

Senate Study Bill 1223

Bill Text

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1 1 Section 1. NEW SECTION. 901C.1 ALTERNATIVE SENTENCING
1 2 CLASS "C" AND CLASS "D" FELONIES.
1 3 1. Notwithstanding any other law to the contrary, when a
1 4 conviction of a class "C" or class "D" felony is entered
1 5 against a person, the court, as an alternative to the
1 6 indeterminate sentence of confinement as provided in section
1 7 902.3, may require commitment into the custody of the director
1 8 of the Iowa department of corrections for a determinate term
1 9 to be followed by a term of probation as specified in section
1 10 907.7. The length of the determinate term shall be at least
1 11 six months but not more than twelve months for a class "C"
1 12 felony and at least three months but not more than six months
1 13 for a class "D" felony.
1 14 a. If the court sentences the person to an alternative
1 15 sentence, any mandatory minimum sentence required by the
1 16 sentence pursuant to section 124.406, 124.413, 902.7, 902.8A,
1 17 or 902.11 shall be suspended by the court.
1 18 b. A person serving an alternative sentence shall receive
1 19 credit for time served against the person's sentence.
1 20 However, a person shall not be eligible to receive earned time
1 21 against the sentence under chapter 903A.
1 22 c. A person serving an alternative sentence is not
1 23 eligible for parole or work release while serving the initial
1 24 determinate term of confinement.
1 25 2. If a person who is on probation after serving the
1 26 initial term of confinement of an alternative sentence commits
1 27 a new criminal offense, violates the terms and conditions of
1 28 probation under chapter 907, or if the department of
1 29 corrections files a petition alleging a violation of rules
1 30 established under chapter 904, the court may revoke the
1 31 suspended sentence and resentence the person to the balance of
1 32 the indeterminate sentence authorized by law for the original
1 33 criminal offense committed by the person. Upon resentencing
1 34 the court shall sentence the person as provided in chapter
1 35 901.5.
2 1 3. If the court resentsences the person to a term of
2 2 confinement, the court shall commit the person into the
2 3 custody of the director of the Iowa department of corrections
2 4 for an indeterminate term as provided in section 902.3. Any
2 5 mandatory minimum sentence previously suspended by the court
2 6 in subsection 1 shall be served. A person recommitted shall
2 7 be given credit for time served. Earned time shall be
2 8 calculated as provided by chapter 903A upon recommitment. A
2 9 person shall be eligible for parole or work release as any
2 10 other person serving the same offense.
2 11 4. This section does not apply to an offense classified as
2 12 a forcible felony, felonies listed in section 902.12, or to a
2 13 person sentenced as an habitual offender.
2 14 Sec. 2. NEW SECTION. 901C.2 ALTERNATIVE SENTENCING
2 15 MAXIMUM ACCUMULATION OF EARNED TIME CREDITS OF FIFTEEN
2 16 PERCENT.
2 17 When a judgment of conviction for an offense listed in
2 18 section 902.12 is entered against a person, the court, when
2 19 imposing the sentence of confinement, may, as an alternative
2 20 to an indeterminate sentence in section 902.3, commit the
2 21 person into the custody of the director of the Iowa department

2 22 of corrections for a determinate term less than the maximum
2 23 length as fixed by section 902.9 or as otherwise prescribed by
2 24 statute. A determinate term imposed in this section shall not
2 25 be less than one-third the maximum length. Earned time shall
2 26 be calculated as provided in section 903A.2, subsection 1,
2 27 paragraph "b".

2 28 Sec. 3. Section [903A.2](#), subsection 1, unnumbered paragraph
2 29 1, Code 2001, is amended to read as follows:

2 30 Each inmate committed to the custody of the director of the
2 31 department of corrections is eligible to earn a reduction of
2 32 sentence in the manner provided in this section. However, an
2 33 inmate serving an alternative sentence under section 901C.1 is
2 34 not eligible to earn a reduction of sentence in the manner
2 35 provided in this section but shall receive credit in the

3 1 manner as provided in section 901C.1. For purposes of
3 2 calculating the amount of time by which an inmate's sentence
3 3 may be reduced, inmates shall be grouped into the following
3 4 two sentencing categories:

3 5 Sec. 4. Section [903.4](#), Code 2001, is amended to read as
3 6 follows:

3 7 903.4 PROVIDING PLACE OF CONFINEMENT.

3 8 All persons sentenced to confinement for a period of one
3 9 year or less shall be confined in a place to be furnished by
3 10 the county where the conviction was had unless the person is
3 11 presently committed to the custody of the director of the Iowa
3 12 department of corrections, in which case the provisions of
3 13 section 901.8 apply, or unless the person is serving a
3 14 determinate term as part of an alternative sentence as
3 15 provided in section 902.3A. All persons sentenced to
3 16 confinement for a period of more than one year shall be
3 17 committed to the custody of the director of the Iowa
3 18 department of corrections to be confined in a place to be
3 19 designated by the director and the cost of the confinement
3 20 shall be borne by the state. The director may contract with
3 21 local governmental units for the use of detention or
3 22 correctional facilities maintained by the units for the
3 23 confinement of such persons.

