

House Study Bill 677

Bill Text

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1 1 Section 1. Section [124.401](#), subsection 1, paragraph a,
1 2 subparagraph (2), Code 2001, is amended by adding the
1 3 following new subparagraph subdivision:
1 4 NEW SUBPARAGRAPH SUBDIVISION. (g) 3,4-
1 5 methylenedioxymethamphetamine (MDMA), its salts, isomers, or
1 6 salts of isomers.
1 7 Sec. 2. Section [124.401](#), subsection 1, paragraph b, Code
1 8 2001, is amended by adding the following new subparagraph:
1 9 NEW SUBPARAGRAPH. (9) More than ten grams but not more
1 10 than five kilograms of 3,4-methylenedioxymethamphetamine
1 11 (MDMA), its salts, isomers, or salts of isomers, or any
1 12 compound, mixture or preparation which contains any quantity
1 13 of detectable amount of MDMA, its salts, isomers, or salts of
1 14 isomers.
1 15 Sec. 3. Section [124.401](#), subsection 1, paragraph c, Code
1 16 2001, is amended by adding the following new subparagraph:
1 17 NEW SUBPARAGRAPH. (7A) Ten grams or less of 3,4-
1 18 methylenedioxymethamphetamine (MDMA), its salts, isomers, or
1 19 salts of isomers, or any compound, mixture or preparation
1 20 which contains any quantity of detectable amount of MDMA, its
1 21 salts, isomers, or salts of isomers.
1 22 Sec. 4. Section [124.401](#), subsection 4, unnumbered
1 23 paragraph 1, Code 2001, is amended to read as follows:
1 24 A person who possesses any product containing any of the
1 25 following commits a class "D" felony, if the person possesses
1 26 with the intent

~~to use the product~~

~~that the product be used to~~

1 27 manufacture any controlled substance:
1 28 Sec. 5. Section [124.409](#), subsection 1, Code 2001, is
1 29 amended by striking the subsection.
1 30 Sec. 6. Section [321J.2](#), subsection 3, paragraph a,
1 31 subparagraph (3), Code 2001, is amended by striking the
1 32 subparagraph.
1 33 Sec. 7. Section [462A.14](#), subsection 3, paragraph a,
1 34 subparagraph (3), Code 2001, is amended by striking the
1 35 subparagraph.
2 1 Sec. 8. Section [711.3](#), Code 2001, is amended to read as
2 2 follows
2 3 711.3 ROBBERY IN THE SECOND DEGREE.
2 4 All robbery which is not robbery in the first degree is
2 5 robbery in the second degree, except as provided in section
2 6 711.3A. Robbery in the second degree is a class "C" felony.
2 7 Sec. 9. NEW SECTION. 711.3A ROBBERY IN THE THIRD DEGREE.
2 8 A person commits robbery in the third degree when, while
2 9 perpetrating a robbery, the person commits an assault
2 10 punishable as a simple misdemeanor under section 708.2.
2 11 Robbery in the third degree is a class "D" felony.
2 12 Sec. 10. Section [713.6A](#), subsection 2, Code Supplement
2 13 2001, is amended to read as follows:
2 14 2. Burglary in the third degree involving a burglary of an
2 15 unoccupied motor vehicle or motor truck as defined in section
2 16 321.1, or a vessel defined in section 462A.2, is an aggravated
2 17 misdemeanor for a first offense.

~~A second or subsequent~~

~~- If~~

2 18 the person has a prior conviction under this

~~section~~

~~- chapter,~~

2 19 the offense is punishable under subsection 1.

2 20 Sec. 11. Section [713.6B](#), subsection 2, Code Supplement

2 21 2001, is amended to read as follows:

2 22 2. Attempted burglary in the third degree involving an

2 23 attempted burglary of an unoccupied motor vehicle or motor

2 24 truck as defined in section 321.1, or a vessel defined in

2 25 section 462A.2, is a serious misdemeanor for a first offense.

2 26

~~A second or subsequent~~

~~- If the person has a prior conviction~~

2 27 under this

~~section~~

~~- chapter, the offense~~ is punishable under

2 28 subsection 1.

