CHAPTER 902

FELONIES

Referred to in §663A.1, §708.2A, §901.1, §901.5, §901A.2

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902.1 Class "A" felony.

1. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class "A" felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the Iowa department of corrections for the rest of the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or reconsideration of sentence applies to a class "A" felony, and a person convicted of a class "A" felony shall not be released on parole unless the governor commutes the sentence to a term of years.

2. *a.* Notwithstanding subsection 1, a person convicted of a class "A" felony, and who was under the age of eighteen at the time the offense was committed shall be eligible for parole after serving a minimum term of confinement of twenty-five years.

b. If a person is paroled pursuant to this subsection the person shall be subject to the same set of procedures set out in **chapters 901B**, **905**, **906**, and **chapter 908**, and rules adopted under those chapters for persons on parole.

c. A person convicted of murder in the first degree in violation of **section 707.2** shall not be eligible for parole pursuant to this subsection.

[C79, 81, §902.1]

83 Acts, ch 96, §127, 159; 2011 Acts, ch 131, §147, 148, 158

Referred to in §901A.2, §902.2, §903A.2

902.2 Commutation procedure for class "A" felons.

A person who has been sentenced to life imprisonment under **section 902.1** may, no more frequently than once every ten years, make an application to the governor requesting that the person's sentence be commuted to a term of years. The director of the Iowa department of corrections may make a request to the governor that a person's sentence be commuted to a term of years at any time. Upon receipt of a request for commutation, the governor shall send a copy of the request to the Iowa board of parole for investigation and recommendations as to whether the person should be considered for commutation. The board shall conduct an interview of the class "A" felon and shall make a report of its findings and recommendations to the governor.

[S13, §5718-a18; C24, 27, 31, 35, 39, §**3786;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.5; C79, 81, §902.2]

95 Acts, ch 128, §1

Referred to in §903A.2, §914.2, §914.3

902.3 Indeterminate sentence.

When a judgment of conviction of a felony other than a class "A" felony is entered against a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the Iowa department of corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by **section 902.9**, unless otherwise prescribed by statute, nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided. However, if the court suspends a person's sentence under **section 321J.2, subsection 5**, paragraph "*a*", the court shall order the offender to serve time in the county jail as provided in **section 321J.2, subsection 5**, paragraph "*a*", notwithstanding any provision to the contrary in **section 903.4**.

[S13, §5718-a13; C24, 27, 31, 35, 39, §**13960;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §789.13; C79, 81, §902.3; 82 Acts, ch 1239, §3]

83 Acts, ch 96, §128, 159; 86 Acts, ch 1220, §43; 99 Acts, ch 12, §15; 2002 Acts, ch 1042, §2; 2010 Acts, ch 1124, §4, 9

Referred to in **§904.108**

902.3A Determinate sentencing and additional term of years for class "D" felons. Repealed by 2003 Acts, ch 156, §22.

902.4 Reconsideration of felon's sentence.

For a period of one year from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. Copies of the order to return the person to the court shall be provided to the attorney for the state, the defendant's attorney, and the defendant. Upon a request of the attorney for the state, the defendant's attorney, or the defendant if the defendant has no attorney, the court may, but is not required to, conduct a hearing on the issue of reconsideration of sentence. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the one-year period expires, whichever occurs first. The district court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal. The court's final order in the proceeding shall be delivered to the defendant personally or by regular mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

[C79, 81, §902.4]

83 Acts, ch 96, §129, 159; 84 Acts, ch 1139, §1; 84 Acts, ch 1149, §1; 97 Acts, ch 189, §1; 2001 Acts, ch 165, §5; 2003 Acts, ch 151, §59

Referred to in **§901.5**, **§902.6**

902.5 Place of confinement.

The director of the Iowa department of corrections shall determine the appropriate place of confinement of any person committed to the director's custody, in any institution administered by the director, and may transfer the person from one institution to another during the person's period of confinement.

[S13, §5718-a5; C24, 27, 31, 35, 39, §**13963;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §789.16; C79, 81, §902.5]

83 Acts, ch 96, §130, 159

902.6 Release.

A person who has been committed to the custody of the director of the Iowa department of corrections shall remain in custody until released by the order of the board of parole, in accordance with the law governing paroles, or by order of the judge after reconsideration

of a felon's sentence pursuant to **section 902.4** or until the maximum term of the person's confinement, as fixed by law, has been completed.

[S13, §5718-a18; C24, 27, 31, 35, 39, §**3786;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §247.5; C79, 81, §902.6]

83 Acts, ch 96, §131, 159

902.7 Minimum sentence — use of a dangerous weapon.

At the trial of a person charged with participating in a forcible felony, if the trier of fact finds beyond a reasonable doubt that the person is guilty of a forcible felony and that the person represented that the person was in the immediate possession and control of a dangerous weapon, displayed a dangerous weapon in a threatening manner, or was armed with a dangerous weapon while participating in the forcible felony the convicted person shall serve a minimum of five years of the sentence imposed by law. A person sentenced pursuant to **this section** shall not be eligible for parole until the person has served the minimum sentence of confinement imposed by **this section**.

[C79, 81, §902.7]

95 Acts, ch 126, §1

Referred to in **§901.10**, **§903A.5**

Definition of forcible felony, **§702.11**

902.8 Minimum sentence — habitual offender.

An habitual offender is any person convicted of a class "C" or a class "D" felony, who has twice before been convicted of any felony in a court of this or any other state, or of the United States. An offense is a felony if, by the law under which the person is convicted, it is so classified at the time of the person's conviction. A person sentenced as an habitual offender shall not be eligible for parole until the person has served the minimum sentence of confinement of three years.

