

Senate Study Bill 1185 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON SODDERS)

A BILL FOR

1 An Act relating to the commission of a class "A" felony by
2 a person under 18 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 of thirty-five years.

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 director of the department of
15 corrections for the rest of the defendant's life with
16 the possibility of parole after serving a minimum term of
17 confinement of twenty-five years.

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 after serving a minimum term of
21 confinement as determined by the court.

22 (3) Commitment to the custody of the director of the
23 department of corrections for the rest of the defendant's life
24 with the possibility of parole.

25 *b.* (1) The prosecuting attorney shall provide reasonable
26 notice to the defendant, after conviction and prior to
27 sentencing, of the state's intention to seek a life sentence
28 with a mandatory minimum term of confinement of twenty-five
29 years under paragraph "a", subparagraph (1).

30 (2) In determining which sentence to impose, the court shall
31 consider all circumstances including but not limited to the
32 following:

33 (a) The impact of the offense on each victim, as defined in
34 section 915.10, through the use of a victim impact statement,
35 as defined in section 915.10, under any format permitted by

1 section 915.13. The victim impact statement may include
2 comment on the sentence of the defendant.

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

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

6 (d) The degree of participation in the offense by the
7 defendant.

8 (e) The nature of the offense.

9 (f) The defendant's remorse.

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

11 (h) The severity of the offense, including any of the
12 following:

13 (i) The commission of the offense while participating in
14 another felony.

15 (ii) The number of victims.

16 (iii) The heinous, brutal, cruel manner of the offense,
17 including whether the offense involved torture.

18 (i) The capacity of the defendant to appreciate the
19 criminality of the conduct.

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

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

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

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

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

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

31 (p) The likelihood of the commission of further offenses by
32 the defendant.

33 (q) The chronological age of the defendant and the features
34 of youth, including immaturity, impetuosity, and failure to
35 appreciate risks and consequences.

1 (r) The family and home environment that surrounded the
2 defendant.

3 (s) The circumstances of the offense including the extent of
4 the defendant's participation in the conduct and the way the
5 familial and peer pressure may have affected the defendant.

6 (t) The competencies associated with youth, including but
7 not limited to the defendant's inability to deal with peace
8 officers or the prosecution or the defendant's incapacity to
9 assist the defendant's attorney in the defendant's defense.

10 (u) The possibility of rehabilitation.

11 (v) Any other information considered relevant by the
12 sentencing court.

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

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

19 5. Earned time accrued by inmates serving life sentences
20 imposed under section 902.1 shall not reduce the life sentence,
21 ~~but~~ or any mandatory minimum sentence imposed under section
22 902.1, except that earned time accrued shall be credited
23 against the inmate's life sentence if the life sentence is
24 commuted to a term of years under section 902.2, but shall not
25 reduce any mandatory minimum sentence imposed under section
26 902.1.

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

29 Sec. 5. APPLICABILITY. The sentencing provisions of this
30 Act shall apply to a person who was convicted of a class "A"
31 felony prior to, on, or after the effective date of this Act
32 and who was under the age of eighteen at the time the offense
33 was committed.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

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

4 Current Iowa statutory law provides that a person under
5 18 years of age who commits a class "A" felony, other than
6 murder in the first degree, shall be eligible for parole after
7 serving a minimum term of confinement of 25 years. Also, under
8 current Iowa statutory law, a person under 18 years of age who
9 commits murder in the first degree must serve a life sentence
10 without the possibility of parole which equals the sentences
11 of other class "A" felons. However, the United States Supreme
12 Court in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), has ruled
13 that a mandatory life sentence without the possibility of
14 parole for a person under 18 years of age who commits murder
15 is unconstitutional. In addition, the Iowa Supreme Court in
16 *State v. Lyle*, 854 N.W.2d 378 (Iowa 2014), ruled that the Iowa
17 Constitution forbids a mandatory minimum sentencing schema for
18 juvenile offenders that deprives the district court of the
19 discretion to consider youth and its attendant circumstances
20 as mitigating factors.

21 The bill provides that a person who commits murder in the
22 first degree and who was under the age of 18 at the time the
23 offense was committed shall be sentenced to serve one of three
24 sentencing options. The first option provides that the court
25 sentence the person to confinement for the rest of the person's
26 life with no possibility of parole unless the governor commutes
27 the sentence to a term of years. The second option provides
28 that the court sentence the person to confinement for the rest
29 of the person's life with the possibility of parole after
30 serving a minimum term of confinement of 35 years. Under the
31 third option, the court sentences the person to confinement for
32 the rest of the person's life with the possibility of parole.

33 The bill lists numerous circumstances for the court to
34 consider prior to sentencing a person who commits murder in the
35 first degree and who was under the age of 18 at the time the

1 offense was committed.

2 The bill provides that a person who commits a class "A"
3 felony, other than murder in the first degree, and who was
4 under the age of 18 at the time the offense was committed
5 shall be sentenced to serve one of three sentencing options.
6 The first option provides that the court sentence the
7 person to confinement for the rest of the person's life with
8 the possibility of parole after serving a minimum term of
9 confinement of 25 years. The second option provides that the
10 court sentence the person to confinement for the rest of the
11 person's life with the possibility of parole after serving a
12 minimum term of confinement as determined by the court. Under
13 the third option, the court sentences the person to confinement
14 for the rest of the person's life with the possibility of
15 parole.

16 The bill lists numerous circumstances for the court to
17 consider prior to sentencing a person who commits a class "A"
18 felony, other than murder in the first degree, and who was
19 under the age of 18 at the time the offense was committed. This
20 list of circumstances is similar to the list of circumstances
21 the court must consider for a person under the age of 18 who
22 commits murder in the first degree.

23 A person paroled pursuant to the bill is subject to the same
24 set of procedures set out in Code chapters 901B, 905, 906, and
25 908, and rules adopted under those Code chapters for persons
26 on parole.

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

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