

awaiting transfer to an appropriate juvenile facility or to court, for booking, for implied consent testing, for contacting and release to the person's parents, or for other administrative purposes.

For purposes of this subsection, "nonsecure custody" means custody in an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area, the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held, and the use of the area is limited to providing nonsecure custody only long enough for the purposes stated in the preceding paragraph and not for a period of time in excess of six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

4. This section does not prohibit the execution of an arrest warrant by a peace officer.

Sec. 8. Section 903.1, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

When If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

Sec. 9. Section 903.1, subsection 3, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A person under eighteen years of age convicted of a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, section 123.47, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

Approved May 5, 1988

---

## CHAPTER 1168

### CRIMINAL SENTENCING OPTIONS

*H.F. 2412*

**AN ACT** relating to judicial sentencing options.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 321J.4, Code 1987, is amended by adding the following new subsections:

**NEW SUBSECTION.** 7. On a conviction for or as a condition of a deferred judgment for a violation of section 321J.2, the court may order the defendant to install ignition interlock devices of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the defendant which, without tampering or the intervention of another person, would prevent the defendant from operating the motor vehicle with an alcohol concentration greater than a level set by rule of the commissioner of public safety. The commissioner of public safety shall adopt rules to approve certain ignition interlock devices and the means of installation of the devices, and shall establish the level of alcohol concentration beyond which

an ignition interlock device will not allow operation of the motor vehicle in which it is installed. The order shall remain in effect for a period of time as determined by the court which shall not exceed the maximum term of imprisonment which the court could have imposed according to the nature of the violation. While the order is in effect, the defendant shall not operate a motor vehicle which does not have an approved ignition interlock device installed. If the defendant's motor vehicle license or nonresident operating privilege has been revoked, the department shall not issue a temporary permit or a motor vehicle license to the person without certification that approved ignition interlock devices have been installed in all motor vehicles owned or operated by the defendant while the order is in effect. A defendant who fails within a reasonable time to comply with an order to install an approved ignition interlock device may be declared in contempt of court and punished accordingly. A person who tampers with or circumvents an ignition interlock device installed under a court order while an order is in effect commits a serious misdemeanor.

**NEW SUBSECTION. 8.** A person whose motor vehicle license has been revoked under this chapter and who is not eligible for a temporary restricted license under this chapter may petition the court for an order to the department to require the department to issue a temporary restricted license to the person. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, the court shall order the department to issue to the person a temporary restricted license conditioned upon the person's certification to the court of the installation of approved ignition interlock devices in all motor vehicles that it is necessary for the person to operate to maintain the person's present employment. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked.

Sec. 2. Section 907.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

**907.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Deferred judgment" means a sentencing option whereby both the adjudication of guilt and the imposition of a sentence are deferred by the court. The court retains the power to pronounce judgment and impose sentence subject to the defendant's compliance with conditions set by the court as a requirement of the deferred judgment.

2. "Deferred sentence" means a sentencing option whereby the court enters an adjudication of guilt but does not impose a sentence. The court retains the power to sentence the defendant to any sentence it originally could have imposed subject to the defendant's compliance with conditions set by the court as a requirement of the deferred sentence.

3. "Suspended sentence" means a sentencing option whereby the court pronounces judgment and imposes a sentence and then suspends execution of the sentence subject to the defendant's compliance with conditions set by the court as a requirement of the suspended sentence. Revocation of the suspended sentence results in the execution of sentence already pronounced.

4. "Probation" means the procedure under which a defendant, against whom a judgment of conviction of a public offense has been or may be entered, is released by the court subject to supervision by a resident of this state or by the judicial district department of correctional services.

