



[HF 358](#) – Eluding Law Enforcement, Penalties (LSB1401HV)
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Fiscal Note Version – New

Description

[House File 358](#) relates to the criminal offense of eluding or attempting to elude a pursuing law enforcement vehicle. The Bill enhances or amends the following penalties under Iowa Code section [321.279](#):

- Provides that a person who commits a second or subsequent eluding violation under Iowa Code section 321.279(1) is subject to an enhanced penalty regardless of the subsection of Iowa Code section 321.279 under which the person was previously convicted.
- Increases the penalty under Iowa Code section 321.279(2)(a) for the first offense of eluding a law enforcement officer while exceeding the speed limit by 25 miles per hour from an aggravated misdemeanor to a Class D felony.
- Increases the penalty under Iowa Code section 321.279(2)(b) for a second or subsequent violation of eluding a law enforcement officer while exceeding the speed limit by 25 miles per hour from a Class D felony to a Class C felony. The enhanced penalty applies regardless of the subsection of Iowa Code section 321.279 under which the person was previously convicted.
- The Bill removes Iowa Code section 321.279(3) and makes corresponding changes.
- The Bill authorizes persons convicted of eluding to be issued a temporary restricted license.

Background

Under current law, a driver of a motor vehicle commits a serious misdemeanor under Iowa Code section 321.279(1) by willfully failing to bring a motor vehicle to a stop or otherwise eluding or attempting to elude a law enforcement vehicle. A driver of a motor vehicle who commits a second or subsequent eluding violation under Iowa Code section 321.279(1) is subject to an enhanced penalty and, upon conviction, guilty of an aggravated misdemeanor if the second or subsequent violation is found under the same Iowa Code subsection as the prior violation.

Under Iowa Code section 321.279(2)(a), a driver of a motor vehicle commits an aggravated misdemeanor by willfully failing to bring a motor vehicle to a stop or otherwise eluding or attempting to elude a marked or unmarked official law enforcement vehicle and in doing so exceeds the speed limit by 25 miles per hour or more. The driver of a motor vehicle who commits a violation under this subsection and who has previously committed a violation under this subsection or Iowa Code section 321.279(3) is, upon conviction, guilty of a Class D felony.

Under Iowa Code section 321.279(3), a driver of a motor vehicle commits a Class D felony if the driver eludes or attempts to elude a marked or unmarked official law enforcement vehicle and exceeds the speed limit by 25 miles per hour or more, and if any of the following occurs:

- The driver is participating in a public offense, as defined in Iowa Code section [702.13](#), that is a felony.
- The driver is operating a motor vehicle while under the influence of alcohol or a drug or while having a blood alcohol concentration of .08 or more (OWI).

- The driver violates Iowa Code section [124.401](#) (manufacture, delivery, or possession of a counterfeit substance, simulated controlled substance, or imitation controlled substance).
- The offense results in bodily injury to a person other than the driver.

The driver of a motor vehicle who commits a second or subsequent violation under Iowa Code section 321.279(3) is, upon conviction, guilty of a Class C felony.

Under current law, persons convicted of eluding are not eligible to be issued a temporary restricted license.

In FY 2022, there were no individuals ordered to prison under Iowa Code section 321.279(2)(a) and two individuals admitted to prison under Iowa Code section 321.279(2)(b). In FY 2022, there were no individuals admitted to Community-Based Corrections (CBC) under Iowa Code section 321.279(2)(a) and five individuals admitted to CBC under Iowa Code section 321.279(2)(b).

A serious misdemeanor is punishable by confinement of up to one year and a fine of at least \$430 but not more than \$2,560. An aggravated misdemeanor is punishable by confinement of up to two years and a fine of at least \$855 but not more than \$8,540. A Class D felony is punishable by confinement of up to five years and a fine of at least \$1,025 but not more than \$10,245. A Class C felony is punishable by confinement of up to 10 years and a fine of at least \$1,370 but not more than \$13,660.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay (LOS); revocation rates; plea bargaining; and other criminal justice system policies and procedures.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.
- The marginal cost per day in prison is \$23.42. The marginal cost per day on probation and parole is \$7.27.

