

MAR 8 2005
Place On Calendar

HOUSE FILE 621
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 436)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the manufacturing of a controlled substance or
2 counterfeit substance near property frequented by children,
3 and providing for a penalty.

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

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HF 621

1 Section 1. Section 124.401A, Code 2005, is amended to read
2 as follows:

3 124.401A ENHANCED PENALTY FOR MANUFACTURE OR DISTRIBUTION
4 TO PERSONS ON CERTAIN REAL PROPERTY.

5 1. In Except as otherwise provided in subsection 2, and in
6 addition to any other penalties provided in this chapter, a
7 person who is eighteen years of age or older who unlawfully
8 manufactures with intent to distribute, distributes, or
9 possesses with intent to distribute a substance or counterfeit
10 substance listed in schedule I, II, or III, or a simulated
11 controlled substance represented to be a controlled substance
12 classified in schedule I, II, or III, to another person who is
13 eighteen years of age or older in or on, or within one
14 thousand feet of the real property comprising a public or
15 private elementary or secondary school, public park, public
16 swimming pool, public recreation center, religious
17 institution, or on a marked school bus, may be sentenced up to
18 an additional term of confinement of five years.

19 2. A person who is eighteen years of age or older who
20 unlawfully manufactures methamphetamine, its salts, isomers,
21 or salts of its isomers within one thousand feet of the real
22 property comprising a public or private elementary or
23 secondary school, public park, public swimming pool, public
24 recreation center, religious institution, or on a marked
25 school bus, may be sentenced up to an additional term of
26 confinement of five years in addition to any other penalty in
27 this chapter.

28 3. As used in this section, "religious institution" means
29 a building in which an active congregation is devoted to
30 worship.

31 EXPLANATION

32 A person, under this bill, who unlawfully manufactures with
33 intent to distribute, distributes, or possesses with intent to
34 distribute a substance or counterfeit substance to another
35 person within 1,000 feet of a religious institution as defined

1 in the bill may be sentenced up to an additional term of
2 confinement of five years.

3 A person, under the bill, who manufactures methamphetamine,
4 regardless of intent to distribute methamphetamine, within
5 1,000 feet of a public or private school, public park, public
6 swimming pool, public recreation area, or religious
7 institution as defined in the bill, or on a marked school bus,
8 may be sentenced up to an additional term of confinement of
9 five years.

10 Current law applies the additional term of confinement to
11 manufacturing with the intent to distribute, distributing, or
12 possessing with the intent to distribute a controlled
13 substance or counterfeit substance within 1,000 feet of a
14 public or private elementary or secondary school, public park,
15 public swimming pool, public recreation center, or on a marked
16 school bus.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 621 - Drug Manufacturing Near School (LSB 2602 HV)

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

Fiscal Note Version – NEW

Requested by Representative Kevin McCarthy

Description

House File 621 adds "religious institution" to the locations where an additional term of confinement of five years may be imposed for manufacturing a controlled substance or simulated controlled substance within 1,000 feet of the specific location. Current law includes the following locations: a public or private school, public park, swimming pool, or recreation center, or on a marked school bus. The Bill also provides that an additional term of five years may be imposed for manufacturing a controlled substance or simulated controlled substance within 1,000 feet of a religious institution, public or private school, public park, swimming pool, or recreation center, or on a marked school bus.

Background

1. This analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court and corrections information. Conviction and penalty data is based on FY 2004 data.
2. According to the U.S. Census, there are 1,532 public and 194 private schools in Iowa, and 4,560 religious congregations. Adding "religious institution" to the property list increases by 290.0% the areas where the additional term of years may be imposed.
3. The number of public parks, swimming pools, or recreation centers is not known.
4. There were 2,280 offenders convicted of trafficking charges that currently do not carry an enhanced penalty. Approximately 50.0% of these offenders may be subject to the provisions of HF 621.
5. The enhanced penalty of five additional years increases the average length of stay in prison. Offenders convicted of Class B and C drug offenses will have 12 months added to the actual time served in prison. Seven months will be added to the actual time served in prison for drug offenders convicted of Class D felonies. The number of offenders convicted of serious or aggravated misdemeanors and sentenced to prison with the enhanced penalty is estimated to be ten or fewer annually.
6. The enhanced penalty of five additional years increases the number of people sentenced to prison. For example, approximately 9.8% of offenders convicted of an aggravated misdemeanor drug offense are sentenced to prison under current law. Under HF 261, the percentage sentenced to prison may be 31.1%.
7. The marginal cost per day per offender is \$13.00 in the State prison system.
8. The marginal cost per day for probation is \$1.83 per offender.
9. The marginal cost per day for county jail operation is \$15.00.

Assumptions

1. The law will become effective July 1, 2005. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
2. Under current law, there were 722 convictions to prison involving methamphetamine in FY 2004. It is assumed that 50.0% of these offenders were convicted of manufacturing only, and further, that 50.0% of these offenders manufactured methamphetamine within 1,000 feet of the restricted properties.
3. For the purposes of analyzing Section Two of the Bill, both the conviction rate and the incarceration rate are assumed to remain unchanged.

Correctional Impact

Under Section One of the Bill, there will be 119 new offenders admitted to prison in FY 2006, and 238 new offenders admitted annually thereafter. The prison population will increase by 116 offenders in FY 2006, 475 offenders in FY 2007, and 1,242 offenders in FY 2010. The impact on the population is greater than the number of admissions due to the significant increase in the average length of stay in prison before parole is granted.

These offenders would have been sentenced to probation under current law. There will be a slight reduction in county jail populations, but that reduction is not anticipated to be significant.

Under Section Two of the Bill, the prison population will increase by a minimum of 103 additional offenders by FY 2010. To the extent that charging, conviction, and the incarceration rates are altered under the Bill, the correctional impact will be greater than indicated in this fiscal note.

Fiscal Impact

House File 621 is estimated to increase State corrections operating expenses by \$237,000 in FY 2006, and \$1.9 million in FY 2007. This figure includes a reduction in the number of offenders under Community-Based Corrections (CBC) supervision, and an increase in the number of offenders in the State prison system.

A new prison will be required by FY 2008 at an estimated construction cost of \$45.0 million and an annual estimated operating cost of \$28.0 million.

The above estimates do not include the fiscal impact of Section Two of the Bill. To the extent that charging, conviction, and the incarceration rates are altered under the Bill, the fiscal impact will be greater than indicated in this fiscal note.

Sources

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

/s/ Holly M. Lyons

March 11, 2005

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 Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