[S13, §4871-a, 5091-a; C24, 27, 31, 35, 39, §**13396, 13400;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §747.1, 747.5; C79, 81, §902.8]

Referred to in **§821.4**, **§901.5**, **§903A.5**

See **§901.5(7)**

902.8A Minimum sentence for conspiring to manufacture, or delivery of, amphetamine or methamphetamine to a minor.

A person who has been convicted for a first violation under **section 124.401D** shall not be eligible for parole until the person has served a minimum term of confinement of ten years.

99 Acts, ch 12, §16

Referred to in **§903A.5**

902.9 Maximum sentence for felons.

1. The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class "A" felony shall be determined as follows:

a. A felon sentenced for a first conviction for a violation of **section 124.401D**, shall be confined for no more than ninety-nine years.

b. A class "B" felon shall be confined for no more than twenty-five years.

c. An habitual offender shall be confined for no more than fifteen years.

d. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand dollars but not more than ten thousand dollars.

e. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars.

2. The surcharges required by **sections 911.1**, **911.2**, **911.2A**, and **911.3** shall be added to

a fine imposed on a class "C" or class "D" felon, as provided by those sections, and are not a part of or subject to the maximums set in **this section**.

[C79, 81, §902.9]

84 Acts, ch 1134, §1; 84 Acts, ch 1219, §38; 86 Acts, ch 1220, §44; 92 Acts, ch 1163, §121; 93 Acts, ch 110, §9; 99 Acts, ch 12, §17; 99 Acts, ch 65, §6, 7; 2001 Acts, ch 168, §4; 2002 Acts, ch 1042, §3; 2002 Acts, ch 1050, §55; 2004 Acts, ch 1111, §7; 2013 Acts, ch 30, §224; 2014 Acts, ch 1097, §12

Referred to in **§48A.11**, **§124.401**, **§124.401D**, **§707.3**, **§708.2A**, **§708A.2**, **§716.10**, **§724.4A**, **§726.6**, **§726.6A**, **§728.12**, **§811.1**, **§901.2**, **§901.5A**, **§901.10**, **§902.3**, **§906.5**, **§907.14**

Enhanced penalties in weapons free zones, see **§724.4A**

Habitual offender, **§902.8**

Fines, see **chapter 909**

Surcharge on penalty, **chapter 911**

Subsection 2 amended

902.10 Application for involuntary hospitalization.

For the purposes of **chapter 229**, the director of the Iowa department of corrections is an interested person and all applicable provisions of **chapter 229**, relating to involuntary hospitalization, apply to persons who have been committed to the custody of the Iowa department of corrections as a result of a conviction of a public offense.

[C79, 81, §902.10]

83 Acts, ch 96, §132, 159

902.11 Minimum sentence — eligibility of prior forcible felon for parole or work release.

A person serving a sentence for conviction of a felony, who has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, shall be denied parole or work release unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by **this section** does not apply if either of the following apply:

1. The sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

2. The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under **chapter 321J**.

88 Acts, ch 1091, §2; 96 Acts, ch 1151, §1, 2; 2003 Acts, ch 156, §10

Referred to in **§903A.5**

902.12 Minimum sentence for certain felonies — eligibility for parole or work release.

A person serving a sentence for conviction of the following felonies, including a person serving a sentence for conviction of the following felonies prior to July 1, 2003, shall be denied parole or work release unless the person has served at least seven-tenths of the maximum term of the person's sentence:

1. Murder in the second degree in violation of **section 707.3**.

2. Attempted murder in violation of **section 707.11**.

3. Sexual abuse in the second degree in violation of **section 709.3**.

4. Kidnapping in the second degree in violation of **section 710.3**.

5. Robbery in the first or second degree in violation of **section 711.2** or **711.3**.

6. Vehicular homicide in violation of **section 707.6A, subsection 1 or 2**, if the person was also convicted under **section 321.261, subsection 4**, based on the same facts or event that resulted in the conviction under **section 707.6A, subsection 1 or 2**.

96 Acts, ch 1151, §3; 98 Acts, ch 1007, §1, 2; 98 Acts, ch 1088, §3; 2003 Acts, ch 156, §11, 12; 2004 Acts, ch 1150, §1; 2006 Acts, ch 1082, §3

Referred to in **§903A.2**, **§905.6**, **§905.11**, **§906.4**, **§906.15**

902.13 Reserved.

902.14 Enhanced penalty — sexual abuse or lascivious acts with a child.

1. A person commits a class "A" felony if the person commits a second or subsequent offense involving any combination of the following offenses:

a. Sexual abuse in the second degree in violation of **section 709.3**.

b. Sexual abuse in the third degree in violation of **section 709.4**.

c. Lascivious acts with a child in violation of **section 709.8, subsection 1, paragraph *"a"* or *"b"***.

2. In determining if a violation charged is a second or subsequent offense for purposes of criminal sentencing in **this section**, each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense, regardless of whether the previous offense occurred before, on, or after July 1, 2005. Convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to the offenses listed in **subsection 1** shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses listed in **subsection 1** and can therefore be considered corresponding statutes.

2005 Acts, ch 158, §38; 2013 Acts, ch 30, §260