Correctional Impact

The correctional impact cannot be determined in regard to the number of additional convictions as it is unknown how many new convictions would result under the Bill. However, HF 358 is estimated to increase the average LOS of individuals admitted to prison and CBC.

Table 1 — Change in LOS Under HF 358

Supervision Status	Annual Admissions	LOS (Months)
Current Penalties		
Prison	2	13.9
CBC	5	24.5
Penalties Under HF 358		
Prison	2	20.9
CBC	5	30.8

Table 2 shows estimates for sentencing to State prison, parole, probation, or CBC residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of Class C felonies, Class D felonies, aggravated misdemeanors, and serious misdemeanors. Marginal county jail costs are estimated to be \$50 per day. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 20, 2023, for information related to the correctional system.

Table 2 — Sentencing Estimates and Length of Stay (LOS)

Conviction Offense Class	Percent Ordered to State Prison	FY 22 Avg LOS In Prison In Months (All Releases)	FY 22 Marginal Cost Per Day Prison	Percent Ordered to Probation	FY 22 Avg LOS on Probation In Months	FY 22 Avg Cost Per Day Probation	Percent Sentenced to CBC Residential Facility	FY 22 Marginal Cost Per Day CBC	Percent Ordered to County Jail	Marginal Cost Per Day Jail	FY 22 Avg LOS on Parole In Months	FY 22 Marginal Cost Per Day Parole
C Felony Persons	89.8%	50.1	\$23.42	27.6%	39.0	\$7.27	3.6%	\$20.67	43.2%	\$50.00	19.5	\$7.27
D Felony Persons	79.6%	19.7	\$23.42	59.0%	33.2	\$7.27	8.6%	\$20.67	26.3%	\$50.00	14.4	\$7.27
Agg Misd Persons	45.5%	9.7	\$23.42	64.9%	--	\$7.27	3.8%	\$20.67	55.6%	\$50.00	7.0	\$7.27
Serious Misd	1.9%	5.5	\$23.42	51.2%	13.7	\$7.27	0.9%	\$20.67	73.3%	\$50.00	0.5	\$7.27

Minority Impact

The minority impact cannot be determined. However, House File 358 may disproportionately impact African American individuals if trends remain constant. For all eluding convictions, 70.2% are Caucasian, 22.8% are African American, and 7.0% are other races. Iowa’s population is 84.5% Caucasian, 3.6% African American, and 11.9% other races. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 20, 2023, for information related to minorities in the criminal justice system.

Fiscal Impact

House File 358 is estimated to increase the average LOS of individuals admitted to prison and CBC. In FY 2022, there were 1,171 convictions for any first-time eluding offense and 101 convictions for any second or subsequent eluding offenses under Iowa Code section 321.279. Enhancement of these penalties is estimated to increase costs to the Department of Corrections (DOC) by \$17,000 annually. **Table 3** represents the cost for only one year’s group of admissions, but the increased cost would recur for each year’s group of admissions.

Table 3 — Change in Cost Under HF 358

Supervision Status and Offense Class	Annual Admissions	Cost Per Day	LOS (Days)	Total Cost
Current Penalties				
Prison (Class D Felony)	2	\$23.42	422.8	\$ 19,804
CBC (Class D Felony)	5	\$7.27	745.2	\$ 27,088
				\$ 46,892
Penalties Under HF 358				
Prison (Class C Felony)	2	\$23.42	635.7	\$ 29,776
CBC (Class C Felony)	5	\$7.27	936.83	\$ 34,054
				\$ 63,830

Table 4 shows the average State cost per offense for a Class C felony, a Class D felony, an aggravated misdemeanor, and a serious misdemeanor. The estimated impact to the State General Fund includes operating costs incurred by the Judicial Branch, the Indigent Defense Fund, and the DOC. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Table 4 — Average State Cost Per Offense		
Classification of Offense	Minimum	Maximum
Class C Felony	\$12,100	\$25,100
Class D Felony	\$9,500	\$17,400
Aggravated Misdemeanor	\$5,000	\$9,600
Serious Misdemeanor	\$400	\$5,600

Sources

Criminal and Juvenile Justice Planning Division, Department of Human Rights
 Department of Corrections
 Department of Public Safety

 /s/ Jennifer Acton

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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.
