

Maddox, McKean, Fraise

Succeeded By  
(SF) HF 2146

SSB 3024  
Judiciary

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL  
BY CHAIRPERSON MADDOX)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act establishing a criminal offense for an act of terrorism  
2 and providing a penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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Substitutes for HF 2560  
3-11-02  
(P. 694)

FILED FEB 8 2002

REPRINTED

SENATE FILE 2146  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3024)

Passed Senate, <sup>(P. 495)</sup> Date 3/5/02 Passed House, <sup>(P. 696)</sup> Date 3-11-02  
Vote: Ayes 48 Nays 1 Vote: Ayes 93 Nays 1  
Approved April 5, 2002

Re-Passed 3-20-02  
Vote 47-0

Re-Passed 3-25-02  
Vote 90-3

A BILL FOR

1 An Act establishing a criminal offense for an act of terrorism,  
2 changing related criminal penalties, and providing a penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2146

1 Section 1. NEW SECTION. 702.19A TERRORISM.

2 "Terrorism" means the killing of another person to  
3 intimidate or coerce a civilian population, or to influence  
4 the policy of a unit of government by intimidation or  
5 coercion, or to affect the conduct of a unit of government.

6 Sec. 2. Section 707.2, Code 2001, is amended by adding the  
7 following new subsection:

8 NEW SUBSECTION. 6. The person commits terrorism as  
9 defined in section 702.19A.

10 Sec. 3. Section 708.6, Code 2001, is amended to read as  
11 follows:

12 708.6 ~~TERRORISM~~ TERRORISM INTIMIDATION WITH A DANGEROUS WEAPON.

13 A person commits a class "C" felony when the person, with  
14 the intent to injure or provoke fear or anger in another,  
15 shoots, throws, launches, or discharges a dangerous weapon at,  
16 into, or in a building, vehicle, airplane, railroad engine,  
17 railroad car, or boat, occupied by another person, or within  
18 an assembly of people, and thereby places the occupants or  
19 people in reasonable apprehension of serious injury or  
20 threatens to commit such an act under circumstances raising a  
21 reasonable expectation that the threat will be carried out.

22 A person commits a class "D" felony when the person shoots,  
23 throws, launches, or discharges a dangerous weapon at, into,  
24 or in a building, vehicle, airplane, railroad engine, railroad  
25 car, or boat, occupied by another person, or within an  
26 assembly of people, and thereby places the occupants or people  
27 in reasonable apprehension of serious injury or threatens to  
28 commit such an act under circumstances raising a reasonable  
29 expectation that the threat will be carried out.

30 Sec. 4. Section 723A.1, subsection 1, paragraph c, Code  
31 2001, is amended to read as follows:

32 c. An offense constituting a violation of section 708.6  
33 involving ~~an act of terrorism~~ intimidation with a dangerous  
34 weapon.

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EXPLANATION

1 This bill establishes a criminal offense for an act of  
2 terrorism and provides a penalty.

3 The bill provides that a person who kills another person to  
4 intimidate or coerce a civilian population, or to influence  
5 the policy of a unit of government by intimidation or  
6 coercion, or to affect the conduct of a unit of government, is  
7 guilty of terrorism. The bill provides that a person who is  
8 guilty of terrorism commits a class "A" felony.

9 The bill changes the name of the current criminal offense  
10 of "terrorism" to the criminal offense of "intimidation with a  
11 dangerous weapon".

12 A class "A" felony is punishable by confinement for life  
13 without possibility of parole.

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1 Section 1. NEW SECTION. 702.19A TERRORISM.

2 "Terrorism" means an act intended to intimidate or coerce a  
3 civilian population or to influence the policy of a unit of  
4 government by intimidation or coercion, by shooting, throwing,  
5 launching, discharging, or otherwise using a dangerous weapon  
6 at, into, or in a building, vehicle, airplane, railroad  
7 engine, railroad car, or boat, occupied by another person, or  
8 within an assembly of people.

9 Sec. 2. Section 707.2, Code 2001, is amended by adding the  
10 following new subsection:

11 NEW SUBSECTION. 6. The person kills another person while  
12 participating in an act of terrorism as defined in section  
13 702.19A.

14 Sec. 3. Section 708.6, Code 2001, is amended to read as  
15 follows:

16 708.6 TERRORISM INTIMIDATION WITH A DANGEROUS WEAPON.

17 A person commits a class "e" "B" felony when the person,  
18 with the intent to injure or provoke fear or anger in another,  
19 shoots, throws, launches, or discharges a dangerous weapon at,  
20 into, or in a building, vehicle, airplane, railroad engine,  
21 railroad car, or boat, occupied by another person, or within  
22 an assembly of people, and thereby places the occupants or  
23 people in reasonable apprehension of serious injury or  
24 threatens to commit such an act under circumstances raising a  
25 reasonable expectation that the threat will be carried out.

