

Senate File 448 - Introduced

SENATE FILE 448
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1185)

A BILL FOR

1 An Act relating to the commission of a class "A" felony by a
2 person under eighteen years of age, providing penalties, and
3 including effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 902.1, subsection 2, Code 2015, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 2. *a.* Notwithstanding subsection 1, a defendant convicted
5 of murder in the first degree in violation of section 707.2,
6 and who was under the age of eighteen at the time the offense
7 was committed shall receive one the following sentences:

8 (1) Commitment to the director of the department of
9 corrections for the rest of the defendant's life with no
10 possibility of parole unless the governor commutes the sentence
11 to a term of years.

12 (2) Commitment to the custody of the director of the
13 department of corrections for the rest of the defendant's life
14 with the possibility of parole after serving a minimum term of
15 confinement as determined by the court.

16 (3) Commitment to the custody of the director of the
17 department of corrections for the rest of the defendant's life
18 with the possibility of parole.

19 *b.* (1) The prosecuting attorney shall provide reasonable
20 notice to the defendant, after conviction and prior to
21 sentencing, of the state's intention to seek a life sentence
22 with no possibility of parole under paragraph "a", subparagraph
23 (1).

24 (2) In determining which sentence to impose, the court shall
25 consider all circumstances including but not limited to the
26 following:

27 (a) The impact of the offense on each victim, as defined in
28 section 915.10, through the use of a victim impact statement,
29 as defined in section 915.10, under any format permitted by
30 section 915.13. The victim impact statement may include
31 comment on the sentence of the defendant.

32 (b) The impact of the offense on the community.

33 (c) The threat to the safety of the public or any individual
34 posed by the defendant.

35 (d) The degree of participation in the murder by the

1 defendant.

2 (e) The nature of the offense.

3 (f) The defendant's remorse.

4 (g) The defendant's acceptance of responsibility.

5 (h) The severity of the offense, including any of the
6 following:

7 (i) The commission of the murder while participating in
8 another felony.

9 (ii) The number of victims.

10 (iii) The heinous, brutal, cruel manner of the murder,
11 including whether the murder was the result of torture.

12 (i) The capacity of the defendant to appreciate the
13 criminality of the conduct.

14 (j) Whether the ability to conform the defendant's conduct
15 with the requirements of the law was substantially impaired.

16 (k) The level of maturity of the defendant.

17 (l) The intellectual and mental capacity of the defendant.

18 (m) The nature and extent of any prior juvenile delinquency
19 or criminal history of the defendant, including the success or
20 failure of previous attempts at rehabilitation.

21 (n) The mental health history of the defendant.

22 (o) The level of compulsion, duress, or influence exerted
23 upon the defendant, but not to such an extent as to constitute
24 a defense.

25 (p) The likelihood of the commission of further offenses by
26 the defendant.

27 (q) The chronological age of the defendant and the features
28 of youth, including immaturity, impetuosity, and failure to
29 appreciate risks and consequences.

30 (r) The family and home environment that surrounded the
31 defendant.

32 (s) The circumstances of the murder including the extent
33 of the defendant's participation in the conduct and the way
34 familial and peer pressure may have affected the defendant.

35 (t) The competencies associated with youth, including but

1 not limited to the defendant's inability to deal with peace
2 officers or the prosecution or the defendant's incapacity to
3 assist the defendant's attorney in the defendant's defense.

4 (u) The possibility of rehabilitation.

5 (v) Any other information considered relevant by the
6 sentencing court.

7 Sec. 2. Section 902.1, Code 2015, is amended by adding the
8 following new subsections:

9 NEW SUBSECTION. 3. *a.* Notwithstanding subsections 1 and 2,
10 a defendant convicted of a class "A" felony, other than murder
11 in the first degree in violation of section 707.2, and who was
12 under the age of eighteen at the time the offense was committed
13 shall receive one of the following sentences:

14 (1) Commitment to the custody of the director of the
15 department of corrections for the rest of the defendant's life
16 with the possibility of parole after serving a minimum term of
17 confinement as determined by the court.

18 (2) Commitment to the custody of the director of the
19 department of corrections for the rest of the defendant's life
20 with the possibility of parole.

21 *b.* In determining which sentence to impose, the court shall
22 consider all circumstances including but not limited to the
23 following:

24 (1) The impact of the offense on each victim, as defined in
25 section 915.10, through the use of a victim impact statement,
26 as defined in section 915.10, under any format permitted by
27 section 915.13. The victim impact statement may include
28 comment on the sentence of the defendant.

29 (2) The impact of the offense on the community.

30 (3) The threat to the safety of the public or any individual
31 posed by the defendant.

32 (4) The degree of participation in the offense by the
33 defendant.

34 (5) The nature of the offense.

35 (6) The defendant's remorse.

