



# Fiscal Note

*Fiscal Services Division*

**SF 93** – Strangulation (LSB 1267SV)

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Fiscal Note Version – New

Requested by Senator Gene Fraise

## Description

**Senate File 93** enhances the penalty for certain domestic abuse assault cases where the offender knowingly strangles another person. The Bill provides for an aggravated misdemeanor or a non-forcible Class D felony, depending on the injury.

## Background

### Correctional and Fiscal Information

- Current law provides for a graduated system of penalties for domestic abuse assault, ranging from a simple to an aggravated misdemeanor for the first conviction, a serious or aggravated misdemeanor for the second conviction, and a Class D felony for a third or subsequent conviction.
- Creating a non-forcible Class D felony for the specific offense of strangulation provides that the offender may receive a sentence of prison or probation.
- The table below shows the number of offender-based convictions for domestic abuse assault for the last two fiscal years. Data regarding the number of offenders who strangled their victim is not available.

Number of Offenders Convicted of Domestic Abuse Assault		
	FY 2009	FY 2010
Simple Misdemeanor	1,207	1,204
Serious Misdemeanor	1,032	1,029
Aggravated Misdemeanor	560	546
Class D Felony	48	47
	<u>2,847</u>	<u>2,826</u>

- An estimated 336 offenders annually will be charged under this bill as follows: 124 offenders currently charged for a simple misdemeanor and 15 offenders currently charged for a serious misdemeanor will be charged as an aggravated misdemeanor; 129 offenders currently charged for a serious misdemeanor will be charged for a Class D felony; 52 offenders currently charged for an aggravated misdemeanor will remain as an aggravated misdemeanor; and 16 offenders currently charged for a Class D felony will remain as a Class D felony.
- The following current dismissal and acquittal rates for domestic abuse assault were applied to the charges as follows: 48.0% for simple misdemeanors, 39.0% for serious misdemeanors, 33.0% for aggravated misdemeanors, and 27.0% for Class D felonies. Current plea bargaining practices were applied.

- The marginal cost per day for prison is \$16.75. The incarceration rate to prison is 51.5% for a Class D felony, 14.4% for an aggravated misdemeanor, and 2.1% for a serious misdemeanor.
- The average length of stay in prison is 22 months for a Class D felony and 9.9 months for an aggravated misdemeanor – crimes against people.
- The average cost per day for parole or probation is \$3.24. The average length of stay on probation is 10.8 months for a serious misdemeanor, 19.6 months for an aggravated misdemeanor, and 32.3 months for a Class D felony. The average length of stay on parole is 5.6 months for an aggravated misdemeanor and 12.8 months for a Class D felony.
- The marginal cost per day for county jails is \$15.00. The average length of stay for a serious misdemeanor offender is 37 days. The average length of stay for an aggravated misdemeanor offender is 40 days.
- The average cost per case for indigent defense is \$300 for a simple misdemeanor, \$600 for a serious misdemeanor, and \$1,200 for an aggravated misdemeanor or Class D felony.
- The average cost per case for a bench trial is \$27 for a simple misdemeanor, \$201 for a serious or aggravated misdemeanor, and \$410 for a Class D felony.

