

HSB 665

JUDICIARY

Successor
SF 10 2419

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LARSON)

Davis, Chair
Bandler
Parmenter

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

A BILL FOR

1 An Act changing the criminal penalties relating to possession,
2 manufacture, or delivery of amphetamines.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 124.401, subsection 5, unnumbered
2 paragraph 5, Code Supplement 1999, is amended to read as
3 follows:

4 If the controlled substance is amphetamine, its salts,
5 isomers, or salts of its isomers, or methamphetamine, its
6 salts, isomers, or salts of its isomers, the court shall order
7 the person to serve a term of imprisonment of not less than
8 forty-eight hours. Any sentence imposed may be suspended, and
9 the court shall place the person on probation upon such terms
10 and conditions as the court may impose. The court may place
11 the person on intensive probation. However, the terms and
12 conditions of probation shall require submission to random
13 drug testing. If the person fails a drug test, the court may
14 transfer the person's placement to any appropriate placement
15 permissible under the court order.

16 Sec. 2. Section 124.401D, Code Supplement 1999, is amended
17 to read as follows:

18 124.401D CONSPIRACY TO MANUFACTURE FOR DELIVERY OR
19 DELIVERY OR INTENT OR CONSPIRACY TO DELIVER AMPHETAMINE OR
20 METHAMPHETAMINE TO A MINOR.

21 1. It is unlawful for a person eighteen years of age or
22 older to act with, or enter into a common scheme or design
23 with, or conspire with one or more persons to manufacture for
24 delivery to a person under eighteen years of age a material,
25 compound, mixture, preparation, or substance that contains any
26 detectable amount of amphetamine, its salts, isomers, or salts
27 of its isomers, or methamphetamine, its salts, isomers, or
28 salts of its isomers.

29 A violation of this subsection is a felony punishable under
30 section 902.9, subsection 1. A second or subsequent violation
31 of this subsection is a class "A" felony.

32 2. It is unlawful for a person eighteen years of age or
33 older to deliver, or possess with the intent to deliver to a
34 person under eighteen years of age, a material, compound,
35 mixture, preparation, or substance that contains any

1 detectable amount of amphetamine, its salts, isomers, or salts
 2 of its isomers, or methamphetamine, its salts, isomers, or
 3 salts of its isomers, or to act with, or enter into a common
 4 scheme or design with, or conspire with one or more persons to
 5 deliver or possess with the intent to deliver to a person
 6 under eighteen years of age a material, compound, mixture,
 7 preparation, or substance that contains any detectable amount
 8 of amphetamine, its salts, isomers, or salts of its isomers,
 9 or methamphetamine, its salts, isomers, or salts of its
 10 isomers.

11 A violation of this subsection is a felony punishable under
 12 section 902.9, subsection 1. A second or subsequent violation
 13 of this subsection is a class "A" felony.

14 Sec. 3. Section 124.401E, Code Supplement 1999, is amended
 15 to read as follows:

16 124.401E CERTAIN PENALTIES FOR MANUFACTURING OR DELIVERY
 17 OF AMPHETAMINE OR METHAMPHETAMINE.

18 1. If a court sentences a person for the person's first
 19 conviction for delivery or possession with intent to deliver a
 20 controlled substance under section 124.401, subsection 1,
 21 paragraph "c", and if the controlled substance is amphetamine,
 22 its salts, isomers, or salts of its isomers, or
 23 methamphetamine, its salts, isomers, or salts of its isomers,
 24 the court may suspend the sentence, and the court may order
 25 the person to complete a drug court program if a drug court
 26 has been established in the county in which the person is
 27 sentenced or order the person to be assigned to a community-
 28 based correctional facility for a period of one year or until
 29 maximum benefits are achieved, whichever is earlier.

30 2. If a court sentences a person for a conviction of
 31 manufacturing of a controlled substance under section 124.401,
 32 subsection 1, paragraph "c", and if the controlled substance
 33 is amphetamine, its salts, isomers, or salts of its isomers,
 34 or methamphetamine, its salts, isomers, or salts of its
 35 isomers, the court may suspend the sentence, and the court may

1 order the person to complete a drug court program if a drug
2 court has been established in the county in which the person
3 is sentenced, or order the person to be assigned to a
4 community-based correctional facility for a period of one year
5 or until maximum benefits are achieved, whichever is earlier.

