

MAR 14 2003
PUBLIC SAFETY

HOUSE FILE 569
BY WINCKLER

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

A BILL FOR

1 An Act relating to criminal sentencing and procedure by changing
2 the penalties for certain offenses involving a substance
3 containing cocaine base, creating a criminal offense of
4 robbery in the third degree, expanding the applicability of
5 the intermediate criminal sanctions program, changing the
6 parole and work release eligibility of a person serving a
7 sentence that requires the maximum accumulation of earned time
8 credits of fifteen percent of the total term of confinement,
9 creating a community-based corrections advisory board, and
10 providing a penalty.

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

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1 Section 1. Section 124.401, subsection 1, paragraph a,
2 subparagraph (3), Code 2003, is amended to read as follows:

3 (3) More than fifty five hundred grams of a mixture or
4 substance described in subparagraph (2) which contains cocaine
5 base.

6 Sec. 2. Section 124.401, subsection 1, paragraph b,
7 subparagraph (3), Code 2003, is amended to read as follows:

8 (3) More than five fifty grams but not more than fifty
9 five hundred grams of a mixture or substance described in
10 subparagraph (2) which contains cocaine base.

11 Sec. 3. Section 124.401, subsection 1, paragraph c,
12 subparagraph (3), Code 2003, is amended to read as follows:

13 (3) Five Fifty grams or less of a mixture or substance
14 described in subparagraph (2) which contains cocaine base.

15 Sec. 4. Section 711.3, Code 2003, is amended to read as
16 follows:

17 711.3 ROBBERY IN THE SECOND DEGREE.

18 All robbery which is not robbery in the first degree is
19 robbery in the second degree, except as provided in section
20 711.3A. Robbery in the second degree is a class "C" felony.

21 Sec. 5. NEW SECTION. 711.3A ROBBERY IN THE THIRD DEGREE.

22 A person commits robbery in the third degree when, while
23 perpetrating a robbery, the person commits an assault upon
24 another as defined in section 708.2, subsection 5. Robbery in
25 the third degree is an aggravated misdemeanor.

26 Sec. 6. Section 901B.1, Code 2003, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 5. An intermediate criminal sanctions
29 program shall also include a plan for persons on parole or
30 work release. The intermediate criminal sanctions program
31 shall consist of the same levels as the levels used for
32 probationers but shall be adapted for persons on parole or
33 work release. The plan shall be adopted by the chief judge of
34 the judicial district and the director of the judicial
35 district department of correctional services and shall be

1 operated in accordance with the overall intermediate criminal
2 sanctions program.

3 Sec. 7. Section 902.12, unnumbered paragraph 1, Code 2003,
4 is amended to read as follows:

5 ~~Except-as-otherwise-provided-in-section-903A:27-a~~ A person
6 serving a sentence for conviction of the following forcible
7 felonies shall ~~serve-one-hundred-percent-of-the-maximum-term~~
8 ~~of-the-person's-sentence-and-shall-not-be-released-on~~ be
9 denied parole or work release unless the person has served at
10 least seven-tenths of the maximum term of the person's
11 sentence:

12 Sec. 8. Section 902.12, subsection 5, unnumbered paragraph
13 2, Code 2003, is amended to read as follows:

14 ~~Except-as-otherwise-provided-in-section-903A:27-a~~ a person
15 ~~-serving-a-sentence-for-conviction-under~~

16 6. Vehicular homicide in violation of section 707.6A,
17 subsection 1 or 2, shall-serve-one-hundred-percent-of-the
18 maximum-term-of-the-person's-sentence-and-shall-not-be
19 released-on-parole-or-work-release if the person was also
20 convicted under section 321.261, subsection 3, based on the
21 same facts or event that resulted in the conviction under
22 section 707.6A, subsection 1 or 2.

23 Sec. 9. NEW SECTION. 905.15 COMMUNITY-BASED CORRECTIONS
24 ADVISORY BOARD.

25 1. A statewide community-based corrections advisory board
26 is established. The members of the board shall consist of a
27 representative from each judicial district department of
28 correctional services. The advisory board shall study the
29 current structure of the criminal justice system including the
30 utilization of drug and mental health courts, assess the
31 impact of criminal penalties on the overall system, identify
32 potential modifications, and work with the corrections board
33 and the board of parole on recommendations for potential
34 modifications to the current system. The advisory board may
35 also consult and work with the judicial branch, the county

1 attorney's association, the attorney general, crime victim
2 groups, and other agencies, or organizations associated with
3 the criminal justice system.

4 2. A member of the board shall be reimbursed for actual
5 and necessary expenses incurred in the performance of the
6 member's duties, if such member is not otherwise reimbursed
7 for such expenses.

8 Sec. 10. Section 906.5, subsection 4, Code 2003, is
9 amended to read as follows:

10 4. A person while on parole or work release is under the
11 supervision of the district department of correctional
12 services of the district designated by the board of parole,
13 and the board of parole may release the person subject to the
14 provisions of the intermediate criminal sanctions program
15 pursuant to chapter 901B. If a person is released by the
16 board of parole subject to the provisions of chapter 901B, the
17 district department may transfer a person along the
18 corrections continuum of the intermediate criminal sanctions
19 program as necessary and appropriate during the period the
20 person is assigned to the district department. The department
21 of corrections shall prescribe rules for governing persons on
22 parole or work release. The board may adopt other rules not
23 inconsistent with the rules of the department of corrections
24 as the board deems proper or necessary for the performance of
25 its functions.