26 A person commits a class "B" "C" felony when the person  
27 shoots, throws, launches, or discharges a dangerous weapon at,  
28 into, or in a building, vehicle, airplane, railroad engine,  
29 railroad car, or boat, occupied by another person, or within  
30 an assembly of people, and thereby places the occupants or  
31 people in reasonable apprehension of serious injury or  
32 threatens to commit such an act under circumstances raising a  
33 reasonable expectation that the threat will be carried out.

34 Sec. 4. Section 723A.1, subsection 1, paragraph c, Code  
35 2001, is amended to read as follows:

1 c. An offense constituting a violation of section 708.6  
2 involving ~~an-act-of-terrorism~~ intimidation with a dangerous  
3 weapon.

4 EXPLANATION

5 This bill establishes a criminal offense for an act of  
6 terrorism, changes related to criminal penalties, and provides  
7 a penalty.

8 The bill provides that a person who kills another while  
9 participating in an act of terrorism, commits a class "A"  
10 felony.

11 The bill defines an act of terrorism as an act intended to  
12 intimidate or coerce a civilian population, or to influence  
13 the policy of a unit of government by intimidation or  
14 coercion, by shooting, throwing, launching, discharging, or  
15 otherwise using a dangerous weapon at, into, or in a building,  
16 vehicle, airplane, train, or boat, occupied by another person,  
17 or within an assembly of people.

18 The bill changes the name of the current criminal offense  
19 of "terrorism" to the criminal offense of "intimidation with a  
20 dangerous weapon". The bill increases the criminal penalty  
21 for intimidation with a dangerous weapon, with intent to injure,  
22 from a class "C" to a class "B" felony. The bill increases  
23 the criminal penalty for intimidation with a dangerous weapon,  
24 without intent to injure, from a class "D" to a class "C"  
25 felony.

26 A class "A" felony is punishable by confinement for life  
27 without possibility of parole. A class "B" felony is  
28 punishable by confinement for no more than 25 years. A class  
29 "C" felony is punishable by confinement for no more than 10  
30 years and a fine of at least \$1,000 but not more than \$10,000.

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## SENATE FILE 2146

S-5056

1 Amend Senate File 2146 as follows:

2 1. Page 1, by striking lines 1 through 13, and  
3 inserting the following:

4 "DIVISION I

5 Sec. \_\_\_\_ . Section 707.2, Code 2001, is amended by  
6 adding the following new subsection:

7 NEW SUBSECTION. 6. The person kills another  
8 person while participating in an act of terrorism as  
9 defined in section 708A.1.

10 Sec. \_\_\_\_ . NEW SECTION. 708A.1 DEFINITIONS.

11 For purposes of this chapter:

12 1. "Material support or resources" means assisting  
13 or providing money, financial securities, financial  
14 services, lodging, training, safe houses, false  
15 documentation or identification, communication  
16 equipment, facilities, weapons, lethal substances,  
17 explosives, personnel, transportation, and other  
18 physical assets, except medicine or religious  
19 materials.

20 2. "Renders criminal assistance" means a person  
21 who, with intent to prevent the apprehension or  
22 obstruct the prosecution or defense of any person,  
23 knowingly does any of the following acts:

24 a. Destroys, alters, conceals, or disguises  
25 physical evidence which would be admissible in the  
26 trial of another for a public offense, or makes  
27 available false evidence or furnishes false  
28 information with the intent that it be used in the  
29 trial of that case.

30 b. Induces a witness having knowledge material to  
31 the subject at issue to leave the state or hide, or to  
32 fail to appear when subpoenaed.

33 c. Provides concealment or warns of impending  
34 apprehension to any person being sought for the  
35 subject at issue.

36 d. Provides a weapon, disguise, transportation, or  
37 money to any person being sought for the subject at  
38 issue.

39 e. Prevents or obstructs, by means of force,  
40 intimidation, or deception, another person from  
41 performing an act which might aid in the apprehension  
42 or prosecution or defense of any person.

43 f. Profits or provides aid to any person who  
44 profits from an advantage derived from the commission  
45 of a public offense.

46 3. "Terrorism" means an act intended to intimidate  
47 or coerce a civilian population, or to influence the  
48 policy of a unit of government by intimidation or  
49 coercion, by shooting, throwing, launching,  
50 discharging, or otherwise using a dangerous weapon at,

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1 into, or in a building, vehicle, airplane, railroad  
2 engine, railroad car, or boat, occupied by another  
3 person, or within an assembly of people.

4 Sec. \_\_\_\_ . NEW SECTION. 708A.2 VALUE FOR PURPOSES  
5 OF MATERIAL SUPPORT AND RESOURCES.

6 The value of property or services is its highest  
7 value by any reasonable standard at the time the  
8 material support or resources is given. Any  
9 reasonable standard includes but is not limited to  
10 market value within the community, actual value, or  
11 replacement value.

