

**EIGHTY-SIXTH GENERAL ASSEMBLY  
2016 REGULAR SESSION  
DAILY  
SENATE CLIP SHEET**

MARCH 21, 2016

SENATE FILE 2301

S-5095

1 Amend Senate File 2301 as follows:  
2 1. Page 1, after line 17 by inserting:  
3 <Sec. \_\_\_\_\_. Section 422.9, subsection 2, Code 2016,  
4 is amended by adding the following new paragraph:  
5 NEW PARAGRAPH. j. Subtract charitable  
6 contributions under section 170 of the Internal Revenue  
7 Code to the extent such contribution was made to an  
8 organization for the purpose of deposit in the Iowa  
9 education savings plan trust established in chapter  
10 12D, and the taxpayer designated that any part of  
11 the contribution be used for the direct benefit of  
12 any dependent of the taxpayer or any other single  
13 beneficiary designated by the taxpayer.  
14 Sec. \_\_\_\_\_. Section 422.35, Code 2016, is amended by  
15 adding the following new subsection:  
16 NEW SUBSECTION. 13. Add, to the extent it reduced  
17 federal taxable income, any amount contributed under  
18 section 170 of the Internal Revenue Code to the  
19 extent such contribution was made to an organization  
20 for the purpose of deposit in the Iowa education  
21 savings plan trust established in chapter 12D, and the  
22 taxpayer designated that any part of the contribution  
23 be used for the direct benefit of any dependent of  
24 a shareholder of the taxpayer or any other single  
25 beneficiary designated by the taxpayer.>  
26 2. Page 1, after line 19 by inserting:  
27 <Sec. \_\_\_\_\_. RETROACTIVE APPLICABILITY. The  
28 following provision or provisions of this Act apply  
29 retroactively to January 1, 2016, for tax years  
30 beginning on or after that date:  
31 1. The section of this Act amending section 422.9.  
32 2. The section of this Act amending section  
33 422.35.>  
34 3. Title page, line 2, after <date> by inserting  
35 <and retroactive applicability>

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1 4. By renumbering as necessary.

**By** JANET PETERSEN

S-5095 FILED MARCH 17, 2016

ADOPTED



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**SF 2061** – Indigent Defense in Cases of Possible Imprisonment (LSB5139SV.1)  
Analyst: Laura Book (Phone: 515-725-0509) ([laura.book@legis.iowa.gov](mailto:laura.book@legis.iowa.gov))  
Fiscal Note Version – As amended and passed by the House

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### **Description**

**Senate File 2061**, as amended and passed by the House, requires the State Public Defender to coordinate the representation of indigent persons under arrest or charged with a crime and facing the possibility of imprisonment under the applicable criminal statute or ordinance. The bill does not require the appointment of an attorney for an indigent person if the indigent person does not request the appointment of an attorney or waives the right to an appointed attorney.

House amendment **S-5093** requires the State Public Defender to seek reimbursement for the compensation and expenses paid from the Indigent Defense Fund for the defense of an indigent person that violates a local ordinance and faces the possibility of imprisonment. The Office of the State Public Defender must seek reimbursement from the political subdivision of the state that was the plaintiff in the case.

### **Background**

The State Public Defender currently provides representation for indigent persons for misdemeanors if there is a potential for a jail sentence.

In *State v. Young*, 863 N.W.2d 249 (Iowa 2015), the Iowa Supreme Court held, as a matter of Iowa constitutional law, an indigent person charged with a crime and facing the possibility of imprisonment under the applicable criminal statute has the right to court appointed counsel, including simple misdemeanor offenses. **Senate File 2061** codifies the holding of *State v. Young*.

### **Assumptions**

- The rate of increase in the number of attorneys appointed by the court in stand-alone simple misdemeanor cases between July 1, 2015, and the end of calendar year 2015, will remain the same in the future.
- The average cost of representation of those indigents charged with stand-alone misdemeanor offenses will remain the same as it was during the first half of FY 2016.

### **Fiscal Impact**

**SF 2061** has no fiscal impact since it codifies the holding of *State v. Young*. However, the holding in *State v. Young* has had an impact, and will continue to have an impact by increasing the number of indigent persons that receive a court-appointed attorney in stand-alone misdemeanor cases. From July 1, 2015, through January 8, 2016, the cost of representation for indigents in stand-alone misdemeanors increased by \$219,484. Annualizing this increase to the Indigent Defense Fund results in an increase of approximately \$440,000 per year going forward.

House amendment **S-5093** will reduce the fiscal impact of *State v. Young* on the Indigent Defense Fund. The reduction is estimated to be relatively small, approximately \$30,000 per year. The table below summarizes claims to the Indigent Defense Fund for city ordinance violations over the past five years:

<b>City Criminal Violation Claims</b>		
<b><u>Fiscal Year</u></b>	<b><u>Claims</u></b>	<b><u>Cost</u></b>
2015	142	\$ 29,700
2014	105	21,000
2013	67	14,000
2012	52	11,900
2011	71	16,100

It should be noted that the Office of the State Public Defender is expected to incur some additional administrative costs from collecting the reimbursements from the political subdivisions, but those costs are estimated to be less than \$5,000 per year.