6 3. If a court sentences a person for the person's second
7 or subsequent conviction for delivery or possession with
8 intent to deliver a controlled substance under section
9 124.401, subsection 1, and the controlled substance is
10 amphetamine, its salts, isomers, or salts of its isomers, or
11 methamphetamine, its salts, isomers, or salts of its isomers,
12 the court, in addition to any other authorized penalties,
13 shall sentence the person to imprisonment in accordance with
14 section 124.401, subsection 1, and the person shall serve the
15 minimum period of confinement as required by section 124.413.

16 Sec. 4. Section 901.10, subsection 2, Code Supplement
17 1999, is amended to read as follows:

18 2. Notwithstanding subsection 1, if the sentence under
19 section 124.413 involves a an amphetamine or methamphetamine
20 offense under section 124.401, subsection 1, paragraph "a" or
21 "b", the court shall not grant any reduction of sentence
22 unless the defendant pleads guilty. If the defendant pleads
23 guilty, the court may, at its discretion, reduce the mandatory
24 minimum sentence by up to one-third. If the defendant
25 additionally cooperates in the prosecution of other persons
26 involved in the sale or use of controlled substances, and if
27 the prosecutor requests an additional reduction in the
28 defendant's sentence because of such cooperation, the court
29 may grant a further reduction in the defendant's mandatory
30 minimum sentence, up to one-half of the remaining mandatory
31 minimum sentence.

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EXPLANATION

33 This bill makes various changes to amphetamine-related
34 crimes.

35 The bill amends Code section 124.401(5) which relates to

665

1 misdemeanor possession of a controlled substance. The bill
2 provides that the court shall impose a minimum two-day jail
3 sentence which may be suspended, and shall place the person on
4 probation, impose random drug tests as a condition of
5 probation, and allow the person's probation officer to place
6 the person in jail upon a violation of probation. If the
7 controlled substance is amphetamine, the court may require
8 intensive probation which shall include random drug testing.

9 The bill amends Code section 124.401D and makes changes in
10 the penalties applicable to a person 18 years of age or older
11 to the crimes of conspiring to manufacture for delivery,
12 delivery of, and possession with intent to deliver, or
13 conspiracy to deliver, amphetamine to a person under 18 years
14 of age. The bill provides that a felony committed under Code
15 section 124.401D is punishable by a sentence for an
16 indeterminate term not to exceed 99 years. The court may
17 reduce the person's maximum sentence by one-third if
18 mitigating circumstances exist and the person pleads guilty.
19 After a finding by the court that mitigating circumstances
20 exist, the court may further reduce the remaining maximum
21 sentence if the defendant cooperates in the prosecution of
22 other persons. The bill provides that a person sentenced
23 under Code section 124.401D must serve a mandatory minimum
24 sentence of 10 years of confinement before the person is
25 eligible for parole even if the sentence is reduced by
26 mitigating circumstances or the court finds the person
27 cooperated with the prosecution of others.

28 If a person commits a second or subsequent offense of
29 conspiracy to manufacture or deliver to a minor, the person
30 commits a class "A" felony.

31 The bill amends Code section 124.401E applying certain
32 penalties for the manufacturing or delivery of amphetamine.
33 If a person is convicted of delivery or possessing with intent
34 to deliver five grams or less of amphetamine on a first
35 offense, the court has the discretion to sentence the person

S.F. _____

H.P. SB 665

1 to complete a drug court program, if a drug court has been
2 established, or to assign the person to a community-based
3 correctional facility for a period of up to one year. If a
4 person is convicted of manufacturing five grams or less of
5 amphetamine, the court may also sentence the person to
6 complete a drug court program, or assign the person to a
7 community-based correctional facility for a period of up to
8 one year. If a person is convicted of delivery of or
9 possession with intent to deliver amphetamine for a second or
10 subsequent offense, the person shall serve a mandatory prison
11 sentence under sections 124.401 and 124.413 and such sentence
12 is determined by the amount of amphetamine involved in the
13 delivery.