12 If credit, property, or services are obtained by  
13 two or more acts from the same person or location, or  
14 from different persons by two or more acts which occur  
15 in approximately the same location or time period so  
16 that the material support or resources are  
17 attributable to a single scheme, plan, or conspiracy,  
18 the acts may be considered as a single act of support  
19 or resources and the value may be the total value of  
20 all credit, property, and services involved.

21 Sec. \_\_\_\_ . NEW SECTION. 708A.3 SOLICITING OR  
22 PROVIDING MATERIAL SUPPORT OR RESOURCES FOR TERRORISM.

23 1. A person who provides material support or  
24 resources to a person who commits or attempts to  
25 commit terrorism and the value of the material support  
26 or resources is in excess of one thousand dollars  
27 commits a class "B" felony.

28 2. A person who provides material support or  
29 resources to a person who commits or attempts to  
30 commit terrorism and the value of the material support  
31 or resources does not exceed one thousand dollars  
32 commits a class "C" felony.

33 Sec. \_\_\_\_ . NEW SECTION. 708A.4 THREAT OF  
34 TERRORISM.

35 A person who threatens to commit terrorism or  
36 threatens to cause terrorism to be committed and who  
37 causes a reasonable expectation or fear of the  
38 imminent commission of such an act of terrorism  
39 commits a class "D" felony.

40 Sec. \_\_\_\_ . NEW SECTION. 708A.5 OBSTRUCTION OF  
41 TERRORISM PROSECUTION.

42 1. A person who renders criminal assistance to  
43 another person who commits terrorism that results in  
44 the murder of a third person while knowing that the  
45 other person was engaged in terrorism commits a class  
46 "B" felony.

47 2. A person who renders criminal assistance to  
48 another person who commits terrorism while knowing  
49 that the other person was engaged in an act of  
50 terrorism commits a class "C" felony."

S-5056

Page 3

- 1 2. Page 1, by inserting before line 14, the
- 2 following: "DIVISION II".
- 3 3. Title page, line 1, by striking the words "a
- 4 criminal offense for an act" and inserting the
- 5 following: "criminal offenses for acts".

*3/5/02 (p. 495) Adopted* BY O. GENE MADDOX

S-5056 FILED FEBRUARY 25, 2002

SENATE FILE 2146

S-5092

- 1 Amend the amendment, S-5056, to Senate File 2146 as
- 2 follows:
- 3 1. Page 1, line 12, by inserting after the word
- 4 "means" the following: "knowingly".
- 5 2. Page 1, line 19 by inserting after the word
- 6 "materials" the following: ", for the purpose of
- 7 assisting a person in the commission of an act of
- 8 terrorism".
- 9 3. Page 1, by striking lines 43 through 45.

By JACK HOLVECK  
O. GENE MADDOX

S-5092 FILED FEBRUARY 28, 2002

*Adopted 3/5/02 (p. 495)*

# Legislative Fiscal Bureau

## Fiscal Note

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SF 2146 - Terrorism - Class A Felony (LSB 5161 SV)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (Beth.Lenstra@legis.state.ia.us)

Fiscal Note Version - New

Requested by Senator Maddox

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### Description

Senate File 2146 defines terrorism and provides that a person who kills another while participating in an act of terrorism commits a Class A felony. The Bill changes the name of the current criminal offense of "terrorism" to "intimidation with a dangerous weapon." The Bill enhances the penalty for intimidation with a dangerous weapon, with intent to injure, from a Class C felony to a Class B felony. Senate File 2146 enhances the penalty for intimidation with a dangerous weapon, without intent to injure, from a Class D felony to a Class C felony.

### Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2002. A lag effect of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2001 data.
5. There is no significant correctional or fiscal impact due to the proposed Class A felony offense. Homicides while participating in a forcible felony are already punishable by life in prison without parole. Under current law, Class C and Class D terrorism offenses are forcible felonies.
6. There were 12 convictions for Class D felony terrorism in FY 2001; of these, 6 (50.0%) were granted probation. There were 12 convictions for Class C felony terrorism in FY 2001, of these, 1 (8.0%) was granted probation.
7. Under SF 2146, Class D felony terrorism becomes a Class C felony. There will be 12 convictions annually for this Class C felony; it is assumed that 8.0% (one) person will be granted probation. Under the Bill, Class C felony terrorism becomes a Class B felony. There will be 12 convictions annually for this Class B felony; it is assumed that no probation sentences will be granted.
8. Admissions to State prison assumes that the number of offenders currently being sentenced to Community-Based Corrections (CBC) probation supervision will now be sentenced to prison.
9. Average length of stay in prison for a Class B felony is 87 months, based on FY 2001 data. The average length of stay in prison for a Class C felony is 51 months. The average length of stay in prison for a Class D felony is 25 months. The marginal cost per day for State prisons is \$16 per inmate.
10. Average length of stay on parole for a Class B felony is 36 months. The average length of stay on parole or probation for a Class C felony is 30 months. The average length of stay for a Class D felony on parole or probation is 29 months. The marginal cost per day for parole and probation supervision is \$1.55 per offender.
11. The median cost for indigent defense per case is \$3,500 for a Class B felony, \$1,200 for a Class C felony, and \$1,000 for a Class D felony.

