravated misdemeanor child endangerment.
7. The FY 2003 imprisonment rate for a Class D felony was 51.5%; certain offenders received a penalty other than prison. The average length of stay in prison was 23 months.
8. The FY 2003 imprisonment rate for this class of aggravated misdemeanor was 14.4%; certain offenders received a penalty other than prison. The average length of stay in prison was ten months.



9. The FY 2003 jail incarceration rate was 41.6%; the average county jail term imposed was 40 days.
10. The marginal cost per day for State prison inmates is \$13.00. The marginal cost for county jail inmates is \$15.00.
11. The average length of stay on probation supervision for a Class D felony conviction is 26 months, and 18 months for an aggravated misdemeanor.
12. The average length of stay on parole supervision for a Class D felony conviction is 12 months, and 7 months for an aggravated misdemeanor conviction.
13. The average cost per day for parole or probation offender is \$1.88. The cost of one new Parole/Probation Officer II is approximately \$47,000 annually.
14. The median cost per case for indigent defense is \$1,000 for a Class D felony or aggravated misdemeanor.
15. The average court cost for a Class D felony trial is \$238 without a jury, or \$1,300 with a jury. These figures include the costs of a District Court Judge, court attendant, court reporter, and clerk of court staff.
16. There is no impact on the Department of Human Services' child protection system. Under current law, the Department considers both parents to be caretakers.

Correctional Impact

During FY 2005, HF 2014 will result in 96 additional offenders being convicted of child endangerment. Thirty-five convictions will be for a Class D felony and 61 convictions will be for an aggravated misdemeanor. For FY 2006 and each year thereafter, there will be 191 additional convictions, as follows: 69 Class D felonies and 122 aggravated misdemeanors.

During FY 2005, the 96 additional offenders will be sentenced as follows: 27 to State prison, 68 to probation, and 26 to county jail. Certain offenders will receive a split sentence, such as jail and probation.

During FY 2006 (annualized impact), there will be 191 additional offenders convicted of child endangerment, sentenced as follows: 54 to State prison, 146 to probation, and 51 to county jail. Certain offenders will receive a split sentence, such as jail and probation.

Admissions to the State prison system will increase by 27 in FY 2005, 54 in FY 2006, and 64 in FY 2009. The prison population will increase by 27 during FY 2005, 69 in FY 2006, and 92 in FY 2009.

Admissions to probation supervision will increase by 68 in FY 2005, 146 in FY 2006, and 191 in FY 2009.

Admissions to county jail will increase by 68 in FY 2005, 146 in FY 2006, and 191 in FY 2009.

Fiscal Impact

The estimated increase in State General Fund expenditures for FY 2005 is \$218,000 and \$748,000 for FY 2006. A detailed breakdown of expenditures is as follows:

| | <u>FY 2005</u> | <u>FTEs</u> | <u>FY 2006</u> | <u>FTEs</u> |
|------------------------|-------------------|-------------|-------------------|-------------|
| Corrections - Prisons | \$ 64,000 | | \$ 340,000 | |
| CBC - Parole/Probation | 23,000 | 0.48 | 147,000 | 3.10 |
| Courts | 48,000 | | 96,000 | |
| Indigent Defense | 83,000 | | 165,000 | |
| Total | <u>\$ 218,000</u> | <u>0.48</u> | <u>\$ 748,000</u> | <u>3.10</u> |

The fiscal impact on county jail costs is estimated to be \$16,000 in FY 2005 and \$31,000 in FY 2006.

Sources

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

Dennis C Prouty

February 3, 2004

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.