14 Current law restricts a person's ability to post a bond
15 upon a conviction of or when appealing a felony conviction for
16 manufacturing, distributing, or possessing with intent to
17 manufacture or distribute amphetamines. Current law generally
18 permits a person awaiting sentencing or appealing a conviction
19 to post a bond and remain free pending the final decision in
20 the case.

21 A serious misdemeanor is punishable by confinement for no
22 more than one year and a fine of at least \$250 but not more
23 than \$1,500. An aggravated misdemeanor is punishable by
24 confinement for no more than two years and a fine of at least
25 \$500 but not more than \$5,000. A class "D" felony is
26 punishable by confinement for no more than five years and a
27 fine of at least \$750 but not more than \$7,500. A class "C"
28 felony is punishable by confinement for no more than 10 years
29 and a fine of at least \$1,000 but not more than \$10,000. A
30 class "B" felony is punishable by confinement for no more than
31 25 years. A class "A" felony is punishable by confinement for
32 life without the possibility of parole.

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LSB 6478YC 78

jm/cf/24

FEB 24 2000

Place On Calendar

5-3/8/00 Judiciary
5-3/15/00 Do Pass
5-3/23/00 Legislative Business Calendar

HOUSE FILE **2419**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 665)

Passed House, ^{P.} Date 3/8/00

Passed Senate, ^(P.1062) Date 4/6/00

Vote: Ayes 84 Nays 7

Vote: Ayes 46 Nays 6

Approved 4-25-00

(P.1380) Re-passed 4-11-00
Vote 89-8

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HF 2419

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26 detectable amount of amphetamine, its salts, isomers, or salts
27 of its isomers, or methamphetamine, its salts, isomers, or
28 salts of its isomers.

29 A violation of this subsection is a felony punishable under
30 section 902.9, subsection 1. A second or subsequent violation
31 of this subsection is a class "A" felony.

32 2. It is unlawful for a person eighteen years of age or
33 older to deliver, or possess with the intent to deliver to a
34 person under eighteen years of age, a material, compound,
35 mixture, preparation, or substance that contains any

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19 conviction for delivery or possession with intent to deliver a
20 controlled substance under section 124.401, subsection 1,
21 paragraph "c", and if the controlled substance is amphetamine,
22 its salts, isomers, or salts of its isomers, or
23 methamphetamine, its salts, isomers, or salts of its isomers,
24 the court may suspend the sentence, and the court may order
25 the person to complete a drug court program if a drug court
26 has been established in the county in which the person is
27 sentenced or order the person to be assigned to a community-
28 based correctional facility for a period of one year or until
29 maximum benefits are achieved, whichever is earlier.

30 2. If a court sentences a person for a conviction of
31 manufacturing of a controlled substance under section 124.401,
32 subsection 1, paragraph "c", and if the controlled substance
33 is amphetamine, its salts, isomers, or salts of its isomers,
34 or methamphetamine, its salts, isomers, or salts of its
35 isomers, the court may suspend the sentence, and the court may

1 order the person to complete a drug court program if a drug
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3 is sentenced, or order the person to be assigned to a
4 community-based correctional facility for a period of one year
5 or until maximum benefits are achieved, whichever is earlier.

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7 or subsequent conviction for delivery or possession with
8 intent to deliver a controlled substance under section
9 124.401, subsection 1, and the controlled substance is
10 amphetamine, its salts, isomers, or salts of its isomers, or
11 methamphetamine, its salts, isomers, or salts of its isomers,
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22 unless the defendant pleads guilty. If the defendant pleads
23 guilty, the court may, at its discretion, reduce the mandatory
24 minimum sentence by up to one-third. If the defendant
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8 intensive probation which shall include random drug testing.