12. The average cost per felony case for the Judicial Branch ranges from \$200 to \$600, depending on whether a jury trial occurs. These figures include the costs of a District Court Judge, Clerk of Court staff, a court reporter and a court attendant. There is no impact on the Judicial Branch, as the decrease in Class D felonies will be offset by the increase in Class B felonies.

### Correctional Impact

During FY 2003, there will be six fewer convictions for Class D felony terrorism and six more convictions for Class B felony terrorism. There will be an increase and a decrease of six convictions for Class C felony terrorism, for a net change of zero. During FY 2004, and each year thereafter, there will be 12 fewer convictions for Class D felony terrorism and 12 more convictions for Class B felony terrorism.

There will be three offenders admitted to prison and the prison population will increase by three inmates during FY 2003. During FY 2004, and each year thereafter, admissions to prison will increase by six offenders. During FY 2004, the prison population will increase by 9 inmates; by FY 2007, the prison population will increase by 43 inmates.

Admissions to CBC probation supervision will decrease by three offenders in FY 2003, and by six offenders each year thereafter.

### Fiscal Impact

Senate File 2146 will result in additional costs to the General Fund of \$31,000 during FY 2003 and \$77,000 during FY 2004, as follows:

<u>Expenditures</u>	<u>FY 2003</u>	<u>FY 2004</u>
Indigent Defense	\$ 15,000	\$ 30,000
Prisons	18,000	53,000
CBC Supervision	- 2,000	- 6,000
Net Cost Increase	<u>\$ 31,000</u>	<u>\$ 77,000</u>

### Sources

Department of Corrections  
State Public Defender's Office  
Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Supreme Court of Iowa

/s/ Dennis C Prouty

February 13, 2002

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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# Legislative Fiscal Bureau

## Fiscal Note

SF 2146 - Terrorism - Class A Felony (LSB 5161 SV.2)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (Beth.Lenstra@legis.state.ia.us)

Fiscal Note Version – As Amended and Passed by the House

Requested by Senator O. Gene Maddox

### Description

Senate File 2146, as amended and passed by the House, defines terrorism and provides that a person who kills another while participating in an act of terrorism commits a Class A felony. A person who commits or attempts to commit an act of terrorism commits a Super Class B felony (subject to incarceration for no more than 50 years). The Bill provides that soliciting or participating in an act of terrorism is a Class B or Class C felony, depending upon the value of the material support or resources. A person who makes a threat of terrorism commits a Class D felony. A person who obstructs the prosecution of terrorism that resulted in the death of another, commits a Class B felony. A person who obstructs the prosecution of terrorism that does not result in death commits a Class C felony. The Bill changes the name of the current criminal offense of "terrorism" to "intimidation with a dangerous weapon."

### Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2002. A lag effect of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2001 data.
5. "Civilian population" in the Bill means large numbers of people. Certain acts of arson or vandalism are not subject to the amended definition of terrorism.
6. Acts of terrorism as defined in the Bill will continue to be rare events in Iowa.
7. There is no significant correctional or fiscal impact due to the proposed Class A felony offense. Homicides while participating in a forcible felony are already punishable by life in prison without parole.
8. There is no significant correctional or fiscal impact due to the proposed Super Class B felony offense, assuming terrorism continues to be a rare event in Iowa.
9. Average length of stay in prison is 87 months for a Class B felony, 51 months for a Class C felony, and 25 months for a Class D felony. The marginal cost per day for State prisons is \$16 per inmate.
10. Average length of stay on parole is 36 months for a Class B felony, 30 months for a Class C felony, and 29 months for a Class D felony. The marginal cost per day for parole and probation supervision is \$1.55 per offender.
11. The median cost for indigent defense per case is \$3,500 for a Class B felony, \$1,200 for a Class C felony, and \$1,000 for a Class D felony.
12. The average cost per felony case for the Judicial Branch ranges from \$200 to \$600, depending on whether a jury trial occurs. These figures include the costs of a District Court Judge, Clerk of Court staff, a court reporter, and a court attendant.



SENATE FILE 2146  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3024)

(AS AMENDED AND PASSED BY THE SENATE MARCH 5, 2002)

\_\_\_\_\_ - New Language by the Senate

Passed Senate, Date <sup>P. 745</sup> 3-20-02 Passed House, Date <sup>(P. 696)</sup> 3-11-02  
Vote: Ayes 47 Nays 0 Vote: Ayes 93 Nays 1  
Approved April 5, 2002

A BILL FOR

1 An Act establishing criminal offenses for acts of terrorism,  
2 changing related criminal penalties, and providing a penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2146

1 DIVISION I

2 Section 1. Section 707.2, Code 2001, is amended by adding  
3 the following new subsection:

4 NEW SUBSECTION. 6. The person kills another person while  
5 participating in an act of terrorism as defined in section  
6 708A.1.

