

*Reprinted 2/88*

MAR 7 1988

Place On Calendar

HOUSE FILE 2412  
BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

(Formerly House File 2246)

Passed House, Date 3/16/88 (p. 718) Passed Senate, Date 3/29/88 (p. 1115)  
Vote: Ayes 92 Nays 0 Vote: Ayes 45 Nays 0  
Approved May 5, 1988

A BILL FOR

1 An Act relating to judicial sentencing options.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2412

1 Section 1. Section 907.1, Code 1987, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 907.1 DEFINITIONS.

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

7 1. "Deferred judgment" means a sentencing option whereby  
8 both the adjudication of guilt and the imposition of a sen-  
9 tence are deferred by the court. The court retains the power  
10 to pronounce judgment and impose sentence subject to the de-  
11 fendant's compliance with conditions set by the court as a  
12 requirement of the deferred judgment.

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

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

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

31 Sec. 2. Section 907.3, subsection 1, unnumbered paragraph  
32 1, Code 1987, is amended to read as follows:

33 With the consent of the defendant, the court may defer  
34 judgment and place the defendant on probation upon such  
35 conditions as it may require ~~7-or-defer-sentence-and-assign-the~~

1 ~~defendant-to-the-judicial-district-department-of-correctional~~  
2 ~~services.~~ Upon a showing that ~~such-person~~ the defendant is  
3 not co-operating with the program of probation or is not  
4 responding to it, the court may withdraw the ~~person~~ defendant  
5 from the program, pronounce judgment, and impose any sentence  
6 authorized by law. Before taking such action, the court shall  
7 give the ~~person~~ defendant an opportunity to be heard on any  
8 matter relevant to the proposed action. Upon fulfillment of  
9 the conditions of probation, the defendant shall be discharged  
10 without entry of judgment. Upon violation of the conditions  
11 of probation, the court may proceed as provided in chapter  
12 908.

13 Sec. 3. Section 907.3, Code 1987, is amended by adding the  
14 following new subsection after subsection 1 and renumbering  
15 the subsequent subsection:

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

27 Sec. 4. Section 907.4, Code 1987, is amended to read as  
28 follows:

29 907.4 DEFERRED JUDGMENT DOCKET.

30 Any A deferment of judgment under section 907.3 shall be  
31 reported promptly by the clerk of the district court to the  
32 supreme state court administrator who shall maintain a  
33 permanent record of the deferment deferred judgment including  
34 the name and date of birth of the defendant, the district  
35 court docket number, the nature of the offense, and the date

1 of the ~~deferment~~ deferred judgment. Before granting ~~deferment~~  
2 deferred judgment in any case, the court shall request of the  
3 supreme state court administrator a search of the deferred  
4 judgment docket and shall consider any prior record of a  
5 ~~deferment-of~~ deferred judgment against the defendant. The  
6 permanent record provided for in this section is a  
7 confidential record exempted from public access under section  
8 22.7 and shall be available only to justices of the supreme  
9 court, judges of the court of appeals, district judges,  
10 district associate judges, and judicial magistrates, and  
11 county attorneys requesting information pursuant to this  
12 section, or the designee of a justice, judge, magistrate, or  
13 county attorney.

14 Sec. 5. Section 907.9, Code 1987, is amended to read as  
15 follows:

16 907.9 DISCHARGE FROM PROBATION.

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

33 Sec. 6. Section 907.13, subsection 2, Code 1987, is  
34 amended to read as follows:

35 2. The defendant's plan of community service, the comments

1 of the defendant's probation officer, and the comments of the  
2 representative of the judicial district department of  
3 correctional services responsible for the unpaid community  
4 service program, shall be submitted promptly to the court.  
5 The court shall promptly enter an order approving the plan or  
6 modifying it. Compliance with the plan of community service  
7 as approved or modified by the court shall be a condition of  
8 the defendant's probation. The court thereafter may modify  
9 the plan at any time upon the defendant's request, upon the  
10 request of the judicial district department of correctional  
11 services, or upon the court's own motion. As an option for  
12 modification of a plan, the court may allow a defendant to  
13 complete some part or all of the defendant's community service  
14 obligation through the donation of property to a charitable  
15 organization other than a governmental subdivision. A  
16 donation of property to a charitable organization offered in  
17 satisfaction of some part or all of a community service  
18 obligation under this subsection is not a deductible  
19 contribution for the purposes of federal or state income  
20 taxes.

21 EXPLANATION

22 This bill provides definitions for deferred judgment,  
23 deferred sentence, and suspended sentence. It is intended to  
24 clarify the distinction between deferred judgment and deferred  
25 sentence. It corrects references to the state court  
26 administrator. The bill also allows the court the option of  
27 allowing a defendant to complete some part or all of a  
28 community service obligation through the donation of property  
29 to a charitable organization other than a governmental  
30 subdivision.

31 SIMILAR TO HF 2246 (LSB 8055H)

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HOUSE FILE 2412

H-5397

1 Amend House File 2412 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

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

6 NEW SUBSECTION. 7. On a conviction for or as a  
7 condition of a deferred judgment for a violation of  
8 section 321J.2, the court may order the defendant to  
9 install ignition interlock devices of a type approved  
10 by the department on all motor vehicles owned or  
11 operated by the defendant which, without tampering or  
12 the intervention of another person, would prevent the  
13 defendant from operating the motor vehicle with an  
14 alcohol concentration of .10 or more. The order shall  
15 remain in effect for a period of time as determined by  
16 the court which shall not exceed the maximum term of  
17 imprisonment which the court could have imposed  
18 according to the nature of the violation. While the  
19 order is in effect, the defendant shall not operate a  
20 motor vehicle which does not have an approved ignition  
21 interlock device installed. If the defendant's motor  
22 vehicle license or nonresident operating privilege has  
23 been revoked, the department shall not issue a  
24 temporary permit or a motor vehicle license to the  
25 person without certification that approved ignition  
26 interlock devices have been installed in all motor  
27 vehicles owned or operated by the defendant while the  
28 order is in effect. A defendant who fails within a  
29 reasonable time to comply with an order to install an  
30 approved ignition interlock device may be declared in  
31 contempt of court and punished accordingly. A person  
32 who tampers with or circumvents an ignition interlock  
33 device installed under a court order while an order is  
34 in effect commits a serious misdemeanor."

35 2. By renumbering as required.

H-5397 FILED MARCH 9, 1988 BY HUMMEL of Benton

*U.S. 3/10 (p 717)*

Am. Judiciary 2/11  
House File 2412 - Passed 3/22 (p. 972)

HOUSE FILE 2412  
BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

(As Amended and Passed by the House March 10, 1988)

Passed House, Date 3/10/88 (p. 718) Passed Senate, Date 3/24/88 (p. 1115)  
Vote: Ayes 92 Nays 0 Vote: Ayes 45 Nays 0  
Approved May 5, 1988

A BILL FOR

1 An Act relating to judicial sentencing options.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments \_\_\_\_\_

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

3 NEW SUBSECTION. 7. On a conviction for or as a condition  
4 of a deferred judgment for a violation of section 321J.2, the  
5 court may order the defendant to install ignition interlock  
6 devices of a type approved by the department on all motor  
7 vehicles owned or operated by the defendant which, without  
8 tampering or the intervention of another person, would prevent  
9 the defendant from operating the motor vehicle with an alcohol  
10 concentration of .10 or more. The order shall remain in  
11 effect for a period of time as determined by the court which  
12 shall not exceed the maximum term of imprisonment which the  
13 court could have imposed according to the nature of the  
14 violation. While the order is in effect, the defendant shall  
15 not operate a motor vehicle which does not have an approved  
16 ignition interlock device installed. If the defendant's motor  
17 vehicle license or nonresident operating privilege has been  
18 revoked, the department shall not issue a temporary permit or  
19 a motor vehicle license to the person without certification  
20 that approved ignition interlock devices have been installed  
21 in all motor vehicles owned or operated by the defendant while  
22 the order is in effect. A defendant who fails within a  
23 reasonable time to comply with an order to install an approved  
24 ignition interlock device may be declared in contempt of court  
25 and punished accordingly. A person who tampers with or  
26 circumvents an ignition interlock device installed under a  
27 court order while an order is in effect commits a serious  
28 misdemeanor.

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

31 907.1 DEFINITIONS.

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

34 1. "Deferred judgment" means a sentencing option whereby  
35 both the adjudication of guilt and the imposition of a sen-



1 tence are deferred by the court. The court retains the power  
2 to pronounce judgment and impose sentence subject to the de-  
3 fendant's compliance with conditions set by the court as a  
4 requirement of the deferred judgment.

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

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

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

23 Sec. 3. Section 907.3, subsection 1, unnumbered paragraph  
24 1, Code 1987, is amended to read as follows:

25 With the consent of the defendant, the court may defer  
26 judgment and place the defendant on probation upon such  
27 conditions as it may require, ~~or defer sentence and assign the~~  
28 ~~defendant to the judicial district department of correctional~~  
29 ~~services.~~ Upon a showing that such person the defendant is  
30 not co-operating with the program of probation or is not  
31 responding to it, the court may withdraw the person defendant  
32 from the program, pronounce judgment, and impose any sentence  
33 authorized by law. Before taking such action, the court shall  
34 give the person defendant an opportunity to be heard on any  
35 matter relevant to the proposed action. Upon fulfillment of

1 the conditions of probation, the defendant shall be discharged  
2 without entry of judgment. Upon violation of the conditions  
3 of probation, the court may proceed as provided in chapter  
4 908.

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

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

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

21 907.4 DEFERRED JUDGMENT DOCKET.

22 Any A deferment of judgment under section 907.3 shall be  
23 reported promptly by the clerk of the district court to the  
24 supreme state court administrator who shall maintain a  
25 permanent record of the deferment deferred judgment including  
26 the name and date of birth of the defendant, the district  
27 court docket number, the nature of the offense, and the date  
28 of the deferment deferred judgment. Before granting deferment  
29 deferred judgment in any case, the court shall request of the  
30 supreme state court administrator a search of the deferred  
31 judgment docket and shall consider any prior record of a  
32 deferment-of deferred judgment against the defendant. The  
33 permanent record provided for in this section is a  
34 confidential record exempted from public access under section  
35 22.7 and shall be available only to justices of the supreme

1 court, judges of the court of appeals, district judges,  
2 district associate judges, and judicial magistrates, and  
3 county attorneys requesting information pursuant to this  
4 section, or the designee of a justice, judge, magistrate, or  
5 county attorney.

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

8 907.9 DISCHARGE FROM PROBATION.

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

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

27 2. The defendant's plan of community service, the comments  
28 of the defendant's probation officer, and the comments of the  
29 representative of the judicial district department of  
30 correctional services responsible for the unpaid community  
31 service program, shall be submitted promptly to the court.  
32 The court shall promptly enter an order approving the plan or  
33 modifying it. Compliance with the plan of community service  
34 as approved or modified by the court shall be a condition of  
35 the defendant's probation. The court thereafter may modify

1 the plan at any time upon the defendant's request, upon the  
2 request of the judicial district department of correctional  
3 services, or upon the court's own motion. As an option for  
4 modification of a plan, the court may allow a defendant to  
5 complete some part or all of the defendant's community service  
6 obligation through the donation of property to a charitable  
7 organization other than a governmental subdivision. A  
8 donation of property to a charitable organization offered in  
9 satisfaction of some part or all of a community service  
10 obligation under this subsection is not a deductible  
11 contribution for the purposes of federal or state income  
12 taxes.

13 SIMILAR TO HF 2246 (LSB 8055H)

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HOUSE FILE 2412

S-5612

- 1 Amend the amendment, S-5514, to House File 2412 as
- 2 amended, passed, and reprinted by the House as
- 3 follows:
- 4 1. Page 1, by striking lines 17 through 32.

S-5612

Filed March 28, 1988

BY EUGENE FRAISE

*Adopted 3/29/88*

HOUSE FILE 2412

S-5637

- 1 Amend House File 2412 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 1, line 2, by striking the word
- 4 "subsection" and inserting the following:
- 5 "subsections".
- 6 2. Page 1, by inserting after line 28 the
- 7 following:
- 8 "NEW SUBSECTION. 8. A person whose motor vehicle
- 9 license has been revoked under this chapter and who is
- 10 not eligible for a temporary restricted license under
- 11 this chapter may petition the court for an order to
- 12 the department to require the department to issue a
- 13 temporary restricted license to the person. The court
- 14 shall determine if the temporary restricted license is
- 15 necessary for the person to maintain the person's
- 16 present employment. If the court determines that the
- 17 temporary restricted license is necessary for the
- 18 person to maintain the person's present employment,
- 19 the court shall order the department to issue to the
- 20 person a temporary restricted license conditioned upon
- 21 the person's certification to the court of the
- 22 installation of approved ignition interlock devices in
- 23 all motor vehicles that it is necessary for the person
- 24 to operate to maintain the person's present
- 25 employment. If the person operates a motor vehicle
- 26 which does not have an approved ignition interlock
- 27 device or if the person tampers with or circumvents an
- 28 ignition interlock device, in addition to other
- 29 penalties provided, the person's temporary restricted
- 30 license shall be revoked."

S-5637

Filed March 29, 1988

ADOPTED

*(p. 1115)*

BY ROBERT M. CARR  
DONALD V. DOYLE  
EUGENE FRAISE

HOUSE FILE 2412

S-5514

1 Amend House File 2412 as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 1, line 6, by striking the word  
4 "department" and inserting words "commissioner of  
5 public safety".

6 2. Page 1, line 10, by striking the words "of 10  
7 or more" and inserting the words "greater than a level  
8 set by rule of the commissioner of public safety".

9 3. Page 1, line 10, by inserting before the word  
10 "The" the words "The commissioner of public safety  
11 shall adopt rules to approve certain ignition  
12 interlock devices and the means of installation of the  
13 devices, and shall establish the level of alcohol  
14 concentration beyond which an ignition interlock  
15 device will not allow operation of the motor vehicle  
16 in which it is installed."

17 4. Page 4, by inserting after line 5 the  
18 following:

19 "Sec. \_\_\_\_ . Section 907.8, Code 1987, is amended by  
20 adding the following new unnumbered paragraph:

21 NEW UNNUMBERED PARAGRAPH. If the court orders the  
22 defendant committed to the custody of the judicial  
23 district department of correctional services for  
24 placement in a residential facility as a condition of  
25 the defendant's probation, and if space at the  
26 facility is not immediately available, the court may  
27 require that the defendant be confined in a county  
28 jail, with the cost of confinement to be reimbursed by  
29 the judicial district department of correctional  
30 services, for a period of time not to exceed thirty  
31 days and only until space is available at the  
32 residential facility."

33 5. Renumber as necessary.

S-5514

Filed March 22, 1988

*Adopted as amended by 5612 3/22/88 (p. 115)*

BY COMMITTEE ON JUDICIARY  
DONALD V. DOYLE, Chairperson

## SENATE AMENDMENT TO HOUSE FILE 2412

H-6073

- 1 Amend House File 2412 as amended, passed, and  
2 reprinted by the House, as follows:
- 3 1. Page 1, line 2, by striking the word  
4 "subsection" and inserting the following:  
5 "subsections".
- 6 2. Page 1, line 6, by striking the word  
7 "department" and inserting words "commissioner of  
8 public safety".
- 9 3. Page 1, line 10, by striking the words ".10  
10 or more" and inserting the words "greater than a level  
11 set by rule of the commissioner of public safety".
- 12 4. Page 1, line 10, by inserting before the word  
13 "The" the words "The commissioner of public safety  
14 shall adopt rules to approve certain ignition  
15 interlock devices and the means of installation of the  
16 devices, and shall establish the level of alcohol  
17 concentration beyond which an ignition interlock  
18 device will not allow operation of the motor vehicle  
19 in which it is installed."
- 20 5. Page 1, by inserting after line 28 the  
21 following:
- 22 "NEW SUBSECTION. 8. A person whose motor vehicle  
23 license has been revoked under this chapter and who is  
24 not eligible for a temporary restricted license under  
25 this chapter may petition the court for an order to  
26 the department to require the department to issue a  
27 temporary restricted license to the person. The court  
28 shall determine if the temporary restricted license is  
29 necessary for the person to maintain the person's  
30 present employment. If the court determines that the  
31 temporary restricted license is necessary for the  
32 person to maintain the person's present employment,  
33 the court shall order the department to issue to the  
34 person a temporary restricted license conditioned upon  
35 the person's certification to the court of the  
36 installation of approved ignition interlock devices in  
37 all motor vehicles that it is necessary for the person  
38 to operate to maintain the person's present  
39 employment. If the person operates a motor vehicle  
40 which does not have an approved ignition interlock  
41 device or if the person tampers with or circumvents an  
42 ignition interlock device, in addition to other  
43 penalties provided, the person's temporary restricted  
44 license shall be revoked."
- 45 6. By renumbering, relettering, or redesignating  
46 and correcting internal references as necessary

## HOUSE FILE 2412

H-6357

1 Amend the amendment, H-6073, to House File 2412 as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. Page 1, by inserting after line 2 the  
5 following:

6 "\_\_\_\_\_. Page 1, by inserting before line 1 the  
7 following:

8 "Sec. 777. Section 321.215, subsection 1,  
9 unnumbered paragraph 1, Code 1987, is amended to read  
10 as follows:

11 Upon Notwithstanding sections 321.218 and 321.560,  
12 upon conviction and the suspension or revocation of a  
13 person's motor vehicle license under section 321.209,  
14 subsections 5 and 6, 321.210, 321.218, or 321.555,  
15 subsection-27, and upon the denial by the director of  
16 an application for a temporary restricted license, a  
17 person may apply to the district court having  
18 jurisdiction for the residence of the person for a  
19 temporary restricted permit to operate a motor vehicle  
20 to and from work and to and from school. The  
21 application may be granted only if all the following  
22 criteria is satisfied:

23 Sec. 778. Section 321.215, subsection 1, paragraph  
24 c, Code 1987, is amended to read as follows:

25 c. The permit is restricted for travel to and from  
26 work and to and from school at times specified in the  
27 permit.""

28 2. Page 1, by inserting after line 44 the  
29 following:

30 "\_\_\_\_\_. Page 5, by inserting after line 12, the  
31 following:

32 "Sec. \_\_\_\_\_. EFFECTIVE DATE AND RETROACTIVE APPLI-  
33 CATION. Sections 777 and 778 of this Act, being  
34 deemed of immediate importance, take effect upon  
35 enactment. The sections apply retroactively to  
36 persons who have had their licenses suspended or re-  
37 voked under section 321.218, and notwithstanding any  
38 other provision of the Code, such persons may make  
39 application for a temporary restricted permit under  
40 section 321.215 and in such instances section 321.215,  
41 subsection 1, paragraph "b" does not apply."

42 Sec. \_\_\_\_\_. Title page, line 1, by inserting after  
43 the word "options" the following: ", and providing  
44 for retroactive applicability and an effective date"."

45 3. Renumber as necessary.

By DE GROOT of Lyon

H-6357 FILED APRIL 11, 1988



HOUSE FILE 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.

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2412, Seventy-second General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 5 1988

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TERRY E. BRANSTAD  
Governor

HF 2412