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18 mitigating circumstances exist and the person pleads guilty.
19 After a finding by the court that mitigating circumstances
20 exist, the court may further reduce the remaining maximum
21 sentence if the defendant cooperates in the prosecution of
22 other persons. The bill provides that a person sentenced
23 under Code section 124.401D must serve a mandatory minimum
24 sentence of 10 years of confinement before the person is
25 eligible for parole even if the sentence is reduced by
26 mitigating circumstances or the court finds the person
27 cooperated with the prosecution of others.

28 If a person commits a second or subsequent offense of
29 conspiracy to manufacture or deliver to a minor, the person
30 commits a class "A" felony.

31 The bill amends Code section 124.401E applying certain
32 penalties for the manufacturing or delivery of amphetamine.
33 If a person is convicted of delivery or possessing with intent
34 to deliver five grams or less of amphetamine on a first
35 offense, the court has the discretion to sentence the person

1 to complete a drug court program, if a drug court has been
2 established, or to assign the person to a community-based
3 correctional facility for a period of up to one year. If a
4 person is convicted of manufacturing five grams or less of
5 amphetamine, the court may also sentence the person to
6 complete a drug court program, or assign the person to a
7 community-based correctional facility for a period of up to
8 one year. If a person is convicted of delivery of or
9 possession with intent to deliver amphetamine for a second or
10 subsequent offense, the person shall serve a mandatory prison
11 sentence under sections 124.401 and 124.413 and such sentence
12 is determined by the amount of amphetamine involved in the
13 delivery.

14 The bill restricts a person's ability to post a bond upon a
15 conviction of or when appealing a felony conviction for
16 manufacturing, distributing, or possessing with intent to
17 manufacture or distribute any amount of amphetamines to a
18 minor. Current law generally permits a person awaiting
19 sentencing or appealing a conviction to post a bond and remain
20 free pending the final decision in the case.

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22 more than one year and a fine of at least \$250 but not more
23 than \$1,500. An aggravated misdemeanor is punishable by
24 confinement for no more than two years and a fine of at least
25 \$500 but not more than \$5,000. A class "D" felony is
26 punishable by confinement for no more than five years and a
27 fine of at least \$750 but not more than \$7,500. A class "C"
28 felony is punishable by confinement for no more than 10 years
29 and a fine of at least \$1,000 but not more than \$10,000. A
30 class "B" felony is punishable by confinement for no more than
31 25 years. A class "A" felony is punishable by confinement for
32 life without the possibility of parole.

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HOUSE FILE 2419

H-8147

1 Amend House File 2419 as follows:

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

4 "Section 1. Section 124.401, subsection 1,
5 paragraph a, subparagraph (2), unnumbered paragraph 1,
6 Code Supplement 1999, is amended to read as follows:

7 More than five kilograms of a any compound, mixture
8 or, preparation, or substance containing a detectable
9 amount of any of the following:

10 Sec. 2. Section 124.401, subsection 1, paragraph
11 a, subparagraph (2), subparagraph subdivisions (a),
12 (b), and (c), Code Supplement 1999, are amended by
13 striking the subparagraph subdivisions.

14 Sec. 3. Section 124.401, subsection 1, paragraph
15 a, subparagraph (2), subparagraph subdivision (f),
16 Code Supplement 1999, is amended to read as follows:

17 (f) Any compound, mixture, or preparation which
18 contains any quantity of any of the substances
19 referred to in ~~subparagraph-subdivisions-(a)-through~~
20 ~~(e)~~ this subparagraph (2).

21 Sec. 4. Section 124.401, subsection 1, paragraph
22 a, subparagraph (3), Code Supplement 1999, is amended
23 to read as follows:

24 (3) More than fifty grams of a any compound,
25 mixture or, preparation, or substance described-in
26 subparagraph-(2)-which-contains-cocaine-base-
27 containing a detectable amount of any of the
28 following:

29 (a) Coca leaves, except coca leaves and extracts
30 of coca leaves from which cocaine, ecgonine, and
31 derivatives of ecgonine or their salts have been
32 removed.

33 (b) Cocaine, its salts, optical and geometric
34 isomers, and salts of isomers.

35 (c) Ecgonine, its derivatives, their salts,
36 isomers, and salts of isomers.