7 Sec. 2. NEW SECTION. 708A.1 DEFINITIONS.

8 For purposes of this chapter:

9 1. "Material support or resources" means knowingly  
10 assisting or providing money, financial securities, financial  
11 services, lodging, training, safe houses, false documentation  
12 or identification, communication equipment, facilities,  
13 weapons, lethal substances, explosives, personnel,  
14 transportation, and other physical assets, except medicine or  
15 religious materials, for the purpose of assisting a person in  
16 the commission of an act of terrorism.

17 2. "Renders criminal assistance" means a person who, with  
18 intent to prevent the apprehension or obstruct the prosecution  
19 or defense of any person, knowingly does any of the following  
20 acts:

21 a. Destroys, alters, conceals, or disguises physical  
22 evidence which would be admissible in the trial of another for  
23 a public offense, or makes available false evidence or  
24 furnishes false information with the intent that it be used in  
25 the trial of that case.

26 b. Induces a witness having knowledge material to the  
27 subject at issue to leave the state or hide, or to fail to  
28 appear when subpoenaed.

29 c. Provides concealment or warns of impending apprehension  
30 to any person being sought for the subject at issue.

31 d. Provides a weapon, disguise, transportation, or money  
32 to any person being sought for the subject at issue.

33 e. Prevents or obstructs, by means of force, intimidation,  
34 or deception, another person from performing an act which  
35 might aid in the apprehension or prosecution or defense of any

1 person.

2 3. "Terrorism" means an act intended to intimidate or  
3 coerce a civilian population, or to influence the policy of a  
4 unit of government by intimidation or coercion, by shooting,  
5 throwing, launching, discharging, or otherwise using a  
6 dangerous weapon at, into, or in a building, vehicle,  
7 airplane, railroad engine, railroad car, or boat, occupied by  
8 another person, or within an assembly of people.

9 Sec. 3. NEW SECTION. 708A.2 VALUE FOR PURPOSES OF  
10 MATERIAL SUPPORT AND RESOURCES.

11 The value of property or services is its highest value by  
12 any reasonable standard at the time the material support or  
13 resources is given. Any reasonable standard includes but is  
14 not limited to market value within the community, actual  
15 value, or replacement value.

16 If credit, property, or services are obtained by two or  
17 more acts from the same person or location, or from different  
18 persons by two or more acts which occur in approximately the  
19 same location or time period so that the material support or  
20 resources are attributable to a single scheme, plan, or  
21 conspiracy, the acts may be considered as a single act of  
22 support or resources and the value may be the total value of  
23 all credit, property, and services involved.

24 Sec. 4. NEW SECTION. 708A.3 SOLICITING OR PROVIDING  
25 MATERIAL SUPPORT OR RESOURCES FOR TERRORISM.

26 1. A person who provides material support or resources to  
27 a person who commits or attempts to commit terrorism and the  
28 value of the material support or resources is in excess of one  
29 thousand dollars commits a class "B" felony.

30 2. A person who provides material support or resources to  
31 a person who commits or attempts to commit terrorism and the  
32 value of the material support or resources does not exceed one  
33 thousand dollars commits a class "C" felony.

34 Sec. 5. NEW SECTION. 708A.4 THREAT OF TERRORISM.

35 A person who threatens to commit terrorism or threatens to

1 cause terrorism to be committed and who causes a reasonable  
2 expectation or fear of the imminent commission of such an act  
3 of terrorism commits a class "D" felony.

4 Sec. 6. NEW SECTION. 708A.5 OBSTRUCTION OF TERRORISM  
5 PROSECUTION.

6 1. A person who renders criminal assistance to another  
7 person who commits terrorism that results in the murder of a  
8 third person while knowing that the other person was engaged  
9 in terrorism commits a class "B" felony.

10 2. A person who renders criminal assistance to another  
11 person who commits terrorism while knowing that the other  
12 person was engaged in an act of terrorism commits a class "C"  
13 felony.

14 DIVISION II

15 Sec. 7. Section 708.6, Code 2001, is amended to read as  
16 follows:

17 708.6 ~~TERRORISM~~ TERRORISM INTIMIDATION WITH A DANGEROUS WEAPON.

18 A person commits a class "E" "B" felony when the person,  
19 with the intent to injure or provoke fear or anger in another,  
20 shoots, throws, launches, or discharges a dangerous weapon at,  
21 into, or in a building, vehicle, airplane, railroad engine,  
22 railroad car, or boat, occupied by another person, or within  
23 an assembly of people, and thereby places the occupants or  
24 people in reasonable apprehension of serious injury or  
25 threatens to commit such an act under circumstances raising a  
26 reasonable expectation that the threat will be carried out.

27 A person commits a class "B" "C" felony when the person  
28 shoots, throws, launches, or discharges a dangerous weapon at,  
29 into, or in a building, vehicle, airplane, railroad engine,  
30 railroad car, or boat, occupied by another person, or within  
31 an assembly of people, and thereby places the occupants or  
32 people in reasonable apprehension of serious injury or  
33 threatens to commit such an act under circumstances raising a  
34 reasonable expectation that the threat will be carried out.

