

Judiciary
Mann, Chair
Doyle
Ritsenia

*Amend for 5046
Do Pass 1/25*

Reprint 2/2

FILED JAN 9 1984

SENATE FILE 2035

BY DOYLE

Passed Senate, Date 1-30-84 (p. 254) Passed House, Date 3-29-84 (p. 1483)
Vote: Ayes 47 Nays 0 Vote: Ayes 98 Nays 0
Approved April 25, 1984

A BILL FOR

- 1 An Act relating to the requirement that the court personally
- 2 address a defendant when a plea of guilty to a serious
- 3 misdemeanor is entered by, or on behalf of, a defendant.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2035

S-5046

- 1 Amend Senate File 2035 as follows:
- 2 1. Page 1, by striking lines 6 and 7 and inserting
- 3 in lieu thereof the words "without first **addressing**
- 4 ~~the-defendant-personally-and~~ determining that the".
- 5 2. Page 1, line 23, by striking the word "their"
- 6 and inserting in lieu thereof the words "the
- 7 defendant's".

S-5046 FILED
JANUARY 26, 1984
Adopted 1/30 (p. 254)

BY COMMITTEE ON JUDICIARY
Donald V. Doyle, Chair

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S. 2035

1 Section 1. Rule of criminal procedure 8, section 2,
2 subsection b, Iowa court rules, second edition, is amended
3 to read as follows:

4 b. PLEAS OF GUILTY. The court may refuse to accept a
5 plea of guilty, and shall not accept such a plea of guilty
6 to an aggravated misdemeanor or a felony without first ad-
7 dressing the defendant personally and determining that the
8 plea is made voluntarily and intelligently and has a factual
9 basis.

10 Before accepting a plea of guilty to an aggravated mis-
11 demeanor or a felony, the court must address the defendant
12 personally in open court and inform the defendant of, and
13 determine that the defendant understands, the following:

14 (1) The nature of the charge to which the plea is offered.

15 (2) The mandatory minimum punishment, if any, and the
16 maximum possible punishment provided by the statute defining
17 the offense to which the plea is offered.

18 (3) That the defendant has the right to be tried by a
19 jury, and at ~~such~~ trial has the right to assistance of coun-
20 sel, the right to confront and cross-examine witnesses against
21 ~~him-or-her~~ the defendant, the right not to be compelled to
22 incriminate ~~himself-or-herself~~ oneself, and the right to
23 present witnesses in ~~his-or-her~~ their own behalf and to have
24 compulsory process in securing their attendance.

25 (4) That if the defendant pleads guilty there will not
26 be a further trial of any kind, so that by pleading guilty
27 the defendant waives the right to a trial.

28 The court may, in its discretion, require the above pro-
29 cedures in a plea of guilty to a serious misdemeanor.

30 EXPLANATION

31 This bill removes the requirement that the court shall
32 personally address the defendant when a plea of guilty to
33 a serious misdemeanor is entered by, or on behalf of, the
34 defendant.

35 This bill takes effect July 1 following its enactment.

Judiciary and Law Enforcement: Rosenberg. Chair: Halvorson of Clayton, McKean, Tabor and Varn.

SENATE FILE 2035

Do Pass 3/23 (p. 1246)

BY DOYLE

(AS AMENDED AND PASSED BY THE SENATE JANUARY 30, 1984)

Re-passed Senate, Date 4-3-84 (p. 1259) Passed House, Date 3-29-84 (p. 1483)

Vote: Ayes 45 Nays 0 Vote: Ayes 98 Nays 0

Approved April 25, 1984

A BILL FOR

- 1 An Act relating to the requirement that the court personally
- 2 address a defendant when a plea of guilty to a serious
- 3 misdemeanor is entered by, or on behalf of, a defendant.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2035

H-5878

- 1 Amend Senate File 2035 as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, lines 9 and 10, by striking the words
- 4 "to an aggravated misdemeanor or a felony".
- 5 2. Page 1, line 27, by striking the word "
- 6 require" and inserting in lieu thereof the words "and
- 7 with the approval of the defendant, waive".

H-5878 FILED MARCH 27, 1984 BY ROSENBERG of Story
Adopted 3/29 (p. 1482)

HOUSE AMENDMENT TO SENATE FILE 2035

S-5727

- 1 Amend Senate File 2035 as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, lines 9 and 10, by striking the words
- 4 "to an aggravated misdemeanor or a felony".
- 5 2. Page 1, line 27, by striking the word "
- 6 require" and inserting in lieu thereof the words "and
- 7 with the approval of the defendant, waive".

S-5727 FILED
APRIL 2, 1984

RECEIVED FROM THE HOUSE

Senate concurred 4/3 (p. 1259)

1 Section 1. Rule of criminal procedure 8, section 2,
2 subsection b, Iowa court rules, second edition, is amended
3 to read as follows:

4 b. PLEAS OF GUILTY. The court may refuse to accept a
5 plea of guilty, and shall not accept ~~such~~ a plea of guilty
6 without first addressing-the-defendant-personally-and
7 determining that the plea is made voluntarily and intelligently
8 and has a factual basis.

58789 Before accepting a plea of guilty to an aggravated mis-
10 demeanor or a felony, the court must address the defendant
11 personally in open court and inform the defendant of, and
12 determine that the defendant understands, the following:

13 (1) The nature of the charge to which the plea is offered.

14 (2) The mandatory minimum punishment, if any, and the
15 maximum possible punishment provided by the statute defining
16 the offense to which the plea is offered.

17 (3) That the defendant has the right to be tried by a
18 jury, and at ~~such~~ trial has the right to assistance of coun-
19 sel, the right to confront and cross-examine witnesses against
20 ~~him-or-her~~ the defendant, the right not to be compelled to
21 incriminate ~~himself-or-herself~~ oneself, and the right to
22 present witnesses in ~~his-or-her~~ the defendant's own behalf
23 and to have compulsory process in securing their attendance.

24 (4) That if the defendant pleads guilty there will not
25 be a further trial of any kind, so that by pleading guilty
26 the defendant waives the right to a trial.

58727 The court may, in its discretion, require the above pro-
28 cedures in a plea of guilty to a serious misdemeanor.

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SF 2035
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SENATE FILE 2035

AN ACT

RELATING TO THE REQUIREMENT THAT THE COURT PERSONALLY ADDRESS A DEFENDANT WHEN A PLEA OF GUILTY TO A SERIOUS MISDEMEANOR IS ENTERED BY, OR ON BEHALF OF, A DEFENDANT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Rule of criminal procedure 8, section 2, subsection b, Iowa court rules, second edition, is amended to read as follows:

b. PLEAS OF GUILTY. The court may refuse to accept a plea of guilty, and shall not accept ~~such a~~ a plea of guilty without first ~~addressing-the-defendant-personally-and~~ determining that the plea is made voluntarily and intelligently and has a factual basis.

Before accepting a plea of guilty, the court must address the defendant personally in open court and inform the defendant of, and determine that the defendant understands, the following:

- (1) The nature of the charge to which the plea is offered.
- (2) The mandatory minimum punishment, if any, and the maximum possible punishment provided by the statute defining the offense to which the plea is offered.
- (3) That the defendant has the right to be tried by a jury, and at ~~such~~ trial has the right to assistance of counsel, the right to confront and cross-examine witnesses against ~~him-or-her~~ the defendant, the right not to be compelled to incriminate ~~himself-or-herself~~ oneself, and the right to present witnesses in ~~his-or-her~~ the defendant's own behalf and to have compulsory process in securing their attendance.
- (4) That if the defendant pleads guilty there will not be a further trial of any kind, so that by pleading guilty the defendant waives the right to a trial.

The court may, in its discretion and with the approval of the defendant, waive the above procedures in a plea of guilty to a serious misdemeanor.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2035, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 25, 1984

TERRY E. BRANSTAD
Governor

S.F. 2035