2 29 Sec. 12. NEW SECTION. 901.11 DEFERRED JUDGMENTS

2 30 PREVIOUS OFFENSES FOR PURPOSES OF ENHANCEMENT.

2 31 In determining if an offense is a second or subsequent

2 32 offense for purposes of sentencing, the following shall apply:

2 33 1. A deferred judgment entered pursuant to section 907.3

2 34 for the same offense shall be counted as a previous offense.

2 35 2. A conviction or the equivalent of a deferred judgment

3 1 for a violation in any other state under a statute

3 2 substantially corresponding to the offense shall be counted as

3 3 a previous offense. The courts shall judicially notice the

3 4 statutes of other states which define offenses substantially

3 5 equivalent to those defined in the Code and can therefore be

3 6 considered corresponding statutes. Each previous offense for

3 7 which conviction or deferral of judgment was entered prior to

3 8 the date of the violation charged shall be considered and

3 9 counted as a separate previous offense.

3 10 Sec. 13. Section [902.3A](#), subsection 1, unnumbered

3 11 paragraph 1, Code Supplement 2001, is amended to read as

3 12 follows:

3 13 Notwithstanding section 902.3, when a conviction for a

3 14 class "D" felony is entered against a person, the court, at

3 15 its discretion, in imposing a sentence of confinement pursuant

3 16 to section 901.5, may commit the person into the custody of

3 17 the director of the Iowa department of corrections for a

3 18 determinate term of less than the maximum length of the

3 19 sentence prescribed by section 902.9, subsection 5

~~, if~~

~~-~~

3 20

~~mitigating circumstances exist and those circumstances are~~

~~-~~

3 21

~~stated specifically on the record~~

~~-~~

3 22 Sec. 14. Section [902.3A](#), subsection 1, paragraph e, Code

3 23 Supplement 2001, is amended to read as follows:

3 24 e. This section does not apply to an offense classified as

3 25 a forcible felony, a felony under section 321J.2,

~~felonies in~~

~~-~~

3 26

~~chapters 707, 708, and 709, a person sentenced as a habitual~~

3 27

~~offender, felonies listed in section 901A.1,~~

~~or felonies~~

3 28 listed in section 902.12

~~, or a felony committed by a person on~~

3 29

~~parole or work release, or while in the custody of the~~

3 30

~~director of the department of corrections~~

3 31 Sec. 15. Section [902.3A](#), subsection 3, Code Supplement

3 32 2001, is amended by striking the subsection.

3 33 Sec. 16. Section [907.3](#), subsection 1, paragraph c, Code

3 34 2001, is amended to read as follows:

3 35 c. Prior to the commission of the offense the defendant

4 1 had been granted a deferred judgment or similar relief

~~, two or~~

4 2

~~more times~~

~~anywhere in the United States.~~

4 3 Sec. 17. Section [907.3](#), subsection 1, paragraph d, Code

4 4 2001, is amended by striking the paragraph.

4 5 Sec. 18. Section [907.3](#), subsection 1, paragraph g,

4 6 subparagraph (3), Code 2001, is amended by striking the

4 7 subparagraph.

4 8 Sec. 19. 2001 Iowa Acts, chapter 186, section 6,

4 9 subsection 6, is amended by striking the subsection.

4 10 Sec. 20. EFFECTIVE DATE. The section of this Act amending

4 11 2001 Iowa Acts, chapter 186, section 6, subsection 6, being

4 12 deemed of immediate importance, takes effect upon enactment.

4 13 EXPLANATION

4 14 This bill makes changes to criminal definitions,
4 15 enhancements, and penalties, and provides an effective date.