**Source**

Office of the State Public Defender

/s/ Holly M. Lyons

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March 17, 2016

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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.

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**HF 2064** – Child Endangerment Resulting in Death (LSB5578YH.1)  
Analyst: Alice Wisner (Phone: 515-281-6764) ([alice.wisner@legis.iowa.gov](mailto:alice.wisner@legis.iowa.gov))  
Fiscal Note Version – As amended by Senate Judiciary Committee amendment **S-5082**

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### **Description**

**House File 2064**, as amended by Senate Judiciary Committee amendment **S-5082**, addresses child endangerment resulting in the death of a child or minor.

### **Background**

Currently, Iowa Code section **726.6(4)** states that a person convicted of committing child endangerment resulting in the death of a child or minor is guilty of a Class B felony and is required to be confined for no more than 50 years in prison. Prison time is mandatory and the offender becomes automatically eligible for parole.

This bill requires that anyone convicted of child endangerment resulting in the death of a child or minor serve a minimum of 70.0% of a 50-year Class B felony sentence. The average length of stay for a person convicted of child endangerment resulting in the death of a child or minor under current law is 55.4 months, or 4.6 years. This bill will make the minimum length of stay 420 months, or 35 years.

Also, currently Iowa Code section **902.12** requires a 70.0% minimum sentence be served before a person convicted of robbery in the second degree is eligible for parole or work release. The bill, as amended, will allow persons convicted of robbery in the second degree to be eligible for parole or work release if they have served between 30.0% and 70.0% of their sentence. This will become effective for individuals convicted after July 1, 2016.

### **Assumptions**

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Revocation rates and other corrections policies and practices will not change over the projection period.
- The law will become effective July 1, 2016. There is a six-month lag between enactment of the bill and when the first case will come through the process.
- There will be two convictions subject to a 70.0% minimum sentence each year under Iowa Code section **726.6(4)** for child endangerment resulting in death.
- The first persons convicted under the 70.0% minimum for child endangerment resulting in death in FY 2017 will not fiscally impact the system until FY 2021.
- New admissions after July 1, 2016, for robbery in the second degree convictions will be released at a mid-point between 30.0% and 70.0% of their sentence. A decrease in the prison population will not occur until FY 2022.
- The marginal cost for an additional inmate at a Department of Corrections prison institution is \$18.43/day, or \$6,750 a year.

### **Minority Impact**

For a minimum 70.0% sentence for child endangerment resulting in death, the minority impact is estimated to be minimal. In FY 2015, the only two individuals convicted under Iowa Code section **726.6(4)** were Caucasian.

The minority impact to change a 70.0% minimum sentence to a 30.0%-70.0% minimum sentence for robbery second degree will be favorable for the African-American community. It is estimated that the prison population will be reduced beginning in year six, and approximately 49.0% of those released earlier would be African American.

Refer to the Legislative Services Agency (LSA) [Minority Impact Statement Memo](#) dated January 26, 2016, for information related to minorities in the criminal justice system.

**Correctional Impact**

This bill does not create any new crimes. It will lengthen the sentence for convictions of the rare crime of child endangerment resulting in a death, and potentially shorten the sentence for a mandatory minimum 70.0% sentence for robbery in the second degree convictions. The correctional impact will not impact the cost to the corrections system until year five (FY 2021) for child endangerment resulting in death, and year six (FY 2022) for robbery in the second degree.

For additional information, refer to the LSA [Correctional Impact Statements Memo](#) dated February 18, 2016.

**Fiscal Impact**

The fiscal impact of this bill will begin in FY 2021. That is 4.6 years after an initial conviction of child endangerment resulting in death under this bill (and also accounts for a six-month lag between enactment of the bill and the first possible case), and two additional convictions will be experienced yearly thereafter. The effect of relaxing the minimum parole date for robbery in the second degree offenders will not be experienced until FY 2022. It is estimated that there will be 28 fewer inmates in the system in year six, 58 fewer inmates incarcerated in year seven, and 60 fewer inmates each year after that. The net fiscal impact by year is detailed in the table below.

Fiscal Year	Child Endangerment Additional Cost	Robbery Second Degree Savings	Net Cost (positive) or Savings (negative)
FY 2021	\$ 13,500	\$ 0	\$ 13,500
FY 2022	27,000	-189,000	-162,000
FY 2023	40,500	-391,500	-351,000
FY 2024	54,000	-405,000	-351,000
FY 2025	67,500	-405,000	-337,500
<b>TOTAL ESTIMATE</b>	<b>\$ 202,500</b>	<b>\$ -1,390,500</b>	<b>\$ -1,188,000</b>

**Sources**

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

/s/ Holly M. Lyons

March 17, 2016

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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.

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