35 Sec. 8. Section 723A.1, subsection 1, paragraph c, Code

1 2001, is amended to read as follows:

2 c. An offense constituting a violation of section 708.6  
3 involving an-act-of-terrorism intimidation with a dangerous  
4 weapon.

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SENATE FILE 2146

H-8231

1 Amend Senate File 2146, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 2, line 4, by inserting after the word  
4 "coercion," the following: "or to affect the conduct  
5 of a unit of government,".  
6 2. Page 2, by inserting after line 8 the  
7 following:  
8 "Sec. \_\_\_\_ . NEW SECTION. 708A.1A TERRORISM.  
9 A person who commits or attempts to commit an act  
10 of terrorism commits a class "B" felony. However,  
11 notwithstanding section 902.9, subsection 2, the  
12 maximum sentence for a person convicted under this  
13 section shall be a period of confinement of not more  
14 than fifty years."  
15 3. Page 3, line 18, by striking the letters "C"  
16 "B" and inserting the following: "'C'".  
17 4. Page 3, line 27, by striking the letters "D"  
18 "C" and inserting the following: "'D'".

By MILLAGE of Scott

H-8231 FILED MARCH 11, 2002

*Adopted  
3-11-02 (P. 695)*

SENATE FILE 2146

S-5214

1 Amend the House amendment, S-5139, to Senate File  
2 2146, as amended, passed, and reprinted by the Senate,  
3 as follows:  
4 1. Page 1, by inserting after line 5 the  
5 following:  
6 "\_\_\_\_. Page 2, line 8, by inserting after the word  
7 "people." the following: "'Terrorism" does not mean  
8 or include acts done in furtherance of any objective  
9 that is legal under the laws of the United States or  
10 of the state of Iowa. The terms "intimidate",  
11 "coerce", "intimidation", and "coercion", as used in  
12 this definition, are not to be construed to prohibit  
13 picketing, public demonstrations, and similar forms of  
14 expressing ideas or views regarding legitimate matters  
15 of public interest protected by the United States and  
16 Iowa constitutions.'"

By ROBERT E. DVORSKY  
JOHN REDWINE

JACK HOLVECK  
STEVE KING

*adopted 3/20/02*

S-5214 FILED MARCH 19, 2002 (P. 744)

**HOUSE AMENDMENT TO  
SENATE FILE 2146**

S-5139

1 Amend Senate File 2146, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 2, line 4, by inserting after the word  
4 "coercion," the following: "or to affect the conduct  
5 of a unit of government,".

6 2. Page 2, by inserting after line 8 the  
7 following:

8 "Sec. \_\_\_\_ . NEW SECTION. 708A.1A TERRORISM.

9 A person who commits or attempts to commit an act  
10 of terrorism commits a class "B" felony. However,  
11 notwithstanding section 902.9, subsection 2, the  
12 maximum sentence for a person convicted under this  
13 section shall be a period of confinement of not more  
14 than fifty years."

15 3. Page 3, line 18, by striking the letters "C"  
16 "B" and inserting the following: ""C"".

17 4. Page 3, line 27, by striking the letters "D"  
18 "C" and inserting the following: ""D"".

RECEIVED FROM THE HOUSE

S-5139 FILED MARCH 11, 2002

*Senate Concurred*

*3-20-02  
(p. 744)*

**SENATE FILE 2146**

S-5232

1 Amend the amendment, S-5214, to the House  
2 amendment, S-5139, to Senate File 2146, as amended,  
3 passed, and reprinted by the Senate, as follows:

4 1. Page 1, lines 7 through 10, by striking the  
5 words "'Terrorism" does not mean or include acts done  
6 in furtherance of any objective that is legal under  
7 the laws of the United States or of the state of  
8 Iowa."

By O. GENE MADDOX

S-5232 FILED MARCH 20, 2002

ADOPTED *3/20/02*

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2146

H-8399

1 Amend the House amendment, S-5139, to Senate File  
2 2146, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 1, by inserting after line 5 the  
5 following:

6 "\_\_\_\_. Page 2, line 8, by inserting after the word  
7 "people." the following: "The terms "intimidate",  
8 "coerce", "intimidation", and "coercion", as used in  
9 this definition, are not to be construed to prohibit  
10 picketing, public demonstrations, and similar forms of  
11 expressing ideas or views regarding legitimate matters  
12 of public interest protected by the United States and  
13 Iowa constitutions.""

