

MAR 12 1999

JUDICIARY

HOUSE FILE  
BY FORD

671

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act permitting the court to depart from the imposition of a  
2 maximum sentence for certain felonies.

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

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HF 671

1 Section 1. Section 901.10, subsection 1, Code 1999, is  
2 amended to read as follows:

3 1. A court sentencing a person for ~~the person's first a~~  
4 conviction under section 124.406, 124.413, ~~or 902.7, 902.8,~~  
5 902.11, or 902.12 may, at its discretion, sentence the person  
6 to a term less than provided by the statute if mitigating  
7 circumstances exist and those circumstances are stated  
8 specifically in the record. Mitigating circumstances include,  
9 but are not limited to, the following:

10 a. The departure was the result of a plea bargain that was  
11 not coerced.

12 b. The defendant aided and abetted in the offense but was  
13 a relatively minor participant in the criminal conduct.

14 c. The capacity of the defendant to appreciate the  
15 criminal nature of the conduct or to conform that conduct to  
16 the requirements of law was substantially impaired.

17 d. The defendant requires specialized treatment for a  
18 mental disorder that is unrelated to substance abuse or  
19 addiction, or for physical disability, and the defendant is  
20 amenable to treatment.

21 e. The need for payment of restitution to the victim  
22 outweighs the need for a imprisonment or a longer period of  
23 imprisonment.

24 f. The victim was the aggressor in the incident, or was a  
25 willing participant, or provoked the incident.

26 g. The defendant acted under duress or under the  
27 domination of another person.

28 h. The defendant cooperated to resolve the current offense  
29 or any other offense.

30 i. The offense was an isolated incident for which the  
31 defendant has shown remorse.

32 Sec. 2. Section 901.10, Code 1999, is amended by adding  
33 the following new subsection:

34 NEW SUBSECTION. 1A. Mitigating circumstances do not  
35 include the fact the defendant was under the influence of an

1 intoxicating beverage or a controlled substance during the  
2 commission of the offense.

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EXPLANATION

4 This bill provides discretion to the court to depart from  
5 the imposition of a mandatory felony sentence if the court  
6 finds that certain mitigating factors justify a downward  
7 departure from the sentence. These factors include, but are  
8 not limited to, the role the defendant had in the commission  
9 of the crime, the capacity of the defendant to understand the  
10 offense committed, the need for payment of restitution,  
11 whether the victim participated in the offense, or whether the  
12 defendant cooperated to resolve the offense or helped in the  
13 prosecution of others. However, the court shall not consider  
14 as a mitigating factor the fact the defendant was under the  
15 influence of alcohol or drugs. If at the time of sentencing  
16 the court finds that a mitigating factor does apply, the court  
17 may reduce the mandatory term of the sentence to a lesser  
18 sentence.

19 Generally, the bill affects the mandatory sentences of  
20 certain drug-related felonies, a habitual offender, a person  
21 convicted of a forcible felony, certain persons who use a  
22 dangerous weapon during the commission of an offense, and  
23 persons who are sentenced to serve a mandatory 85 percent of a  
24 sentence without the possibility of parole.

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