- 1 (7) The defendant's acceptance of responsibility.
- 2 (8) The severity of the offense, including any of the
3 following:
 - 4 (a) The commission of the offense while participating in
5 another felony.
 - 6 (b) The number of victims.
 - 7 (c) The heinous, brutal, cruel manner of the offense,
8 including whether the offense involved torture.
- 9 (9) The capacity of the defendant to appreciate the
10 criminality of the conduct.
- 11 (10) Whether the ability to conform the defendant's conduct
12 with the requirements of the law was substantially impaired.
- 13 (11) The level of maturity of the defendant.
- 14 (12) The intellectual and mental capacity of the defendant.
- 15 (13) The nature and extent of any prior juvenile delinquency
16 or criminal history of the defendant, including the success or
17 failure of previous attempts at rehabilitation.
- 18 (14) The mental health history of the defendant.
- 19 (15) The level of compulsion, duress, or influence exerted
20 upon the defendant, but not to such an extent as to constitute
21 a defense.
- 22 (16) The likelihood of the commission of further offenses
23 by the defendant.
- 24 (17) The chronological age of the defendant and the features
25 of youth, including immaturity, impetuosity, and failure to
26 appreciate risks and consequences.
- 27 (18) The family and home environment that surrounded the
28 defendant.
- 29 (19) The circumstances of the offense including the extent
30 of the defendant's participation in the conduct and the way the
31 familial and peer pressure may have affected the defendant.
- 32 (20) The competencies associated with youth, including but
33 not limited to the defendant's inability to deal with peace
34 officers or the prosecution or the defendant's incapacity to
35 assist the defendant's attorney in the defendant's defense.

1 (21) The possibility of rehabilitation.

2 (22) Any other information considered relevant by the
3 sentencing court.

4 NEW SUBSECTION. 4. If a defendant is paroled pursuant to
5 subsection 2 or 3, the defendant shall be subject to the same
6 set of procedures set out in chapters 901B, 905, 906, and 908,
7 and rules adopted under those chapters for persons on parole.

8 Sec. 3. Section 903A.2, subsection 5, Code 2015, is amended
9 to read as follows:

10 5. Earned time accrued by inmates serving life sentences
11 imposed under section 902.1 shall not reduce the life sentence,
12 ~~but~~ or any mandatory minimum sentence imposed under section
13 902.1, except that earned time accrued shall be credited
14 against the inmate's life sentence if the life sentence is
15 commuted to a term of years under section 902.2, but shall not
16 reduce any mandatory minimum sentence imposed under section
17 902.1.

18 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
19 immediate importance, takes effect upon enactment.

20 Sec. 5. APPLICABILITY. The sentencing provisions of this
21 Act shall apply to a person who was convicted of a class "A"
22 felony prior to, on, or after the effective date of this Act
23 and who was under the age of eighteen at the time the offense
24 was committed.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill relates to the commission of a class "A" felony by
29 a person under 18 years of age, and provides penalties.

30 Current Iowa statutory law provides that a person under
31 18 years of age who commits a class "A" felony, other than
32 murder in the first degree, shall be eligible for parole after
33 serving a minimum term of confinement of 25 years. Also, under
34 current Iowa statutory law, a person under 18 years of age who
35 commits murder in the first degree must serve a life sentence

1 without the possibility of parole which equals the sentences
2 of other class "A" felons. However, the United States Supreme
3 Court in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), has ruled
4 that a mandatory life sentence without the possibility of
5 parole for a person under 18 years of age who commits murder
6 is unconstitutional. In addition, the Iowa Supreme Court in
7 *State v. Lyle*, 854 N.W.2d 378 (Iowa 2014), ruled that the Iowa
8 Constitution forbids a mandatory minimum sentencing schema for
9 juvenile offenders that deprives the district court of the
10 discretion to consider youth and its attendant circumstances
11 as mitigating factors.

12 The bill provides that a person who commits murder in the
13 first degree and who was under the age of 18 at the time the
14 offense was committed shall be sentenced to serve one of
15 three sentencing options. The first option provides that the
16 court sentence the person to confinement for the rest of the
17 person's life with no possibility of parole unless the governor
18 commutes the sentence to a term of years. The second option
19 provides that the court sentence the person to confinement for
20 the rest of the person's life with the possibility of parole
21 after serving a minimum term of confinement as determined by
22 the court. Under the third option, the court sentences the
23 person to confinement for the rest of the person's life with
24 the possibility of parole.

25 The bill lists numerous circumstances for the court to
26 consider prior to sentencing a person who commits murder in the
27 first degree and who was under the age of 18 at the time the
28 offense was committed.

29 The bill provides that a person who commits a class "A"
30 felony, other than murder in the first degree, and who was
31 under the age of 18 at the time the offense was committed
32 shall be sentenced to serve one of two sentencing options.
33 The first option provides that the court sentence the
34 person to confinement for the rest of the person's life with
35 the possibility of parole after serving a minimum term of

1 confinement as determined by the court. Under the second
2 option, the court sentences the person to confinement for the
3 rest of the person's life with the possibility of parole.

4 The bill lists numerous circumstances for the court to
5 consider prior to sentencing a person who commits a class "A"
6 felony, other than murder in the first degree, and who was
7 under the age of 18 at the time the offense was committed. This
8 list of circumstances is similar to the list of circumstances
9 the court must consider for a person under the age of 18 who
10 commits murder in the first degree.

11 A person paroled pursuant to the bill is subject to the same
12 set of procedures set out in Code chapters 901B, 905, 906, and
13 908, and rules adopted under those Code chapters for persons
14 on parole.

15 The bill prohibits earned time from reducing any mandatory
16 minimum sentence imposed under Code section 902.1.

17 The bill takes effect upon enactment and applies to a person
18 who was convicted of a class "A" felony prior to, on, or after
19 the effective date of the bill and who was under the age of 18
20 at the time the offense was committed.