



SF 201 – Stalking, Use of Technological Device (LSB1699SV)
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Fiscal Note Version – New

Description

Senate File 201 increases existing penalties for stalking under Iowa Code section **708.11** and establishes the penalty for stalking while utilizing a technological device as a Class C felony.

The Bill increases the penalty for stalking from a Class D felony to a Class C felony under the following circumstances:

- When the person commits stalking while subject to restrictions contained in a criminal or civil protection order.
- When the person commits stalking while in possession of a dangerous weapon.
- When the person commits stalking by directing a course of conduct at a specific person who is under 18 years of age.

Under the Bill, the penalty for stalking without any of the above circumstances is an aggravated misdemeanor for a first offense, a Class D felony for a second offense, and a Class C felony for a third or subsequent offense.

Background

Iowa Code section 708.11 contains the penalties for stalking. Stalking is a Class C felony for a third or subsequent offense. Stalking is a Class D felony under the following circumstances:

- When the person commits stalking while subject to restrictions contained in a criminal or civil protective order or injunction, under Iowa Code section 708.11(3)(b)(1).
- When the person commits stalking while in possession of a dangerous weapon, under Iowa Code section 708.11(3)(b)(2).
- When the person commits stalking by directing a course of conduct at a specific person who is under 18 years of age, under Iowa Code section 708.11(3)(b)(3).
- When the offense is a second offense, under Iowa Code section 708.11(3)(b)(4).

Stalking is an aggravated misdemeanor if the offense is a first offense and is not included under the circumstances that would be a Class D felony.

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

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 practices.
- 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.

Correctional Impact

In FY 2022, 17 individuals were admitted to prison and 22 individuals were admitted to Community-Based Corrections (CBC) for stalking while subject to a protective order under Iowa Code section 708.11(3)(b)(1). No individuals were admitted to prison or CBC for stalking while in possession of a dangerous weapon under Iowa Code section 708.11(3)(b)(2) or stalking someone under 18 years of age under Iowa Code section 708.11(3)(b)(3).

By increasing the penalty for these offenses, 20 individuals who would annually be admitted to CBC under current law may instead be admitted to prison. Additionally, the estimated LOS for individuals admitted to prison for stalking while subject to a protective order under Iowa Code section 708.11(3)(b)(1) would increase from 19.7 months to 50.1 months. As a result, the prison population is estimated to increase under the Bill.

The Bill establishes the penalty for stalking while utilizing a technological device as a Class C felony. The correctional impact of this portion of the Bill cannot be estimated due to a lack of existing conviction data. 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.

Minority Impact

Senate File 201 may disproportionately impact African American individuals if trends remain constant. Of the 39 individuals who entered Department of Corrections (DOC) supervision for stalking while subject to a protective order under Iowa Code section 708.11(3)(b)(1) in FY 2022, 82.1% were Caucasian, 12.8% were African American, and 5.1% were 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

Senate File 201 is estimated to increase costs to the DOC by approximately \$976,000 per group of individuals who enter DOC supervision each year for stalking while subject to a protective order under Iowa Code section 708.11(3)(b)(1). This cost is incurred across the entire LOS. In FY 2022, 39 individuals entered DOC supervision for this offense. **Table 1** shows the estimated fiscal impact to the DOC if all 39 admissions entered as a Class C felony instead of a Class D felony.

Table 1 — Change in Cost Under SF 201

Supervision Status	Annual Admissions	Cost Per Day	LOS (Days)	Total Cost
Current Penalty — Class D Felony				
Prison	17	\$23.42	599	\$238,486
CBC	22	\$7.27	724	115,797
Total	<u>39</u>			<u>\$354,282</u>
Penalty Under SF 201 — Class C Felony				
Prison	37	\$23.42	1,523	\$1,319,740
CBC	2	\$7.27	724	10,527
Total	<u>39</u>			<u>\$1,330,267</u>

Establishing a Class C felony for stalking while utilizing a technological device may increase costs to the DOC, but the fiscal impact of this portion of the Bill cannot be estimated.

Sources

Department of Corrections
 Department of Human Rights, Division of Criminal and Juvenile Justice Planning
 Legislative Services Agency

 /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.

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