3 24 Sec. 5. Section [907.1](#), subsection 3, Code 2001, is amended
3 25 to read as follows:

3 26 3. "Suspended sentence" means a sentencing option whereby
3 27 the court pronounces judgment and imposes a sentence and then
3 28 suspends execution of the sentence subject to the defendant's
3 29 compliance with conditions set by the court as a requirement
3 30 of the suspended sentence. Revocation of the suspended
3 31 sentence results in the execution of sentence already
3 32 pronounced. For purposes of an alternative sentence entered
3 33 under section 901C.1, a "suspended sentence" means a
3 34 sentencing option where the court pronounces judgment and
3 35 imposes a sentence and then suspends execution of the
4 1 sentence, except for a determinate term of confinement.
4 2 Revocation of the suspended sentence results in the execution
4 3 of the remaining balance of the sentence already pronounced.

4 4 Sec. 6. Section [907.3](#), Code 2001, is amended by adding the
4 5 following new subsection:

4 6 **NEW SUBSECTION.** 4. May sentence the defendant to an
4 7 alternative sentence under section 901C.1, if the defendant is
4 8 eligible, suspend the remaining balance of the sentence, and
4 9 place the person on probation upon such terms as it may
4 10 require, including commitment of the defendant to the judicial
4 11 district department of correctional services for supervision
4 12 or services under section 901B.1 at the level of sanctions
4 13 which the district department determines to be appropriate and
4 14 the payment of fees imposed under section 905.14. A person so
4 15 committed whose probation is revoked shall be given credit for
4 16 time served.

4 17 Sec. 7. Section [908.11](#), subsection 6, Code 2001, is
4 18 amended by adding the following new paragraph:

4 19 NEW PARAGRAPH. e. Revoke the probation of the defendant
4 20 who is on probation after serving an alternative sentence
4 21 under section 903C.1, and require the defendant to serve the
4 22 remaining balance of the sentence.

4 23 EXPLANATION

4 24 This bill creates alternative criminal sentences for a
4 25 person other than a habitual offender who is convicted of a
4 26 certain felonies.

4 27 The bill provides that a person sentenced to a term of
4 28 confinement for a class "D" or class "C" felony, other than a
4 29 forcible felony, or felonies requiring service of 85 percent
4 30 of the sentence, may be sentenced to a determinate term as
4 31 part of an alternative sentence. The bill provides that the
4 32 court may sentence the person to confinement in a correctional
4 33 institution for a determinate term of at least six months but
4 34 not more than 12 months for a class "C" felony and at least
4 35 three months but not more than six months for a class "D"
5 1 felony. The bill provides that if the court sentences the
5 2 person to an alternative sentence, any mandatory minimum
5 3 sentence shall be suspended by the court. The bill also
5 4 provides that a person serving a determinate term as part of
5 5 an alternative sentence shall receive credit for time served
5 6 against the person's sentence but shall not be eligible for
5 7 earned time credits, and shall not be paroled or placed on
5 8 work release while serving the determinate term.

5 9 The bill provides that after completion of the determinate
5 10 portion of the sentence the person shall be placed on
5 11 probation. The probation period and violations of probation
5 12 shall be treated in the same manner as probation under Code
5 13 chapter 907.

5 14 The bill provides that if a person who is on probation
5 15 after serving an alternative sentence commits a new criminal
5 16 offense, violates the terms and conditions of probation under
5 17 Code chapter 907, or upon petition by the department of
5 18 corrections for a violation of rules established under Code
5 19 chapter 904, the person may be resentenced by the court to the
5 20 balance of the indeterminate sentence authorized by law for
5 21 the original criminal offense. The bill provides that if a
5 22 person's probation is revoked and the person is confined to a
5 23 correctional institution, the court shall require the person
5 24 to serve any mandatory minimum sentence previously suspended
5 25 by the court.

5 26 The bill also provides an alternative sentence for a person
5 27 sentenced for a criminal offense subject to the maximum
5 28 accumulation of earned time credits of 15 percent of the total
5 29 sentence of confinement, or more commonly referred to as 85
5 30 percent sentences. The bill provides that a person sentenced
5 31 for an offense subject to service of 85 percent of the
5 32 sentence may be sentenced to a term less than the maximum
5 33 length fixed by Code section 902.9 or as otherwise prescribed
5 34 by statute. The alternative sentence shall not be for a term
5 35 less than one-third of the maximum length. The bill provides
6 1 that a person sentenced to an alternative 85 percent sentence
6 2 must serve 85 percent of the alternative sentence fixed by the
6 3 court.

6 4 LSB 3187XC 79

6 5 jm/cls/14