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EXPLANATION

27 This bill relates to criminal sentencing and procedure by
28 changing the penalties for certain offenses involving a
29 substance containing cocaine base, creating a criminal offense
30 of robbery in the third degree, expanding the applicability of
31 the intermediate criminal sanctions program, changing the
32 parole and work release eligibility of a person serving a
33 sentence that requires the maximum accumulation of earned time
34 credits of 15 percent of the total term of confinement,
35 creating a community-based corrections advisory board, and

1 providing a penalty.

2 CONTROLLED SUBSTANCES. The bill relates to the unlawful
3 manufacture, delivery, or possession with the intent to
4 manufacture or deliver, or conspiring to manufacture, deliver,
5 or possess with the intent to manufacture or deliver a cocaine
6 substance containing cocaine base, which is commonly referred
7 to as "crack cocaine". The bill increases the threshold
8 amount of "crack cocaine" that is necessary to obtain certain
9 felony drug convictions.

10 If a criminal offense under the bill involves more than 500
11 grams of a cocaine substance containing cocaine base, the
12 person commits a class "B" felony, punishable by confinement
13 for no more than 50 years, and a fine of not more than \$1
14 million. Under current law, if the amount of the cocaine
15 substance containing cocaine base is more than 50 grams, a
16 person commits a class "B" felony, punishable by confinement
17 for no more than 50 years, and a fine of not more than \$1
18 million. Current law also provides that the same criminal
19 penalty for other cocaine-related offenses requires more than
20 five kilograms.

21 If a criminal offense under the bill involves more than 50
22 grams but not more than 500 grams of a cocaine substance
23 containing cocaine base, the person commits a class "B"
24 felony, punishable by confinement for no more than 25 years,
25 and a fine of not less than \$5,000 but not more than \$100,000.
26 Under current law, if the amount of the cocaine substance
27 containing cocaine base is more than five grams but not more
28 than 50 grams, a person commits a class "B" felony, punishable
29 by confinement for no more than 25 years, and a fine of not
30 less than \$5,000 but not more than \$100,000. Current law also
31 provides that the same criminal penalty for other cocaine-
32 related offenses requires more than 500 grams but not more
33 than five kilograms.

34 If a criminal offense under the bill involves 50 grams or
35 less of a cocaine substance containing cocaine base, a person

1 commits a class "C" felony, punishable by confinement for no
2 more than 10 years, and a fine of not less than \$1,000 but not
3 more than \$50,000. Under current law, if the amount of the
4 cocaine substance containing cocaine base is five grams or
5 less, a person commits a class "C" felony, punishable by
6 confinement for no more than 10 years, and a fine of not less
7 than \$1,000 but no more than \$50,000. Current law also
8 provides that the same criminal penalty for other cocaine-
9 related offenses requires 500 grams or less.

10 ROBBERY IN THE THIRD DEGREE. The bill creates the criminal
11 offense of robbery in the third degree. The bill provides
12 that a person who commits or intends to commit a theft, and
13 who commits a simple misdemeanor assault to further the
14 commission of the theft, commits robbery in the third degree.
15 Under the bill a person who commits robbery in the third
16 degree commits an aggravated misdemeanor. Current law
17 provides that a person who commits or intends to commit a
18 theft and who commits a simple misdemeanor assault to further
19 the commission of the theft commits robbery in the second
20 degree punishable as a class "C" felony.

21 INTERMEDIATE CRIMINAL SANCTIONS PROGRAM. The bill provides
22 that if the board of parole releases a person subject to the
23 provisions of the intermediate criminal sanctions program
24 pursuant to Code chapter 901B, the judicial district
25 department of correctional services where the person was
26 assigned may transfer the person along the continuum as
27 necessary and appropriate during the period the person is
28 assigned to the district department. The sanctions on the
29 continuum include monitored sanctions, supervised sanctions,
30 intensive supervision sanctions, residential treatment, house
31 arrest, 21-day shock sentence for operating-while-intoxicated
32 offenders, and violators' facilities.

33 The bill provides that the chief judge of the judicial
34 district and the director of the judicial district department
35 of correctional services shall adopt an intermediate criminal

1 sanctions program adapted for persons on parole or work
2 release. The bill provides that the program for persons on
3 parole or work release shall be operated in accordance with
4 the district's overall intermediate criminal sanctions
5 program.

6 EIGHTY-FIVE PERCENT SENTENCE. The bill makes changes to a
7 sentence that requires the maximum accumulation of earned time
8 credits of 15 percent of the total sentence of confinement,
9 most commonly referred to as an 85 percent sentence.

10 The bill provides that a person who is serving an 85
11 percent sentence may be eligible for parole or work release
12 after serving 70 percent of the maximum term of confinement.
13 However, the bill does not change the maximum amount of earned
14 time which can be earned by a person serving an 85 percent
15 sentence; thus if a person is not released on parole or work
16 release, the person shall serve 85 percent of the sentence in
17 confinement. If a person is paroled after serving 70 percent
18 of the maximum term of confinement, all aspects of the
19 person's parole are the same as parole for other offenders.
20 The bill, by permitting parole of a person serving an 85
21 percent sentence, also provides by operation of Code section
22 906.16 the discharge from parole prior to the entire 85
23 percent sentence being served.

24 STATEWIDE CORRECTIONS ADVISORY BOARD. The bill creates a
25 statewide corrections advisory board consisting of a
26 representative from each judicial district department of
27 correctional services. The advisory board shall study the
28 current structure of the criminal justice system including the
29 utilization of drug and mental health courts, assess the
30 impact of criminal penalties, identify potential modifications
31 to the system, and work with the board of corrections and the
32 board of parole in making recommendations regarding
33 modifications to the current criminal justice system. The
34 bill provides that a person who serves on the advisory board
35 shall be reimbursed for actual and necessary expenses incurred

S.F. _____ H.F. 569

1 in the performance of the member's duties.

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