

House Amendment 1358

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1 1 Amend House File 598 as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 1 5 paragraph a, unnumbered paragraph 1, Code 2003, is
1 6 amended to read as follows:
1 7 Violation of this subsection, with respect to the
1 8 following controlled substances, counterfeit
1 9 substances, or simulated controlled substances is a
1 10 class "B" felony, and notwithstanding section 902.9,
1 11 subsection 2, shall be punished by confinement for no
1 12 more than ~~fifty~~ thirty-five years and a fine of not
1 13 more than one million dollars:
1 14 Sec. 2. Section 124.401, subsection 1, paragraph
1 15 a, subparagraph (2), unnumbered paragraph 1, Code
1 16 2003, is amended to read as follows:
1 17 More than five ~~kilograms~~ hundred grams of a mixture
1 18 or substance containing a detectable amount of any of
1 19 the following:
1 20 Sec. 3. Section 124.401, subsection 1, paragraph
1 21 a, subparagraph (2), subparagraph subdivisions (d) and
1 22 (e), Code 2003, are amended by striking the
1 23 subparagraph subdivisions.
1 24 Sec. 4. Section 124.401, subsection 1, paragraph
1 25 a, Code 2003, is amended by adding the following new
1 26 subparagraph:
1 27 NEW SUBPARAGRAPH. (7) More than five kilograms of
1 28 a mixture or substance containing a detectable amount
1 29 of any of the following:
1 30 (a) Methamphetamine, its salts, isomers, or salts
1 31 of isomers.
1 32 (b) Amphetamine, its salts, isomers, and salts of
1 33 isomers.
1 34 (c) Any compound, mixture, or preparation which
1 35 contains any quantity of any of the substances
1 36 referred to in subparagraph subdivisions (a) and (b).
1 37 Sec. 5. Section 124.401, subsection 1, paragraph
1 38 b, subparagraph (2), unnumbered paragraph 1, Code
1 39 2003, is amended to read as follows:
1 40 More than ~~five one~~ hundred grams but not more than
1 41 five ~~kilograms~~ hundred grams of any of the following:
1 42 Sec. 6. Section 124.401, subsection 1, paragraph
1 43 b, subparagraph (3), Code 2003, is amended to read as
1 44 follows:
1 45 (3) More than ~~five ten~~ grams but not more than
1 46 fifty grams of a mixture or substance described in
1 47 subparagraph (2) which contains cocaine base.
1 48 Sec. 7. Section 124.401, subsection 1, paragraph
1 49 c, subparagraph (2), unnumbered paragraph 1, Code
1 50 2003, is amended to read as follows:
2 1 Five One hundred grams or less of any of the
2 2 following:
2 3 Sec. 8. Section 124.401, subsection 1, paragraph
2 4 c, subparagraph (3), Code 2003, is amended to read as
2 5 follows:
2 6 (3) Five Ten grams or less of a mixture or
2 7 substance described in subparagraph (2) which contains
2 8 cocaine base.
2 9 Sec. 9. Section 124.413, unnumbered paragraph 1,
2 10 Code 2003, is amended to read as follows:
2 11 A person sentenced pursuant to section 124.401,
2 12 subsection 1, paragraph "a", "b", ~~"c"~~ "e", or "f",
2 13 shall not be eligible for parole until the person has
2 14 served a minimum period of confinement of one-third of
2 15 the maximum indeterminate sentence prescribed by law.
2 16 Sec. 10. Section 229A.8A, subsection 4, Code 2003,
2 17 is amended to read as follows:
2 18 4. For purposes of registering as a sex offender
2 19 under chapter 692A, a person placed in the
2 20 transitional release program shall be ~~classified a~~
~~2 21 "high-risk" sex offender and required to register and~~
2 22 public notification shall be as provided in section
2 23 ~~692A.13A, subsection 2~~ 692A.13. A committed person
2 24 who refuses to register as a sex offender is not
2 25 eligible for placement in a transitional release

2 26 program.

2 27 Sec. 11. Section 692A.2A, subsections 2 and 3,
2 28 Code 2003, are amended to read as follows:

2 29 2. A person shall not reside within ~~two one~~
2 30 thousand three hundred twenty feet of the real
2 31 property comprising a public or nonpublic elementary
2 32 or secondary school or a child care facility.

2 33 3. A person who resides within ~~two one~~ thousand
2 34 three hundred twenty feet of the real property
2 35 comprising a public or nonpublic elementary or
2 36 secondary school, or a child care facility, commits an
2 37 aggravated misdemeanor.

2 38 Sec. 12. Section 692A.2A, subsection 4, unnumbered
2 39 paragraph 1, Code 2003, is amended to read as follows:

2 40 A person residing within ~~two one~~ thousand three
2 41 hundred twenty feet of the real property comprising a
2 42 public or nonpublic elementary or secondary school or
2 43 a child care facility does not commit a violation of
2 44 this section if any of the following apply:

2 45 Sec. 13. Section 692A.5, subsection 1, paragraph
2 46 h, Code 2003, is amended to read as follows:

2 47 h. Inform the person, if the person's residency is
2 48 restricted under section 692A.2A, that the person
2 49 shall not reside within ~~two one~~ thousand three hundred
2 50 twenty feet of the real property comprising a public
3 1 or nonpublic elementary or secondary school, or a
3 2 child care facility.

3 3 Sec. 14. Section 692A.13, Code 2003, is amended by
3 4 striking the section and inserting in lieu thereof the
3 5 following:

3 6 692A.13 AVAILABILITY OF RECORDS.

3 7 1. The department may provide relevant information
3 8 from the sex offender registry to the following:

3 9 a. A criminal or juvenile justice agency, an
3 10 agency of the state, any sex offender registry of
3 11 another state, or the federal government.

3 12 b. The general public through the sex offender
3 13 registry's web page.

3 14 c. The single contact repository established
3 15 pursuant to section 135C.33, in accordance with the
3 16 rules adopted by the department.

3 17 2. A criminal or juvenile justice agency may
3 18 provide relevant information from the sex offender
3 19 registry to the following:

3 20 a. A criminal or juvenile justice agency, an
3 21 agency of the state, or any sex offender registry of
3 22 another state, or the federal government.

3 23 b. The general public, including public and
3 24 private agencies, organizations, public places, public
3 25 and private schools, child care facilities, religious
3 26 and youth organizations, neighbors, neighborhood
3 27 associations, community meetings, and employers.

3 28 Registry information may be distributed to the public
3 29 through printed materials, visual or audio press
3 30 releases, or through a criminal or juvenile justice
3 31 agency's web page.

3 32 3. Any member of the public may contact a county
3 33 sheriff's office or police department to request
3 34 relevant information from the registry regarding a
3 35 specific person required to register under this
3 36 chapter. The request for information shall be in
3 37 writing, and shall include the name of the person and
3 38 at least one of the following identifiers pertaining
3 39 to the person about whom the information is sought:

3 40 a. The date of birth of the person.

3 41 b. The social security number of the person.

3 42 c. The address of the person.

3 43 The request for information is a confidential
3 44 record under chapter 22 and is not subject to
3 45 dissemination.

3 46 4. A county sheriff shall also provide to any
3 47 person upon request access to a list of all
3 48 registrants in that county. However, records of a
3 49 person protected under 18 U.S.C. } 3521 shall not be
3 50 disclosed.

4 1 5. Relevant information provided to the general
4 2 public may include the offender's name, address, a
4 3 photograph, locations frequented by the offender,
4 4 relevant criminal history information from the
4 5 registry, and any other relevant information.
4 6 Relevant information provided to the public shall not

4 7 include the identity of any victim.
4 8 6. Notwithstanding sections 232.147 through
4 9 232.151, records concerning convictions which are
4 10 committed by a minor may be released in the same
4 11 manner as records of convictions of adults.
4 12 Sec. 15. Section 901.4, Code 2003, is amended to
4 13 read as follows:
4 14 901.4 PRESENTENCE INVESTIGATION REPORT
4 15 CONFIDENTIAL == DISTRIBUTION.
4 16 The presentence investigation report is
4 17 confidential and the court shall provide safeguards to
4 18 ensure its confidentiality, including but not limited
4 19 to sealing the report, which may be opened only by
4 20 further court order. At least three days prior to the
4 21 date set for sentencing, the court shall serve all of
4 22 the presentence investigation report upon the
4 23 defendant's attorney and the attorney for the state,
4 24 and the report shall remain confidential except upon
4 25 court order. However, the court may conceal the
4 26 identity of the person who provided confidential
4 27 information. The report of a medical examination or
4 28 psychological or psychiatric evaluation shall be made
4 29 available to the attorney for the state and to the
4 30 defendant upon request. The reports are part of the
4 31 record but shall be sealed and opened only on order of
4 32 the court. If the defendant is committed to the
4 33 custody of the Iowa department of corrections and is
4 34 not a class "A" felon, a copy of the presentence
4 35 investigation report shall be forwarded to the
4 36 director with the order of commitment by the clerk of
4 37 the district court and to the board of parole at the
4 38 time of commitment. The presentence investigation
4 39 report may also be released by the department of
4 40 corrections or a judicial district department of
4 41 correctional services pursuant to section 904.602 to
4 42 another jurisdiction for the purpose of providing
4 43 interstate probation and parole compact services or
4 44 evaluations. The defendant or the defendant's
4 45 attorney may file with the presentence investigation
4 46 report, a denial or refutation of the allegations, or
4 47 both, contained in the report. The denial or
4 48 refutation shall be included in the report. If the
4 49 person is sentenced for an offense which requires
4 50 registration under chapter 692A, the court shall
5 1 release the report to the department ~~which is~~
~~5 2 responsible under section 692A.13A for performing the~~
~~5 3 assessment of risk of public safety.~~
5 4 Sec. 16. Section 901.5, subsection 13, Code 2003,
5 5 is amended by striking the subsection.
5 6 Sec. 17. NEW SECTION. 901.5B REOPENING OF
5 7 SENTENCE FOR PERSONS SERVING SENTENCE SUBJECT TO
5 8 MAXIMUM ACCUMULATION OF EARNED TIME OF FIFTEEN
5 9 PERCENT.
5 10 1. A defendant serving a sentence under section
5 11 902.12 prior to the effective date of this Act, who is
5 12 sentenced by the court to the custody of the director
5 13 of the department of corrections, may have the
5 14 judgment and sentence reopened for resentencing if all
5 15 of the following apply:
5 16 a. The county attorney from the county which
5 17 prosecuted the defendant files a motion in the
5 18 sentencing court to reopen the sentence of the
5 19 defendant. The county attorney shall notify the
5 20 victim pursuant to section 915.13 of the filing of the
5 21 motion. The motion shall specify that the county
5 22 attorney has informed the victim about the filing of
5 23 the motion, and that the victim has thirty days from
5 24 the date of the filing of the motion to file a written
5 25 objection with the court.
5 26 b. No written objection is filed or if a written
5 27 objection is filed, and upon hearing the court grants
5 28 the motion.
5 29 2. Upon the court granting the motion to reopen
5 30 the sentence, the court shall order that the defendant
5 31 be eligible for consideration of parole or work
5 32 release in the same manner as a defendant serving a
5 33 sentence under section 902.12.
5 34 3. For purposes of calculating earned time under
5 35 section 903A.2, the sentencing date for a defendant
5 36 whose sentence has been reopened under this section
5 37 shall be the date of the original sentencing order.

5 38 4. The filing of a motion or reopening of a
5 39 sentence under this section shall not constitute
5 40 grounds to stay any other court proceedings, or to
5 41 toll or restart the time for filing of any posttrial
5 42 motion or any appeal.

5 43 Sec. 18. Section 902.11, unnumbered paragraph 1,
5 44 Code 2003, is amended to read as follows:

5 45 A person serving a sentence for conviction of a
5 46 felony, ~~other than a forcible felony under section~~
~~5 47 902.12~~, who has a criminal record of one or more prior
5 48 convictions for a forcible felony or a crime of a
5 49 similar gravity in this or any other state, shall be
5 50 denied parole or work release unless the person has
6 1 served at least one-half of the maximum term of the
6 2 defendant's sentence. However, the mandatory sentence
6 3 provided for by this section does not apply if either
6 4 of the following apply:

6 5 Sec. 19. Section 902.12, unnumbered paragraph 1,
6 6 Code 2003, is amended to read as follows:

6 7 ~~Except as otherwise provided in section 903A.2, a A~~
6 8 person serving a sentence for conviction of the
6 9 following ~~forcible felonies shall serve one hundred~~
~~6 10 percent of the maximum term of the person's sentence~~
~~6 11 and shall not be released on be denied parole or work~~
6 12 release unless the person has served at least seven=
6 13 tenths of the maximum term of the person's sentence:

6 14 Sec. 20. Section 902.12, subsection 5, unnumbered
6 15 paragraph 2, Code 2003, is amended to read as follows:

6 16 ~~Except as otherwise provided in section 903A.2, a~~
~~6 17 person serving a sentence for conviction under~~
6 18 6. Vehicular homicide in violation of section
6 19 707.6A, subsection 1 or 2, shall serve one hundred
~~6 20 percent of the maximum term of the person's sentence~~
~~6 21 and shall not be released on parole or work release if~~
6 22 the person was also convicted under section 321.261,
6 23 subsection 3, based on the same facts or event that
6 24 resulted in the conviction under section 707.6A,
6 25 subsection 1 or 2.

6 26 Sec. 21. Section 903.4, Code 2003, is amended to
6 27 read as follows:

6 28 903.4 PROVIDING PLACE OF CONFINEMENT.

6 29 All persons sentenced to confinement for a period
6 30 of one year or less shall be confined in a place to be
6 31 furnished by the county where the conviction was had
6 32 unless the person is presently committed to the
6 33 custody of the director of the Iowa department of
6 34 corrections, in which case the provisions of section
6 35 901.8 apply, ~~or unless the person is serving a~~
~~6 36 determinate term of confinement of one year pursuant~~
~~6 37 to section 902.3A.~~ All persons sentenced to
6 38 confinement for a period of more than one year shall
6 39 be committed to the custody of the director of the
6 40 Iowa department of corrections to be confined in a
6 41 place to be designated by the director and the cost of
6 42 the confinement shall be borne by the state. The
6 43 director may contract with local governmental units
6 44 for the use of detention or correctional facilities
6 45 maintained by the units for the confinement of such
6 46 persons.

6 47 Sec. 22. Section 905.6, Code 2003, is amended by
6 48 adding the following new subsection:

6 49 NEW SUBSECTION. 9. Notify the board of parole,
6 50 thirty days prior to release, of the release from a
7 1 residential facility operated by the district
7 2 department of a person serving a sentence under
7 3 section 902.12.

7 4 Sec. 23. NEW SECTION. 905.11 RESIDENTIAL
7 5 FACILITY RESIDENCY == MINIMUM.

7 6 A person who is serving a sentence under section
7 7 902.12, the maximum term of which exceeds ten years,
7 8 and who is released on parole or work release shall
7 9 reside in a residential facility operated by the
7 10 district department for a period of not less than one
7 11 year.

7 12 Sec. 24. Section 906.4, Code 2003, is amended by
7 13 adding the following new unnumbered paragraph after
7 14 unnumbered paragraph 1:

7 15 NEW UNNUMBERED PARAGRAPH. A person on parole or
7 16 work release who is serving a sentence under section
7 17 902.12 shall begin parole or work release in a
7 18 residential facility operated by a judicial district

7 19 department of correctional services.

7 20 Sec. 25. Section 907.3, subsection 1, paragraph m,
7 21 Code 2003, is amended by striking the paragraph.

7 22 Sec. 26. Section 907.3, subsection 2, paragraph g,
7 23 Code 2003, is amended by striking the paragraph.

7 24 Sec. 27. Section 907.3, subsection 3, paragraph g,
7 25 Code 2003, is amended by striking the paragraph.

7 26 Sec. 28. Section 915.13, subsection 1, Code 2003,
7 27 is amended by adding the following new paragraph:

7 28 NEW PARAGRAPH. h. The filing of a motion to
7 29 reopen a sentence of a defendant pursuant to section
7 30 901.5B. Notwithstanding section 915.10, the notice
7 31 shall be served by certified mail. Notice shall
7 32 include the scheduled date, time, and place of any
7 33 hearing to reopen a sentence and that the victim has
7 34 thirty days from the date of the service of the motion
7 35 to file a written objection with the court.

7 36 Sec. 29. Sections 692A.13A and 902.3A, Code 2003,
7 37 are repealed.

7 38 Sec. 30. APPLICABILITY OF AVAILABLE RECORDS IN THE
7 39 SEX OFFENDER REGISTRY. Section 692A.13, as amended by
7 40 this Act, shall apply retroactively to all offenders
7 41 on the registry.

7 42 Sec. 31. EFFECTIVE DATE. The section of this Act
7 43 amending section 692A.13, being deemed of immediate
7 44 importance, takes effect upon enactment.>

7 45 #2. Title page, by striking lines 1 through 5 and
7 46 inserting the following: 7 47 criminal sentencing and procedure by modifying the
7 48 penalties for certain offenses related to controlled
7 49 substances, modifying dissemination of sex offender
7 50 registry information and residence restrictions for a
8 1 sex offender, repealing certain determinate sentences,
8 2 changing the parole and work release eligibility of a
8 3 person serving a sentence that requires a maximum
8 4 accumulation of earned time credits of fifteen percent
8 5 of the total term of confinement and by permitting the
8 6 reopening of such a sentence, providing a penalty, and
8 7 providing an effective date.>

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