### **Minority Data Information**

- For FY 2009 convictions where race was known, 61.8% were white, 26.1% were black, and 12.1% were other minorities. For FY 2010 where race was known, 64.8% were white, 23.9% were black, and 11.3% were other minorities.
- The U.S. Census estimate for Iowa was 3.0 million people as of July 1, 2009 (the most current estimates available). Men comprise 49.3% of the population. Approximately 92.7% of Iowa's population is white. The composition of the remaining 7.3% is: 2.5% black, 0.3% American Indian or Alaska Native; 1.7% Asian; and 2.9% is of two or more races or unknown.
- Iowa's prison population was 8,603 offenders on June 30, 2010. Men comprised 91.8% of the population. According to the Criminal and Juvenile Justice Planning Division (CJJPD) of the Department of Human Rights, the racial composition of the prison system was: 71.7% white; 25.5% black; 1.0% Asian or Pacific Islander; and 1.8% American Indian or Alaska Native. Included in these racial groups were 6.8% that identified themselves as Hispanic (nearly all of these identified themselves racially as being white).
- According to the Department of Corrections (DOC), 72.2% of offenders on probation on June 30, 2010, were men. Approximately 78.5% of offenders on probation are white; 13.4% are black; 5.1% are Hispanic or Latino; 1.1% are American Indian or Alaska Natives; 1.0% are Asian or Pacific Islander; and 1.0% were of unknown race.
- According to the DOC, 83.7% of offenders on parole on June 30, 2010, were men. Approximately 75.5% of offenders on parole are white; 18.1% are black; 3.9% are Hispanic or Latino; 1.5% are American Indian or Alaska Natives; and 1.0% are Asian or Pacific Islander.
- According to the CJJPD, on June 30, 2010, approximately 8.2% of the offenders in prison were women and 26.1% of offenders under supervision in Community-Based Corrections (CBC) were women. Approximately 21.5% of the total offender population under correctional supervision consisted of women.

## Assumptions

### **Correctional and Fiscal Information**

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
- The law will become effective July 1, 2011. A lag effect of six months is assumed from the effective date to the date of first entry of affected offenders into the correctional system.
- Half of the defendants will be indigent.
- These cases will be bench trials.

### **Minority Data Information**

Approximately 14.8% of Iowa's population has at least one disability. The number of disabled offenders convicted under this Bill may be 14.8%.

## Summary of Impacts

### **Correctional Impact**

On an annual basis, it is estimated there will be 107 fewer misdemeanor convictions, three additional serious misdemeanor convictions, 109 more aggravated misdemeanor convictions, and 14 additional Class D felony convictions. On an annual basis, there will be an estimated 23 new admissions to prison, consisting of seven Class D felons and 16 aggravated misdemeanants. On an annual basis, there will be 55 admissions to probation or parole: there will be 11 fewer simple, one additional serious misdemeanant, and 48 aggravated misdemeanants admitted to probation, plus 7 Class D felons. In addition, 10 offenders annually will be released from prison and placed on parole. The table below shows the impact on the corrections system, both the prisons and Community-Based Corrections (CBC). Admissions are adjusted the first year due to the six-month lag effect. The population increases by more than the number of admissions because the average length of stay crosses fiscal years.

<b>Projected Corrections Population Increase</b>					
	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
Prison	12	25	26	26	26
CBC	28	55	67	68	68

It is also expected there will be a correctional impact on county jails. On an annual basis, 26 fewer serious misdemeanants and 48 additional aggravated misdemeanants will be held in county jails. This is a net increase of 22 offenders.

### **Minority Impact**

This Bill may have a minority impact inasmuch as minority offenders may be under correctional supervision for a longer period than current law. However, there is no data available to predict the percentage of possible change.

## Fiscal Impact

The fiscal impact is estimated to be an increased cost to the General Fund of \$127,000 in FY 2012 and \$366,000 in FY 2013. The table below shows the impact by areas within the State criminal justice system.

State General Fund Fiscal Impact		
	FY 2012	FY 2013
Indigent Defense	\$ 50,000	\$ 99,000
Court System	25,000	49,000
Prison	36,000	153,000
CBC	16,000	65,000
Total	<u>\$127,000</u>	<u>\$366,000</u>

There is expected to be a minimal impact on county jail operations. On an annual basis, 22 offenders will be held in county jails for an average increase of three days. The statewide cost to counties is anticipated to be approximately \$1,000.

To the extent that prosecutors concentrate resources on the enhanced penalty in this Bill, charges and convictions may increase, resulting in a correctional and fiscal impact greater than indicated in this fiscal note.

### Sources

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

/s/ Holly M. Lyons

February 8, 2011

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The fiscal note for this bill was prepared pursuant to Joint Rule 17 and the correctional and minority impact statements were prepared pursuant to Iowa Code Section 2.56. Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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