4 16 The amendments to Code section 124.401(1) provide that a
4 17 person who conspires to manufacture for delivery, delivers or
4 18 conspires to deliver, or possesses with the intent to deliver
4 19 the drug 3,4-methylenedioxymethamphetamine (MDMA) or "ecstasy"
4 20 commits what is commonly referred to as a super class "B"
4 21 felony if the amount of MDMA is greater than 5 kilograms. A
4 22 person commits a class "B" felony if the amount of MDMA is
4 23 more than 10 grams but not more than 5 kilograms. If the
4 24 amount of MDMA is 10 grams or less, the person commits a class
4 25 "C" felony. Current law provides that a person commits a
4 26 class "C" felony, regardless of the quantity of MDMA involved
4 27 in the criminal activity.

4 28 The amendment to Code section 124.401(4) makes changes to
4 29 the crime of possession of drug-making materials. The bill
4 30 provides that a person who possesses certain products with the
4 31 intent that the product be used to manufacture a controlled
4 32 substance commits a class "D" felony. Current law provides
4 33 that the person possess the product with the intent to use the
4 34 product to manufacture a controlled substance.

4 35 The amendment to Code section 124.409 eliminates the
5 1 ability of a defendant to receive a conditional discharge of a
5 2 sentence for first offense for either possession of a

5 3 controlled substance pursuant to Code section 124.401(5) or an
5 4 accommodation offense pursuant to Code section 124.410. A
5 5 conditional discharge under Code section 124.409(1) generally
5 6 permits the court, upon a plea or conviction of guilt, to
5 7 defer entering judgment of guilt and place the defendant on
5 8 probation. If the defendant violates probation, the court may
5 9 enter an adjudication of guilt and sentence the defendant. If
5 10 the defendant fulfills the terms of probation, the court shall
5 11 dismiss the proceedings against the defendant without an
5 12 adjudication of guilt.

5 13 The amendment to Code section 711.3 and new Code section
5 14 711.3A creates a new criminal offense of robbery in the third
5 15 degree. The bill provides that a person commits robbery in
5 16 the third degree if the person, having the intent to commit a
5 17 theft, commits a simple misdemeanor assault to assist or
5 18 further the commission of the intended theft.

5 19 The amendments to Code sections 713.6A and 713.6B provide
5 20 that a person who commits burglary or attempted burglary in
5 21 the third degree involving an unoccupied vehicle or boat
5 22 commits a class "D" felony if the person has a previous
5 23 burglary conviction. Current law provides that a person
5 24 commits a class "D" felony if the person has a previous
5 25 burglary in the third degree conviction, otherwise the person
5 26 commits an aggravated misdemeanor.

5 27 New Code section 901.11 relates to counting previous
5 28 criminal offenses for purposes of determining whether a
5 29 current criminal offense is a second or subsequent offense.
5 30 In determining whether a criminal offense is a second or
5 31 subsequent offense, the bill provides that a deferred judgment
5 32 and convictions or deferred judgments incurred in another
5 33 state count as a previous offense.

5 34 The amendment to Code section 902.3A(1) removes the
5 35 requirement that the court must find mitigating circumstances
6 1 in determining whether a person should be sentenced to a
6 2 determinate sentence pursuant to Code section 902.3A.

6 3 The amendment to Code section 902.3A(1)(e) permits the
6 4 following class "D" felons to be sentenced to a determinate
6 5 term: habitual offenders, violators of Code chapters 707
6 6 through 709, persons sentenced under Code chapter 901A, or
6 7 persons who commit an offense while in prison or on parole or
6 8 work release.

6 9 The amendment to Code section 902.3A(3) enhances the
6 10 organization and readability of the Code section.

6 11 The amendments to Code chapter 907 provide that a defendant
6 12 may only receive one deferred judgment. Current law provides
6 13 that a defendant under certain circumstances may receive two
6 14 deferred judgments.

6 15 The amendment to 2001 Iowa Acts, chapter 186, section 6,
6 16 eliminates certain restrictions placed on drug courts
6 17 established during the 2001-2002 state fiscal year. The
6 18 restrictions eliminated by the bill require drug courts to be
6 19 offered only to persons who have been convicted of a crime and
6 20 to give priority to felons over misdemeanants. This provision
6 21 takes effect upon enactment.

6 22 LSB 6627HC 79

6 23 jm/pj/5