37 (d) Cocaine base.

38 Sec. 5. Section 124.401, subsection 1, paragraph
39 b, subparagraph (2), Code Supplement 1999, is amended
40 by striking the subparagraph.

41 Sec. 6. Section 124.401, subsection 1, paragraph
42 b, subparagraph (3), Code Supplement 1999, is amended
43 to read as follows:

44 (3) More than five grams but not more than fifty
45 grams of a any compound, mixture, preparation, or
46 substance described-in-subparagraph-(2)-which-contains
47 cocaine-base: containing a detectable amount of any of
48 the following:

49 (a) Coca leaves, except coca leaves and extracts
50 of coca leaves from which cocaine, ecgonine, and

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Page 2

1 derivatives of ecgonine or their salts have been
2 removed.

3 (b) Cocaine, its salts, optical and geometric
4 isomers, and salts of isomers.

5 (c) Ecgonine, its derivatives, their salts,
6 isomers, and salts of isomers.

7 (d) Cocaine base.

8 Sec. 7. Section 124.401, subsection 1, paragraph
9 c, subparagraph (2), Code Supplement 1999, is amended
10 by striking the subparagraph.

11 Sec. 8. Section 124.401, subsection 1, paragraph
12 c, subparagraph (3), Code Supplement 1999, is amended
13 to read as follows:

14 (3) Five grams or less of a any compound, mixture,
15 preparation, or substance described-in-subparagraph
16 {2}-which-contains-cocaine-base- containing a
17 detectable amount of any of the following:

18 (a) Coca leaves, except coca leaves and extracts
19 of coca leaves from which cocaine, ecgonine, and
20 derivatives of ecgonine or their salts have been
21 removed.

22 (b) Cocaine, its salts, optical and geometric
23 isomers, and salts of isomers.

24 (c) Ecgonine, its derivatives, their salts,
25 isomers, and salts of isomers.

26 (d) Cocaine base."

27 2. Page 3, by inserting after line 15 the
28 following:

29 "Sec. ____ . Section 232.22, subsection 1, paragraph
30 e, subparagraph (2), Code 1999, is amended to read as
31 follows:

32 (2) A mixture or substance containing cocaine, its
33 salts, optical and geometric isomers, and salts of
34 isomers, and if the act was committed by an adult, it
35 would be a violation of section 124.401, subsection 1,
36 paragraph "a", subparagraph {2} (3), subparagraph
37 subdivision (b), paragraph "b", subparagraph {2} (3),
38 subparagraph subdivision (b), or paragraph "c",
39 subparagraph {2} (3), subparagraph subdivision (b)."

40 3. Title page, line 2, by inserting after the
41 word "amphetamines" the following: ", cocaine, or
42 cocaine-related substances".

By FORD of Polk

H-8147 FILED MARCH 1, 2000

W/D
3/8/00
(P. 626)

SENATE AMENDMENT TO HOUSE FILE 2419

H-8783

1 Amend House File 2419 as passed by the House as
2 follows:

3 1. Page 3, by inserting after line 15 the
4 following:

5 "Sec. ____ . NEW SECTION. 124.414 DRUG

6 PARAPHERNALIA.

7 1. a. As used in this section, "drug
8 paraphernalia" means all equipment, products, or
9 materials of any kind used or attempted to be used in
10 combination with a controlled substance, except those
11 items used in combination with the lawful use of a
12 controlled substance, to knowingly or intentionally
13 and primarily do any of the following:

14 (1) Manufacture a controlled substance.

15 (2) Inject, ingest, inhale, or otherwise introduce
16 into the human body a controlled substance.

17 (3) Test the strength, effectiveness, or purity of
18 a controlled substance.

19 (4) Enhance the effect of a controlled substance.

20 b. "Drug paraphernalia" does not include

21 hypodermic needles or syringes if manufactured,
22 delivered, sold, or possessed for a lawful purpose.

23 2. It is unlawful for any person to knowingly or
24 intentionally manufacture, deliver, sell, or possess
25 drug paraphernalia.

