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[SF 2364](#) – Obscene Material, Schools (LSB5175SV)  
Staff Contact: Lora Vargason (515.725.2249) [lora.vargason@legis.iowa.gov](mailto:lora.vargason@legis.iowa.gov)  
Fiscal Note Version – New

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**Description**

[Senate File 2364](#) requires the Board of Educational Examiners (BOEE) to disqualify an applicant for a license or revoke the license of a person for providing obscene material or hard-core pornography to students from a school library or requiring a student to read or view such material. “Obscene materials” is defined in Iowa Code section [728.1](#), and a definition of “hard-core pornography” is established in the Bill. The BOEE is required to suspend the license of an administrator or teacher upon the Board’s finding by a preponderance of evidence that the administrator or teacher violated an injunction as detailed in the Bill.

Public school districts, accredited nonpublic schools, and charter schools will be required to designate one administrator to ensure that no obscene material or hard-core pornography is present and available to students in a school library under the administrator’s supervision. An administrator who knowingly provides obscene material to a student in a library operated by the school under the administrator’s supervision will be guilty of a serious misdemeanor. An administrator who knowingly provides hard-core pornography to a student in a library under the administrator’s supervision will be guilty of an aggravated misdemeanor.

A teacher who knowingly requires a student to read or view obscene material as part of an instructional program or curriculum will be guilty of a serious misdemeanor. A teacher who knowingly requires a student to read or view hard-core pornography as part of an instructional program or curriculum will be guilty of an aggravated misdemeanor.

Civil action for injunctive relief, as detailed in the Bill, is provided for parents or guardians, including the awarding of penalties and fees if the parent or guardian is found to be the prevailing party. The clerk of court will send a copy of the court’s order issued pertaining to a violation, of the Bill to the Attorney General and county attorney.

A parent or guardian who is the prevailing party in civil action for injunctive relief may bring a civil action for damages against the school that employs the administrator or teacher if the administrator or teacher violates an injunction issued related to the Bill. Potential damages to be awarded are detailed in the Bill.

A county attorney or the Attorney General may initiate criminal or civil actions to enforce the provisions of the Bill.

“Appropriate material” for educational purposes in any accredited school, public library, or educational program is defined as not including obscene material or hard-core pornography.

**Background**

Under current law, violations of Iowa Code section [728.2](#) involving the dissemination or exhibition of obscene materials to a minor is considered a serious misdemeanor.

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. A serious misdemeanor is punishable by confinement for up to one year and a fine of at least \$430 but not more than \$2,560.

**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**

[Senate File 2364](#) creates a new criminal offense specific to school administrators and teachers, and the correctional impact cannot be determined at this time. **Table 1** below shows estimates for sentencing to State prisons, parole, probation, or community-based corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of aggravated misdemeanors for sex offenses and serious misdemeanors. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 18, 2022, for information related to the correctional system.

**Table 1 — Sentencing Estimates and Length of Stay (LOS)**

Conviction Offense Class	Percent Ordered to State Prison	FY 21 Avg LOS in Prison in Months (All Releases)	FY 21 Marginal Cost Per Day Prison	Percent Ordered to Probation	Avg LOS on Probation in Months	FY 21 Avg Cost Per Day Probation	Percent Sentenced to CBC Residential Facility	FY 21 Marginal Cost Per Day CBC	Percent Ordered to County Jail	Marginal Cost Per Day Jail	Avg LOS on Parole in Months	FY 21 Marginal Cost Per Day Parole
Aggravated Misdemeanor (Sex Offense)	80.1%	14.5	\$23.33	58.5%	25.0	\$7.01	1.1%	\$17.78	74.6%	\$50.00	26.9	\$7.01
Serious Misdemeanor	1.8%	6.5	\$23.33	56.0%	14.5	\$7.01	0.9%	\$17.78	69.0%	\$50.00	18.1	\$7.01

**Minority Impact**

Senate File 2364 is estimated to have an unknown minority impact. Of the 10 convictions for dissemination and exhibition of obscene materials to minors under Iowa Code section [728.2](#) in FY 2021, 88.1% were White and 1.3% were African American, while the Iowa population is 85.3% White and 3.9% African American. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 18, 2022, for information related to minorities in the criminal justice system.

**Fiscal Impact**

Senate File 2364 does not have a fiscal impact to the State. However, there may be a fiscal impact to schools related to increased future exposure to litigation. In addition, county attorney offices may hire additional staff to handle complaints as outlined in the Bill.

**Sources**

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Iowa County Attorneys Association  
Legislative Services Agency

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/s/ Holly M. Lyons

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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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