

MAR 5 1997

JUDICIARY

HOUSE FILE 468
BY FORD and LAMBERTI

WITHDRAWN
3-24-97 (P. 138)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the adjudication and sentencing of certain
2 criminal offenders, by providing for notice and hearings on
3 reconsiderations of sentence, and eliminating certain sexual
4 offenders from eligibility for suspended or deferred sentences
5 or deferred judgments.

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

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WITHDRAWN

HF 468

1 Section 1. Section 902.4, Code 1997, is amended to read as
2 follows:

3 902.4 RECONSIDERATION OF FELON'S SENTENCE.

4 For a period of ninety days from the date when a person
5 convicted of a felony, other than a class "A" felony or a
6 felony for which a minimum sentence of confinement is imposed,
7 begins to serve a sentence of confinement, the court, on its
8 own motion or on the recommendation of the director of the
9 Iowa department of corrections, may order the person to be
10 returned to the court, at which time the court may review its
11 previous action and reaffirm it or substitute for it any
12 sentence permitted by law. Copies of the order to return the
13 person to the court shall be provided to the attorney for the
14 state, the defendant's attorney, and the defendant. Upon a
15 request of the attorney for the state, the defendant's
16 attorney, or the defendant if the defendant has no attorney,
17 the court shall conduct a hearing on the issue of
18 reconsideration of sentence and shall permit oral argument on
19 the issue. The court shall not disclose its decision to
20 reconsider or not to reconsider the sentence of confinement
21 until the date reconsideration is ordered or the date the
22 ninety-day period expires, whichever occurs first. The
23 district court retains jurisdiction for the limited purposes
24 of conducting such review and entering an appropriate order
25 notwithstanding the timely filing of a notice of appeal. The
26 court's final order in the proceeding shall be delivered to
27 the defendant personally or by certified mail. The court's
28 decision to take the action or not to take the action is not
29 subject to appeal. However, for the purposes of appeal, a
30 judgment of conviction of a felony is a final judgment when
31 pronounced.

32 Sec. 2. Section 907.3, unnumbered paragraph 1, Code 1997,
33 is amended to read as follows:

34 Pursuant to section 901.5, the trial court may, upon a plea
35 of guilty, a verdict of guilty, or a special verdict upon

1 which a judgment of conviction may be rendered, exercise any
2 of the options contained in this section. However, this
3 section does not apply to a forcible felony or to a violation
4 of chapter 709 committed by a person who is a mandatory
5 reporter of child abuse under section 232.69 in which the
6 victim is a person who is under the age of seventeen.

7 EXPLANATION

8 This bill provides that if a court enters an order
9 returning a person who has been sentenced for a criminal act
10 to the court for purposes of reconsideration of sentence, that
11 copies of the order must be provided to the attorney for the
12 state, the defendant's attorney, and the defendant. Upon the
13 request of any of those persons, the court is to conduct a
14 hearing on the issue of reconsideration and shall permit oral
15 argument on the issue.

16 The bill also excludes persons who are mandatory reporters
17 of child abuse from eligibility for deferred judgments and
18 sentences and suspended sentences if the person commits a
19 violation of the sexual abuse chapter and the victim is under
20 the age of 17.

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