26 3. A person who violates this section commits a
27 simple misdemeanor."

28 2. Title page, by striking lines 1 and 2 and
29 inserting the following: "An Act concerning the
30 criminal penalties relating to amphetamines or drug
31 paraphernalia."

RECEIVED FROM THE SENATE

H-8783 FILED APRIL 10, 2000

House Concurred

4-11-00

(p. 1280)

HOUSE FILE 2419

S-5341

1 Amend House File 2419 as passed by the House as
2 follows:
3 1. Page 3, by inserting after line 15 the
4 following:
5 "Sec. ____ . NEW SECTION. 124.414 DRUG
6 PARAPHERNALIA.
7 1. a. As used in this section, "drug
8 paraphernalia" means all equipment, products, or
9 materials of any kind used or attempted to be used in
10 combination with a controlled substance, except those
11 items used in combination with the lawful use of a
12 controlled substance, to knowingly or intentionally
13 and primarily do any of the following:
14 (1) Manufacture a controlled substance.
15 (2) Inject, ingest, inhale, or otherwise introduce
16 into the human body a controlled substance.
17 (3) Test the strength, effectiveness, or purity of
18 a controlled substance.
19 (4) Enhance the effect of a controlled substance.
20 b. "Drug paraphernalia" does not include
21 hypodermic needles or syringes if manufactured,
22 delivered, sold, or possessed for a lawful purpose.
23 2. It is unlawful for any person to knowingly or
24 intentionally manufacture, deliver, sell, or possess
25 drug paraphernalia.
26 3. This section shall not be construed to preempt
27 the adoption or enforcement of a drug paraphernalia
28 ordinance by a local authority as defined in section
29 321.1.
30 4. A person who violates this section commits a
31 simple misdemeanor."
32 2. Title page, by striking lines 1 and 2 and
33 inserting the following: "An Act concerning the
34 criminal penalties relating to amphetamines or drug
35 paraphernalia."

By ANDY McKEAN
O. GENE MADDOX

S-5341 FILED APRIL 5, 2000

W/D
4/6/00
P. 1062

HOUSE FILE 2419

S-5366

1 Amend House File 2419 as passed by the House as
2 follows:
3 1. Page 3, by inserting after line 15 the
4 following:
5 "Sec. ____ . NEW SECTION. 124.414 DRUG
6 PARAPHERNALIA.
7 1. a. As used in this section, "drug
8 paraphernalia" means all equipment, products, or
9 materials of any kind used or attempted to be used in
10 combination with a controlled substance, except those
11 items used in combination with the lawful use of a
12 controlled substance, to knowingly or intentionally
13 and primarily do any of the following:
14 (1) Manufacture a controlled substance.
15 (2) Inject, ingest, inhale, or otherwise introduce
16 into the human body a controlled substance.
17 (3) Test the strength, effectiveness, or purity of
18 a controlled substance.
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23 2. It is unlawful for any person to knowingly or
24 intentionally manufacture, deliver, sell, or possess
25 drug paraphernalia.
26 3. A person who violates this section commits a
27 simple misdemeanor."
28 2. Title page, by striking lines 1 and 2 and
29 inserting the following: "An Act concerning the
30 criminal penalties relating to amphetamines or drug
31 paraphernalia."

By ANDY McKEAN
O. GENE MADDOX
ROBERT E. DVORSKY

S-5366 FILED APRIL 6, 2000
ADOPTED

(P. 1062)

**HOUSE FILE 2419
FISCAL NOTE**

The estimate for **House File 2419** 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 2419 amends the sections of the Code of Iowa dealing with methamphetamine to include amphetamines and amphetamine salts and isomers.

