

# House Study Bill 273

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON LABOR BILL BY  
CHAIRPERSON OLSON)

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

## A BILL FOR

1 An Act relating to sentencing and parole eligibility of persons  
2 convicted of controlled substance offenses.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 2361HC 82  
5 jm/gg/14

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1 1 Section 1. Section 124.401E, subsection 1, Code 2007, is  
1 2 amended to read as follows:  
1 3 ~~1. If a court sentences a person for the person's first~~  
~~1 4 conviction for delivery or possession with intent to deliver a~~  
~~1 5 controlled substance under a violation of section 124.401,~~  
1 6 subsection 1, paragraph "c", and if the controlled substance  
1 7 is amphetamine, its salts, isomers, or salts of its isomers,  
1 8 or methamphetamine, its salts, isomers, or salts of its  
1 9 isomers, ~~and if the court may suspend defers the judgment, or~~  
~~1 10 defers or suspends the sentence, and the court may shall order~~  
1 11 the person to complete a drug court program if a drug court  
1 12 has been established in the county in which the person is  
1 13 sentenced, ~~or order the person to receive a substance abuse~~  
~~1 14 evaluation and complete any treatment if treatment is~~  
~~1 15 recommended, or order the person~~ be assigned to a  
1 16 community-based correctional facility for a period of one year  
1 17 or until maximum benefits are achieved, whichever is earlier.  
1 18 Sec. 2. Section 124.401E, subsections 2 and 3, Code 2007,  
1 19 are amended by striking the subsections.  
1 20 Sec. 3. Section 232.45, subsection 14, unnumbered  
1 21 paragraph 1, Code 2007, is amended to read as follows:  
1 22 If a child who is alleged to have delivered, manufactured,  
1 23 or possessed with intent to deliver or manufacture, a  
1 24 controlled substance except marijuana, as defined in chapter  
1 25 124, is waived to district court for prosecution, ~~the~~  
~~1 26 mandatory minimum sentence provided in section 124.413 shall~~  
~~1 27 not be imposed if a conviction is had; however, each child~~  
~~1 28 convicted of such an offense the child~~ shall be confined for  
1 29 not less than thirty days in a secure facility.  
1 30 Sec. 4. Section 901.10, subsection 1, Code 2007, is  
1 31 amended to read as follows:  
1 32 1. A court sentencing a person for the person's first  
1 33 conviction under section 124.406, ~~124.413~~, or 902.7 may, at  
1 34 its discretion, sentence the person to a term less than  
1 35 provided by the statute if mitigating circumstances exist and  
2 1 those circumstances are stated specifically in the record.  
2 2 Sec. 5. Section 901.10, subsection 2, Code 2007, is  
2 3 amended by striking the subsection.  
2 4 Sec. 6. Section 903A.5, subsection 1, Code 2007, is  
2 5 amended to read as follows:  
2 6 1. An inmate shall not be discharged from the custody of  
2 7 the director of the Iowa department of corrections until the  
2 8 inmate has served the full term for which the inmate was  
2 9 sentenced, less earned time and other credits earned and not  
2 10 forfeited, unless the inmate is pardoned or otherwise legally  
2 11 released. Earned time accrued and not forfeited shall apply  
2 12 to reduce a mandatory minimum sentence being served pursuant  
2 13 to section 124.406, ~~124.413~~, 902.7, 902.8, 902.8A, or 902.11.  
2 14 An inmate shall be deemed to be serving the sentence from the  
2 15 day on which the inmate is received into the institution. If  
2 16 an inmate was confined to a county jail or other correctional  
2 17 or mental facility at any time prior to sentencing, or after  
2 18 sentencing but prior to the case having been decided on

2 19 appeal, because of failure to furnish bail or because of being  
2 20 charged with a nonbailable offense, the inmate shall be given  
2 21 credit for the days already served upon the term of the  
2 22 sentence. However, if a person commits any offense while  
2 23 confined in a county jail or other correctional or mental  
2 24 health facility, the person shall not be granted jail credit  
2 25 for that offense. Unless the inmate was confined in a  
2 26 correctional facility, the sheriff of the county in which the  
2 27 inmate was confined shall certify to the clerk of the district  
2 28 court from which the inmate was sentenced and to the  
2 29 department of corrections' records administrator at the Iowa  
2 30 medical and classification center the number of days so  
2 31 served. The department of corrections' records administrator,  
2 32 or the administrator's designee, shall apply jail credit as  
2 33 ordered by the court of proper jurisdiction or as authorized  
2 34 by this section and section 907.3, subsection 3.

2 35 Sec. 7. Section 907.3, subsection 1, paragraph k, Code  
3 1 2007, is amended by striking the paragraph.

3 2 Sec. 8. Section 907.3, subsection 2, paragraph e, Code  
3 3 2007, is amended by striking the paragraph.

3 4 Sec. 9. Section 907.3, subsection 3, paragraph e, Code  
3 5 2007, is amended by striking the paragraph.

3 6 Sec. 10. Section 124.413, Code 2007, is repealed.

#### 3 7 EXPLANATION

3 8 This bill relates to criminal sentencing and parole  
3 9 eligibility of persons convicted of controlled  
3 10 substance-related offenses.

3 11 The bill provides that a person may receive a deferred  
3 12 judgment, or a deferred or suspended sentence, if the offense  
3 13 is classified as a class "B" felony and the offense involves  
3 14 methamphetamine. Current law prohibits a person from  
3 15 receiving a deferred judgment, or deferred or suspended  
3 16 sentence, if the offense is classified as a class "B" felony  
3 17 and the offense involves methamphetamine.

3 18 The bill requires a person who receives a deferred  
3 19 judgment, or deferred or suspended sentence, for a class "C"  
3 20 felony amphetamine or methamphetamine offense to complete a  
3 21 drug court program, receive a substance abuse evaluation and  
3 22 complete any recommended treatment, or be assigned to a  
3 23 community-based correctional facility for up to one year, if  
3 24 the offense is classified as a felony and the offense involves  
3 25 amphetamine or methamphetamine.

3 26 The bill eliminates a provision requiring the court to  
3 27 sentence a person to imprisonment upon a second or subsequent  
3 28 conviction for delivery or possession with intent to deliver a  
3 29 controlled substance under Code section 124.401, subsection 1,  
3 30 and the controlled substance is amphetamine or  
3 31 methamphetamine.

3 32 Under current law, for a first offense involving delivery  
3 33 or possession with intent to deliver amphetamine or  
3 34 methamphetamine that is classified as a class "C" felony, the  
3 35 court may suspend the sentence and order the person to  
4 1 complete a drug court program or assign the person to a  
4 2 community-based correctional facility for up to one year. In  
4 3 addition under current law, for any offense involving  
4 4 manufacture of amphetamine or methamphetamine that is  
4 5 classified as a class "C" felony, the court may suspend the  
4 6 sentence and order the person to complete a drug court program  
4 7 or assign the person to a community-based correctional  
4 8 facility.

4 9 The bill repeals Code section 124.413 relating to  
4 10 eligibility for parole. The bill eliminates the requirement  
4 11 that a person sentenced to prison for a controlled substance  
4 12 offense under Code section 124.401, subsection 1, serve  
4 13 one-third of the maximum indeterminate sentence before  
4 14 becoming eligible for parole.

4 15 LSB 2361HC 82

4 16 jm:nh/gg/14.1