

S-3/24/97 Judiciary
S-4/2/97 Do Pass
S-4/10/97 Unfinished Business Calendar

HOUSE FILE 661
BY COMMITTEE ON JUDICIARY

MAR 17 1997

Place On Calendar

(SUCCESSOR TO HF 468)

Passed House, ^(p. 737) Date 3-24-97 Passed Senate, ^(p. 1492) Date 4/28/97
Vote: Ayes 98 Nays 0 Vote: Ayes 50 Nays 0
Approved May 26, 1997

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, permitting the presentation of
4 oral victim impact statements at reconsideration of sentence
5 hearings, and eliminating certain sexual offenders from
6 eligibility for suspended or deferred sentences or deferred
7 judgments.

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

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HF 661

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 may, but is not required to, conduct a hearing on
18 the issue of reconsideration of sentence. The court shall not
19 disclose its decision to reconsider or not to reconsider the
20 sentence of confinement until the date reconsideration is
21 ordered or the date the ninety-day period expires, whichever
22 occurs first. The district court retains jurisdiction for the
23 limited purposes of conducting such review and entering an
24 appropriate order notwithstanding the timely filing of a
25 notice of appeal. The court's final order in the proceeding
26 shall be delivered to the defendant personally or by certified
27 mail. The court's decision to take the action or not to take
28 the action is not subject to appeal. However, for the
29 purposes of appeal, a judgment of conviction of a felony is a
30 final judgment when pronounced.

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

33 Pursuant to section 901.5, the trial court may, upon a plea
34 of guilty, a verdict of guilty, or a special verdict upon
35 which a judgment of conviction may be rendered, exercise any

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

6 Sec. 3. Section 910A.5, subsection 1, paragraph b, Code
7 1997, is amended to read as follows:

8 b. A victim may orally present a victim impact statement
9 at the sentencing hearing, in the presence of the defendant,
10 and at any hearing regarding reconsideration of sentence.

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EXPLANATION

12 This bill provides that if a court enters an order
13 returning a person who has been sentenced for a criminal act
14 to the court for purposes of reconsideration of sentence,
15 copies of the order must be provided to the attorney for the
16 state, the defendant's attorney, and the defendant. Upon the
17 request of any of those persons, the court may conduct a
18 hearing on the issue of reconsideration.

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

24 The bill permits the presentation of oral victim impact
25 statements at reconsideration of sentence hearings.

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**HOUSE FILE 661
FISCAL NOTE**

The estimate for House File 661 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 661 requires the attorney for the State, defendant's attorney, and the defendant be notified if the Court decides to reconsider a criminal's conviction, excludes persons who are mandatory reporters of child abuse from eligibility for deferred judgments, deferred sentences, and suspended sentences if that person commits sexual abuse of a person younger than 18 years, and permits consideration of oral statements of the victim at a reconsideration hearing.

ASSUMPTIONS

1. Charge, conviction, sentencing patterns, length of stay, revocation rates, and other corrections policies will remain constant.
2. There is an estimated six month lag between implementation of these changes and the first entry of affected inmates into prison.
3. There are an estimated 14 mandatory child abuse reporters annually who will be sentenced to prison rather than probation due to this Bill.
4. The marginal cost for adding an inmate to the prison population is \$12 per day. The marginal cost for a probationer is \$2.90 per day for the intensive sex supervision program.

CORRECTIONAL IMPACT

The projected increases to the prison system are: 4 additional inmates in FY 1998, 11 additional inmates in FY 1999, and 15 additional inmates in FY 2002.

The projected decreases to the number of offenders on probation are: 7 fewer probationers in FY 1998, 14 fewer probationers in FY 1999, and 14 fewer probationers in FY 2002.

FISCAL IMPACT

The changes in this Bill will increase the costs to the prisons by the following amounts: \$18,000 in FY 1998; \$48,000 in FY 1999; and \$66,000 in FY 2002.

The changes in this Bill will decrease the costs to the community-based corrections system by the following amounts: \$7,000 in FY 1998; \$15,000 in FY 1999; and \$15,000 in FY 2002.

SOURCES

Criminal and Juvenile Justice Planning Division,
Department of Human Rights
Department of Corrections

(LSB 1911HV, MDF)

FILED MARCH 26, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 661

AN ACT

RELATING TO THE ADJUDICATION AND SENTENCING OF CERTAIN CRIMINAL OFFENDERS, BY PROVIDING FOR NOTICE AND HEARINGS ON RECONSIDERATIONS OF SENTENCE, PERMITTING THE PRESENTATION OF ORAL VICTIM IMPACT STATEMENTS AT RECONSIDERATION OF SENTENCE HEARINGS, AND ELIMINATING CERTAIN SEXUAL OFFENDERS FROM ELIGIBILITY FOR SUSPENDED OR DEFERRED SENTENCES OR DEFERRED JUDGMENTS.

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

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

902.4 RECONSIDERATION OF FELON'S SENTENCE.

For a period of ninety days 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 ninety-day 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 certified 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.

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

Pursuant to section 901.5, the trial court may, upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise any of the options contained in this section. However, this section does not apply to a forcible felony or to a violation of chapter 709 committed by a person who is a mandatory reporter of child abuse under section 232.69 in which the victim is a person who is under the age of eighteen.

Sec. 3. Section 910A.5, subsection 1, paragraph b, Code 1997, is amended to read as follows:

House File 661, p. 3

b. A victim may orally present a victim impact statement at the sentencing hearing, in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 661, Seventy-seventh General Assembly.

Approved May 26, 1997

ELIZABETH ISAACSON
Chief Clerk of the House

TERRY E. BRANSTAD
Governor

HF 661