ASSUMPTIONS

1. The laws passed during the 1999 Legislative Session dealing with methamphetamine possession, manufacture, and delivery to a minor have not been in place long enough to establish trends for convictions, sentencing, and treatment.
2. Section 1 of the Bill requires a two-day jail sentence but allows the judge to suspend the jail term. The section also permits the judge to order probation with intensive supervision and random drug testing. This creates a potential for increased use of jails, intensive supervision, and random drug testing, but does not require it.
3. Section 2 deals with delivery, intent to deliver, and conspiracy to deliver amphetamine to a minor. During 1997 and 1998, none of the offenders convicted of distributing controlled substances to minors committed offenses involving amphetamines other than methamphetamine.
4. Section 3 deals with offenders sentenced to probation to a drug court program or to a residential facility. Judges already may exercise this option. This Section requires a prison sentence for a second or subsequent conviction. It is reasonable to assume most offenders receiving a second conviction are already being sentenced to prison.

CORRECTIONAL AND FISCAL IMPACT

The information necessary to assess the impact of House File 2419 is not available, but the Bill is not expected to have a significant impact on the corrections system.

SOURCE

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Office of the State Public Defender

(LSB 6478hv, MDF)

FILED MARCH 6, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2419

AN ACT
CONCERNING THE CRIMINAL PENALTIES RELATING TO AMPHETAMINES OR
DRUG PARAPHERNALIA.

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

Section 1. Section 124.401, subsection 5, unnumbered paragraph 5, Code Supplement 1999, is amended to read as follows:

If the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. The court may place the person on intensive probation. However, the terms and conditions of probation shall require submission to random

drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

Sec. 2. Section 124.401D, Code Supplement 1999, is amended to read as follows:

124.401D CONSPIRACY TO MANUFACTURE FOR DELIVERY OR DELIVERY OR INTENT OR CONSPIRACY TO DELIVER AMPHETAMINE OR METHAMPHETAMINE TO A MINOR.

1. It is unlawful for a person eighteen years of age or older to act with, or enter into a common scheme or design with, or conspire with one or more persons to manufacture for delivery to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers.

A violation of this subsection is a felony punishable under section 902.9, subsection 1. A second or subsequent violation of this subsection is a class "A" felony.

2. It is unlawful for a person eighteen years of age or older to deliver, or possess with the intent to deliver to a person under eighteen years of age, a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, or to act with, or enter into a common scheme or design with, or conspire with one or more persons to deliver or possess with the intent to deliver to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers.

A violation of this subsection is a felony punishable under section 902.9, subsection 1. A second or subsequent violation of this subsection is a class "A" felony.

Sec. 3. Section 124.401E, Code Supplement 1999, is amended to read as follows:

124.401E CERTAIN PENALTIES FOR MANUFACTURING OR DELIVERY OF AMPHETAMINE OR METHAMPHETAMINE.

1. If a court sentences a person for the person's first conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

2. If a court sentences a person for a conviction of manufacturing of a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced, or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

3. If a court sentences a person for the person's second or subsequent conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, and the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court, in addition to any other authorized penalties, shall sentence the person to imprisonment in accordance with

section 124.401, subsection 1, and the person shall serve the minimum period of confinement as required by section 124.413

Sec. 4. NEW SECTION. 124.414 DRUG PARAPHERNALIA.

1. a. As used in this section, "drug paraphernalia" means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

- (1) Manufacture a controlled substance.
- (2) Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
- (3) Test the strength, effectiveness, or purity of a controlled substance.
- (4) Enhance the effect of a controlled substance.

b. "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

3. A person who violates this section commits a simple misdemeanor.

Sec. 5. Section 901.10, subsection 2, Code Supplement 1999, is amended to read as follows:

2. Notwithstanding subsection 1, if the sentence under section 124.413 involves a an amphetamine or methamphetamine offense under section 124.401, subsection 1, paragraph "a" or "b", the court shall not grant any reduction of sentence unless the defendant pleads guilty. If the defendant pleads guilty, the court may, at its discretion, reduce the mandatory minimum sentence by up to one-third. If the defendant additionally cooperates in the prosecution of other persons involved in the sale or use of controlled substances, and if the prosecutor requests an additional reduction in the

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defendant's sentence because of such cooperation, the court may grant a further reduction in the defendant's mandatory minimum sentence, up to one-half of the remaining mandatory minimum sentence.

BRENT SIEGRIST
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 2419, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/25, 2000

THOMAS J. VILSACK
Governor