Sec. 3. Section 907.3, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

With the consent of the defendant, the court may defer judgment and place the defendant on probation upon such conditions as it may require, ~~or defer sentence and assign the defendant to the judicial district department of correctional services.~~ Upon a showing that ~~such person~~ the defendant is not co-operating with the program of probation or is not responding to it, the court may ~~withdraw the person defendant from the program,~~ pronounce judgment, and impose any sentence authorized by law. Before taking such action, the court shall give the ~~person~~ defendant an opportunity to be heard on any matter relevant to the proposed action. Upon fulfillment of the conditions of probation, the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 4. Section 907.3, Code 1987, is amended by adding the following new subsection after subsection 1 and renumbering the subsequent subsection:

NEW SUBSECTION. 2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 5. Section 907.4, Code 1987, is amended to read as follows:

907.4 DEFERRED JUDGMENT DOCKET.

Any ~~A~~ deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the ~~supreme~~ state court administrator who shall maintain a permanent record of the ~~deferment~~ deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the ~~deferment~~ deferred judgment. Before granting ~~deferment~~ deferred judgment in any case, the court shall request of the ~~supreme~~ state court administrator a search of the deferred judgment docket and shall consider any prior record of a ~~deferment of~~ deferred judgment against the defendant. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, and judicial magistrates, and county attorneys requesting information pursuant to this section, or the designee of a justice, judge, magistrate, or county attorney.

Sec. 6. Section 907.9, Code 1987, is amended to read as follows:

907.9 DISCHARGE FROM PROBATION.

At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of any ~~a~~ person from probation. At the expiration of the period of probation, in cases where the court fixes the term of probation, the court shall order the discharge of ~~such~~ the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to ~~such~~ that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the ~~supreme~~ state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

Sec. 7. Section 907.13, subsection 2, Code 1987, is amended to read as follows:

2. The defendant's plan of community service, the comments of the defendant's probation officer, and the comments of the representative of the judicial district department of correctional services responsible for the unpaid community service program, shall be submitted

promptly to the court. The court shall promptly enter an order approving the plan or modifying it. Compliance with the plan of community service as approved or modified by the court shall be a condition of the defendant's probation. The court thereafter may modify the plan at any time upon the defendant's request, upon the request of the judicial district department of correctional services, or upon the court's own motion. As an option for modification of a plan, the court may allow a defendant to complete some part or all of the defendant's community service obligation through the donation of property to a charitable organization other than a governmental subdivision. A donation of property to a charitable organization offered in satisfaction of some part or all of a community service obligation under this subsection is not a deductible contribution for the purposes of federal or state income taxes.

Approved May 5, 1988

---

**CHAPTER 1169**  
**GROUNDWATER QUALITY**  
*S.F. 2250*

**AN ACT** relating to environmental protection by exempting certain persons from pesticide application certification requirements, by correcting the reference to the membership of the advisory committee for the center for health effects of environmental contamination; by establishing requirements regarding sanitary disposal project inspections, the disposal of solid waste, and the solid waste tonnage fee; by making corrections relating to the collection and allocation of moneys within the solid waste account and the agriculture management account; by correcting a reference to the duties of the department of natural resources regarding household hazardous materials; and by specifying the content and liability for the content of statements submitted with a declaration of value regarding the existence and location of wells, disposal sites, underground storage tanks, and hazardous waste.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 200.8, subsection 1, unnumbered paragraph 3, Code Supplement 1987, is amended to read as follows:

Any person other than a manufacturer who annually offers for sale, sells, or distributes specialty fertilizer in the amount of four thousand pounds or more in packages of twenty-five pounds or less or applies specialty fertilizer for compensation ~~shall be required to~~ pay an annual inspection fee of fifty thirty dollars in lieu of the semiannual inspection fee as set forth in this chapter.

Sec. 2. Section 206.5, Code Supplement 1987, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 3:

**NEW UNNUMBERED PARAGRAPH.** An employee of a food processing and distribution establishment is exempt from the certification requirements of this section provided that at least one person holding a supervisory position is certified and provided that the employer provides a program, approved by the department, for training, testing, and certification of personnel who apply, as an incidental part of their duties, any pesticide on property owned or rented by the employer. The secretary shall adopt rules to administer the provisions of this paragraph.

Sec. 3. Section 263.17, subsection 4, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows: