

JUDGMENT AND SENTENCING PROCEDURES

901.1 Short title.

Chapters 901 to 909 shall be known and may be cited as the "*Iowa Corrections Code*."

[C79, 81, § 901.1]

94 Acts, ch 1023, §71

901.2 Presentence investigation.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources.

The court shall not order a presentence investigation when the offense is a class "A" felony. If, however, the board of parole determines that the Iowa medical and classification center reception report for a class "A" felon is inadequate, the board may request and shall be provided with additional information from the appropriate judicial district department of correctional services. The court shall order a presentence investigation when the offense is any felony punishable under section 902.9, subsection 1, or a class "B", class "C", or class "D" felony. A presentence investigation for any felony punishable under section 902.9, subsection 1, or a class "B", class "C", or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated misdemeanor. The court may order a presentence investigation when the offense is a serious misdemeanor only upon a finding of exceptional circumstances warranting an investigation. Notwithstanding section 901.3, a presentence investigation ordered by the court for a serious misdemeanor shall include information concerning only the following:

1. A brief personal and social history of the defendant.
2. The defendant's criminal record.
3. The harm to the victim, the victim's immediate family, and the community, including any completed victim impact statement or statements and restitution plan.

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment, deferment of sentence, or suspension of sentence and probation. The investigation shall be made by the judicial district department of correctional services.

The purpose of the report by the judicial district department of correctional services is to provide the court pertinent information for purposes of sentencing and to include suggestions for correctional planning for use by correctional authorities subsequent to sentencing.

[S13, § 5447-a; C24, 27, 31, 35, 39, § **3800**; C46, 50, 54, 58, 62, 66, 71, 73, § 247.20; C75, 77, § 789A.3; C79, 81, § 901.2]

83 Acts, ch 38, § 2; 84 Acts, ch 1126, § 1; 89 Acts, ch 156, § 2; 90 Acts, ch 1251, §62; 94 Acts, ch 1099, §1; 99 Acts, ch 12, §12; 2000 Acts, ch 1122, §2

901.3 Presentence investigation report.

If a presentence investigation is ordered by the court, the investigator shall promptly inquire into all of the following:

1. The defendant's characteristics, family and financial circumstances, needs, and potentialities, including the presence of any previously diagnosed mental disorder.
2. The defendant's criminal record and social history.
3. The circumstances of the offense.
4. The time the defendant has been in detention.
5. The harm to the victim, the victim's immediate family, and the community. Additionally, the presentence investigator shall provide a victim impact statement form to each victim, if one has not already been provided, and shall file the completed statement or statements with the presentence investigation report.
6. The defendant's potential as a candidate for the community service sentence program established pursuant to section 907.13.
7. Any mitigating circumstances relating to the offense and the defendant's potential as a candidate for deferred judgment, deferred sentencing, a suspended sentence, or probation, if the defendant is charged with or convicted of assisting suicide pursuant to section 707A.2.

All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. With the approval of the court, a physical examination or psychiatric evaluation of the defendant may be ordered, or the defendant may be committed to an inpatient or outpatient psychiatric facility for an evaluation of the defendant's personality and mental health. The results of any such examination or evaluation shall be included in the report of the investigator.

[C75, 77, § 789A.4; C79, 81, § 901.3; 82 Acts, ch 1069, § 1]

86 Acts, ch 1178, § 2; 90 Acts, ch 1251, §63; 91 Acts, ch 219, §23; 96 Acts, ch 1002, § 4

901.4 Presentence investigation report confidential distribution.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. At least three days prior to the date set for sentencing, the court shall send a copy of all of the presentence investigation report by ordinary or electronic mail, to the defendant's attorney and the attorney for the state, and the report shall remain confidential except upon court order. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class "A" felon, a copy of the presentence investigation report shall be forwarded by ordinary or electronic mail to the director with the order of commitment by the clerk of the district court and to the board of parole at the time of commitment. Pursuant to section 904.602, the presentence investigation report may also be released by ordinary or electronic mail by the department of corrections or a judicial district department of correctional services to another jurisdiction for the purpose of providing interstate probation and parole compact or interstate compact for adult offender supervision services or evaluations, or to a

substance abuse or mental health services provider when referring a defendant for services. The defendant or the defendant's attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report. If the person is sentenced for an offense which requires registration under chapter 692A, the court shall release the report by ordinary or electronic mail to the department.

[C75, 77, § 789A.5; C79, 81, § 901.4]

83 Acts, ch 38, § 3; 83 Acts, ch 96, § 124, 159, 160; 89 Acts, ch 279, § 7; 98 Acts, ch 1095, § 1; 98 Acts, ch 1169, § 17; 99 Acts, ch 112, §20; 2003 Acts, 1st Ex, ch 2, §50, 209; 2004 Acts, ch 1101, §92; 2004 Acts, ch 1106, §1; 2004 Acts, ch 1175, §465, 468; 2005 Acts, ch 171, §6

For text of section effective from May 17, 2004, through June 30, 2004, see 2004 Acts, ch 1175, §465

901.4A Substance abuse evaluation.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court may order the defendant to submit to and complete a substance abuse evaluation, if the court determines that there is reason to believe that the defendant regularly abuses alcohol or other controlled substances and may be in need of treatment. An order made pursuant to this section may be made in addition to any other sentence or order of the court.

90 Acts, ch 1251, §64

901.5 Pronouncing judgment and sentence.

After receiving and examining all pertinent information, including the presentence investigation report and victim impact statements, if any, the court shall consider the following sentencing options. The court shall determine which of them is authorized by law for the offense, and of the authorized sentences, which of them or which combination of them, in the discretion of the court, will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others.

At the time fixed by the court for pronouncement of judgment and sentence, the court shall act accordingly:

1. If authorized by section 907.3, the court may defer judgment and sentence for an indefinite period in accordance with chapter 907.
2. If the defendant is not a habitual offender as defined by section 902.8, the court may pronounce judgment and impose a fine.
3. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both, and suspend the execution of the sentence or any part of it as provided in chapter 907.
4. The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both.
5. If authorized by section 907.3, the court may defer the sentence and assign the defendant to the judicial district department of correctional services.
6. The court may pronounce judgment and sentence the defendant to confinement and then reconsider the sentence as provided by section 902.4 or 903.2.
7. The court shall inform the defendant of the mandatory minimum sentence, if one is applicable.

7A. *a.* The court may order the defendant to have no contact with the victim of the offense, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense if the court finds that the presence of or contact with the defendant poses a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense.

b. The duration of the no-contact order may extend for a period of five years from the date the judgment is entered or the deferred judgment is granted, or up to the maximum term of confinement plus one additional year, whichever is greater. The court may order the no-contact order regardless of whether the defendant is placed on probation.

Upon the filing of an affidavit by the victim, a person residing with the victim, a member of the victim's immediate family, or a witness to the offense which states that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense within ninety days prior to the expiration of the no-contact order, the court shall modify and extend the no-contact order for an additional period of up to five years, unless the court finds that the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense. The number of modifications extending the no-contact order permitted by this subsection is not limited.

c. The court order shall contain the court's directives restricting the defendant from having contact with the victim of the offense, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense. The order shall state whether the defendant is to be taken into custody by a peace officer for a violation of the terms stated in the order.

d. Violation of a no-contact order issued under this subsection is punishable by summary contempt proceedings. A hearing in a contempt proceeding brought pursuant to this subsection shall be held not less than five days and not more than fifteen days after the issuance of a rule to show cause, as set by the court, unless the defendant is already in custody at the time of the alleged violation in which case the hearing shall be held not less than five days and not more than forty-five days after the issuance of the rule to show cause.

e. For purposes of this subsection, "*victim*" means a person who has suffered physical, emotional, or financial harm as the result of a public offense committed in this state.

8. The court may order the defendant to complete any treatment indicated by a substance abuse evaluation ordered pursuant to section 901.4A or any other section.

8A. *a.* The court shall order DNA profiling of a defendant convicted of an offense that requires profiling under section 81.2.

b. Notwithstanding section 81.2, the court may order the defendant to provide a DNA sample to be submitted for DNA profiling if appropriate. In determining the appropriateness of ordering DNA profiling, the court shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

9. If the defendant is being sentenced for an aggravated misdemeanor or a felony, the court shall publicly announce the following:

a. That the defendant's term of incarceration may be reduced from the maximum sentence because of statutory earned time, work credits, and program credits.

b. That the defendant may be eligible for parole before the sentence is discharged.

c. In the case of multiple sentences, whether the sentences shall be served consecutively or concurrently.

10. In addition to any sentence imposed pursuant to chapter 902 or 903, the court shall order the state department of transportation to revoke the defendant's driver's license or motor vehicle operating privilege for a period of one hundred eighty days, or to delay the issuance of a driver's license for one hundred eighty days after the person is first eligible if the defendant has not been issued a driver's license, and shall send a copy of the order in addition to the notice of conviction required under section 124.412, 126.26, or 453B.16, to the state department of transportation, if the defendant is being sentenced for any of the following offenses:

a. A controlled substance offense under section 124.401, 124.401A, 124.402, or 124.403.

b. A drug or drug-related offense under section 126.3.

c. A controlled substance tax offense under chapter 453B.

If the person's operating privileges are suspended or revoked at the time of sentencing, the order shall provide that the one hundred eighty-day revocation period shall not begin until all other suspensions or revocations have terminated. Any order under this section shall also provide that the department shall not issue a temporary restricted license to the defendant during the revocation period, without further order by the court.

11. In addition to any sentence or other penalty imposed against the defendant for an offense under chapter 124, the court shall consider the provisions of 21 U.S.C. § 862, regarding the denial of federal benefits to drug traffickers and possessors convicted under state or federal law, and may enter an order specifying the range and scope of benefits to be denied to the defendant, according to the provisions of 21 U.S.C. § 862. For the purposes of this subsection, "*federal benefit*" means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or through the appropriation of funds of the United States, but does not include any retirement, welfare, social security, health, disability, veterans, public housing, or similar benefit for which payments or services are required for eligibility. The supreme court may adopt rules establishing sentencing guidelines consistent with this subsection and 21 U.S.C. § 862. The clerk of the district court shall send a copy of any order issued pursuant to this subsection to the denial of federal benefits program of the United States department of justice, along with any other forms and information required by the department.

12. In addition to any sentence or other penalty imposed against the defendant for an offense under chapter 124, the court shall consider the denial of state benefits to the defendant, and may enter an order specifying the range and scope of benefits to be denied to the defendant, comparable to the federal benefits denied under subsection 11. For the purposes of this subsection, "*state benefit*" means the issuance of any grant, contract, loan, professional license, or commercial license provided by a state agency, department, program, or otherwise through the appropriation of funds of the state, but does not include any retirement, welfare, health, disability, veterans, public housing, or similar benefit. The supreme court may adopt rules establishing sentencing guidelines consistent with this subsection and comparable to the guidelines for denial of federal benefits in 21 U.S.C. § 862. The clerk of the district court shall send a copy of any order issued pursuant to this subsection to each state agency, department, or program required to deny benefits pursuant to such an order.

13. In addition to any other sentence or other penalty imposed against the defendant, the court shall impose a special sentence if required under section 903B.1 or 903B.2.

[C79, 81, § 901.5]

84 Acts, ch 1063, § 1; 86 Acts, ch 1178, § 3; 90 Acts, ch 1251, § 65; 92 Acts, ch 1023, § 1; 96 Acts, ch 1218, § 68; 98 Acts, ch 1073, § 9; 98 Acts, ch 1138, § 26; 2000 Acts, ch 1122, §3; 2000 Acts, ch 1173, §2, 10; 2001 Acts, ch 165, §3; 2003 Acts, ch 109, §1; 2003 Acts, ch 156, §8; 2003 Acts, ch 179, §77; 2004 Acts, ch 1101, §93; 2005 Acts, ch 58, §1; 2005 Acts, ch 158, §14, 19, 37

Footnotes

Surcharge on penalty, chapter 911

901.5A Reopening of a sentence.

1. A defendant sentenced by the court to the custody of the director of the department of corrections for an offense punishable under section 902.9, subsection 1, may have the judgment and sentence entered under section 901.5 reopened for resentencing if the following apply:

a. The county attorney from the county which prosecuted the defendant files a motion to reopen the sentence of the defendant based upon the defendant's cooperation in the prosecution of other persons.

b. The court finds the defendant cooperated in the prosecution of other persons.

2. Upon a finding by the court that the defendant cooperated in the prosecution of other persons, the court may reduce the maximum sentence imposed under the original sentencing order.

3. For purposes of calculating earned time under section 903A.2, the sentencing date for a defendant whose sentence has been reopened under this section shall be the date of the original sentencing order.

4. The filing of a motion or the reopening of a sentence under this section shall not constitute grounds to stay any other court proceedings, or to toll or restart the time for filing of any post-trial motion or any appeal.

5. The defendant may request appointment of counsel, if eligible under section 815.10, prior to and during any negotiations and proceedings pursuant to this section.

99 Acts, ch 12, §13; 2000 Acts, ch 1173, §3, 10

901.5B Reopening of sentence sentences subject to maximum earned time accumulation of fifteen percent. Repealed by 2004 Acts, ch 1150, § 5.

901.6 Judgment entered.

If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced and none appears to the court upon the record, judgment shall be pronounced and entered. In every case in which judgment is entered, the court shall include in the judgment entry the number of the particular section of the Code and the name of the offense under which the defendant is sentenced and a statement of the days credited pursuant to section 903A.5 shall be incorporated into the sentence.

[C51, § 3066; R60, § 4873, 4874; C73, § 4506, 4507; C97, § 5438; C24, § 13958; C27, 31, 35, § 13958-a1; C39, § **13958.2**; C46, 50, 54, 58, 62, 66, § 789.11; C71, 73, 75, 77, § 789.11, 791.8; C79, 81, § 901.6]

83 Acts, ch 38, § 4; 83 Acts, ch 147, § 11, 14

901.7 Commitment to custody.

In imposing a sentence of confinement for more than one year, the court shall commit the defendant to the custody of the director of the Iowa department of corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of the commitment. The court shall make an order as appropriate for the temporary custody of the defendant pending the defendant's transfer to the custody of the director. The court shall order the county where a person was convicted to pay the cost of temporarily confining the person and of transporting the person to the state institution where the person is to be confined

in execution of the judgment. The order shall require that a person transported to a state institution pursuant to this section shall be accompanied by a person of the same sex.

[C79, 81, § 901.7]

83 Acts, ch 96, § 125, 159; 85 Acts, ch 21, §49

901.8 Consecutive sentences.

If a person is sentenced for two or more separate offenses, the sentencing judge may order the second or further sentence to begin at the expiration of the first or succeeding sentence. If a person is sentenced for escape under section 719.4 or for a crime committed while confined in a detention facility or penal institution, the sentencing judge shall order the sentence to begin at the expiration of any existing sentence. If the person is presently in the custody of the director of the Iowa department of corrections, the sentence shall be served at the facility or institution in which the person is already confined unless the person is transferred by the director. Except as otherwise provided in section 903A.7, if consecutive sentences are specified in the order of commitment, the several terms shall be construed as one continuous term of imprisonment.

[S13, § 5718-a13; C24, 27, 31, 35, 39, § **13961**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 789.14; C79, 81, § 901.8]

83 Acts, ch 96, § 126, 159; 97 Acts, ch 131, § 1, 4

901.9 Information for parole board.

At the time of committing a defendant to the custody of the director of the Iowa department of corrections for incarceration, the trial judge and prosecuting attorney shall, and the defense attorney may, furnish the board of parole with a full statement of their recommendations relating to release or parole.

83 Acts, ch 38, § 1; 83 Acts, ch 96, § 160

901.10 Reduction of sentences.

1. A court sentencing a person for the person's first conviction under section 124.406, 124.413, or 902.7 may, at its discretion, sentence the person to a term less than provided by the statute if mitigating circumstances exist and those circumstances are stated specifically in the record.
2. Notwithstanding subsection 1, if the sentence under section 124.413 involves an amphetamine or methamphetamine offense under section 124.401, subsection 1, paragraph "a" or "b", the court shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the mandatory minimum sentence by up to one-third. If the defendant additionally cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in the defendant's sentence because of such cooperation, the court may grant a further reduction in the defendant's mandatory minimum sentence, up to one-half of the remaining mandatory minimum sentence.
3. A court sentencing a person for the person's first conviction under section 124.401D may, at its discretion, sentence the person to a term less than the maximum term provided under section 902.9, subsection 1, if mitigating circumstances exist and those circumstances are stated specifically in the record. However, the court shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the maximum sentence by up to one-third. If the defendant

cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in the defendant's sentence because of such cooperation, the court may grant a further reduction in the defendant's maximum sentence.

4. The state may appeal the discretionary decision on the grounds that the stated mitigating circumstances do not warrant a reduction of the sentence.

85 Acts, ch 41, §1; 98 Acts, ch 1138, § 28; 99 Acts, ch 12, §14; 2000 Acts, ch 1144, §5