RECEIVED FROM THE SENATE

H-8399 FILED MARCH 20, 2002

*House Concurred*

*3-25-02*

*(P 965)*

# Legislative Fiscal Bureau

## Fiscal Note

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SF 2146 - Terrorism - Class A Felony (LSB 5161 SV.1)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (Beth.Lenstra@legis.state.ia.us)

Fiscal Note Version – As Passed by the Senate

Requested by Representative Charles Larson

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### Description

Senate File 2146 as passed by the Senate defines terrorism and provides that a person who kills another while participating in an act of terrorism commits a Class A felony. The Bill provides that soliciting or participating in an act of terrorism is a Class B or Class C felony, depending upon the value of the material support or resources. A person who makes a threat of terrorism commits a Class D felony. A person who obstructs the prosecution of terrorism that resulted in the death of another, commits a Class B felony. A person who obstructs the prosecution of terrorism that does not result in death commits a Class C felony. The Bill changes the name of the current criminal offense of "terrorism" to "intimidation with a dangerous weapon." The Bill enhances the penalty for intimidation with a dangerous weapon, with intent to injure, from a Class C felony to a Class B felony. Senate File 2146 as passed by the Senate enhances the penalty for intimidation with a dangerous weapon, without intent to injure, from a Class D felony to a Class C felony.

### Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2002. A lag effect of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2001 data.
5. "Civilian population" the Bill means large numbers of people. Certain acts of arson or vandalism are not subject to the amended definition of terrorism.
6. Acts of terrorism as defined in the Bill will continue to be rare events in Iowa.
7. There is no significant correctional or fiscal impact due to the proposed Class A felony offense. Homicides while participating in a forcible felony are already punishable by life in prison without parole.
8. There were 12 convictions for Class D felony terrorism (intimidation with a dangerous weapon under the Bill) in FY 2001; of these, 6 (50.0%) were granted probation. There were 12 convictions for Class C felony terrorism (intimidation with a dangerous weapon) in FY 2001, of these, 1 (8.0%) was granted probation.
9. Class D felony terrorism (intimidation with a dangerous weapon) becomes a Class C felony. There will be 12 convictions annually for this Class C felony; it is assumed that 8.0% (one) person will be granted probation. Under the Bill, Class C felony terrorism (intimidation with a dangerous weapon) becomes a Class B felony. There will be 12 convictions annually for this Class B felony; it is assumed that no probation sentences will be granted.
10. Admissions to State prison are based on the number of offenders currently being sentenced to Community-Based Corrections (CBC) probation supervision that will now be sentenced to prison.

11. Average length of stay in prison is 87 months for a Class B felony, 51 months for a Class C felony, and 25 months for a Class D felony. The marginal cost per day for State prisons is \$16 per inmate.
12. Average length of stay on parole is 36 months for a Class B felony, 30 months for a Class C felony, and 29 months for a Class D felony. The marginal cost per day for parole and probation supervision is \$1.55 per offender.
13. The median cost for indigent defense per case is \$3,500 for a Class B felony, \$1,200 for a Class C felony, and \$1,000 for a Class D felony.
14. The average cost per felony case for the Judicial Branch ranges from \$200 to \$600, depending on whether a jury trial occurs. These figures include the costs of a District Court Judge, Clerk of Court staff, a court reporter, and a court attendant.
15. There is no impact on the Judicial Branch for enhancing the penalties for the crime of intimidation with a dangerous weapon, as the decrease in Class D felonies will be offset by the increase in Class B felonies.

### **Correctional Impact**

During FY 2003, there will be six fewer convictions for the Class D felony intimidation with a dangerous weapon and six more convictions for the Class B felony of intimidation with a dangerous weapon. There will be an increase and a decrease of six convictions for the Class C felony of intimidation with a dangerous weapon, resulting in no change. During FY 2004, and each year thereafter, there will be 12 fewer convictions for Class D felony intimidation with a dangerous weapon and 12 more convictions for Class B felony intimidation with a dangerous weapon.

Due to the enhanced penalties for intimidation with a dangerous weapon, there will be three offenders admitted to prison and the prison population will increase by three inmates during FY 2003. During FY 2004, and each year thereafter, admissions to prison will increase by six offenders. During FY 2004, the prison population will increase by 9 inmates; by FY 2007, the prison population will increase by 43 inmates.

Due to the enhanced penalties for intimidation with a dangerous weapon, admissions to CBC probation supervision will decrease by three offenders in FY 2003, and by six offenders each year thereafter.

There is no data with which to estimate the correctional impact of creating new offenses of terrorism. However, there will be a correctional impact to the extent that convictions under this statute occur, but that impact is not anticipated to be significant.

### **Fiscal Impact**

Due to the enhanced penalties for intimidation with a dangerous weapon, SF 2146 as passed by the Senate will result in additional General Fund costs of \$31,000 during FY 2003 and \$77,000 during FY 2004, as follows:

<u>Expenditures</u>	<u>FY 2003</u>	<u>FY 2004</u>
Indigent Defense	\$ 15,000	\$ 30,000
Prisons	18,000	53,000
CBC Supervision	- 2,000	- 6,000
Net Cost Increase	<u>\$ 31,000</u>	<u>\$ 77,000</u>

The fiscal impact of creating new offenses of terrorism cannot be determined due to insufficient information; however, it is not anticipated to be significant.

**Sources**

Department of Corrections  
State Public Defender's Office  
Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Supreme Court of Iowa

/s/ Dennis C Prouty

March 7, 2002

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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SENATE FILE 2146

AN ACT

ESTABLISHING CRIMINAL OFFENSES FOR ACTS OF TERRORISM,  
CHANGING RELATED CRIMINAL PENALTIES, AND PROVIDING  
A PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

Section 1. Section 707.2, Code 2001, is amended by adding  
the following new subsection:

NEW SUBSECTION. 6. The person kills another person while  
participating in an act of terrorism as defined in section  
708A.1.

Sec. 2. NEW SECTION. 708A.1 DEFINITIONS.

For purposes of this chapter:

1. "Material support or resources" means knowingly  
assisting or providing money, financial securities, financial  
services, lodging, training, safe houses, false documentation

or identification, communication equipment, facilities,  
weapons, lethal substances, explosives, personnel,  
transportation, and other physical assets, except medicine or  
religious materials, for the purpose of assisting a person in  
the commission of an act of terrorism.

2. "Renders criminal assistance" means a person who, with  
intent to prevent the apprehension or obstruct the prosecution  
or defense of any person, knowingly does any of the following  
acts:

a. Destroys, alters, conceals, or disguises physical  
evidence which would be admissible in the trial of another for  
a public offense, or makes available false evidence or  
furnishes false information with the intent that it be used in  
the trial of that case.

b. Induces a witness having knowledge material to the  
subject at issue to leave the state or hide, or to fail to  
appear when subpoenaed.

c. Provides concealment or warns of impending apprehension  
to any person being sought for the subject at issue.

d. Provides a weapon, disguise, transportation, or money  
to any person being sought for the subject at issue.

e. Prevents or obstructs, by means of force, intimidation,  
or deception, another person from performing an act which  
might aid in the apprehension or prosecution or defense of any  
person.

3. "Terrorism" means an act intended to intimidate or  
coerce a civilian population, or to influence the policy of a  
unit of government by intimidation or coercion, or to affect  
the conduct of a unit of government, by shooting, throwing,  
launching, discharging, or otherwise using a dangerous weapon  
at, into, or in a building, vehicle, airplane, railroad  
engine, railroad car, or boat, occupied by another person, or  
within an assembly of people. The terms "intimidate",  
"coerce", "intimidation", and "coercion", as used in this  
definition, are not to be construed to prohibit picketing,

public demonstrations, and similar forms of expressing ideas or views regarding legitimate matters of public interest protected by the United States and Iowa constitutions.

Sec. 3. NEW SECTION. 708A.1A TERRORISM.

A person who commits or attempts to commit an act of terrorism commits a class "B" felony. However, notwithstanding section 902.9, subsection 2, the maximum sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.

Sec. 4. NEW SECTION. 708A.2 VALUE FOR PURPOSES OF MATERIAL SUPPORT AND RESOURCES.

The value of property or services is its highest value by any reasonable standard at the time the material support or resources is given. Any reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the material support or resources are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single act of support or resources and the value may be the total value of all credit, property, and services involved.

Sec. 5. NEW SECTION. 708A.3 SOLICITING OR PROVIDING MATERIAL SUPPORT OR RESOURCES FOR TERRORISM.

1. A person who provides material support or resources to a person who commits or attempts to commit terrorism and the value of the material support or resources is in excess of one thousand dollars commits a class "B" felony.

2. A person who provides material support or resources to a person who commits or attempts to commit terrorism and the value of the material support or resources does not exceed one thousand dollars commits a class "C" felony.

Sec. 6. NEW SECTION. 708A.4 THREAT OF TERRORISM.

A person who threatens to commit terrorism or threatens to cause terrorism to be committed and who causes a reasonable expectation or fear of the imminent commission of such an act of terrorism commits a class "D" felony.

Sec. 7. NEW SECTION. 708A.5 OBSTRUCTION OF TERRORISM PROSECUTION.

1. A person who renders criminal assistance to another person who commits terrorism that results in the murder of a third person while knowing that the other person was engaged in terrorism commits a class "B" felony.

2. A person who renders criminal assistance to another person who commits terrorism while knowing that the other person was engaged in an act of terrorism commits a class "C" felony.

DIVISION II

Sec. 8. Section 708.6, Code 2001, is amended to read as follows:

708.6 TERRORISM INTIMIDATION WITH A DANGEROUS WEAPON.

A person commits a class "C" felony when the person, with the intent to injure or provoke fear or anger in another, shoots, throws, launches, or discharges a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

A person commits a class "D" felony when the person shoots, throws, launches, or discharges a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

Sec. 9. Section 723A.1, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. An offense constituting a violation of section 708.6 involving ~~an-act-of-terrorism~~ intimidation with a dangerous weapon.

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MARY E. KRAMER  
President of the Senate

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BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2146, Seventy-ninth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved April 5, 2002

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THOMAS J. VILSACK  
Governor