

House File 128 - Introduced

HOUSE FILE 128

BY MILLER

A BILL FOR

1 An Act establishing a criminal sentencing commission.

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

1 Section 1. Section 216A.131, Code 2017, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. "*Commission*" means the criminal
4 sentencing commission.

5 Sec. 2. Section 216A.133A, subsection 2, Code 2017, is
6 amended by striking the subsection.

7 Sec. 3. Section 216A.133A, subsection 3, paragraph a,
8 subparagraphs (6) and (7), Code 2017, are amended by striking
9 the subparagraphs.

10 Sec. 4. NEW SECTION. 216A.140A **Criminal sentencing**
11 **commission.**

12 1. a. A criminal sentencing commission is established
13 within the division. The commission shall consist of the
14 following nine voting members:

15 (1) The chief justice of the supreme court or the chief
16 justice's designee.

17 (2) One judge of the court of appeals appointed by the chief
18 judge of the court of appeals.

19 (3) One district judge appointed by the judicial council.

20 (4) One county attorney appointed by the governor upon
21 recommendation by the Iowa county attorneys association.

22 (5) One public defender appointed by the governor upon the
23 recommendation by the state public defender.

24 (6) One probation or parole officer appointed by the
25 governor.

26 (7) Three members of the public appointed by the governor,
27 one of whom shall be a victim of a crime classified as a felony.

28 b. The commission shall include two members of the general
29 assembly who shall serve as ex officio, nonvoting members. The
30 legislative members shall be appointed as follows:

31 (1) One member of the senate appointed by the majority
32 leader of the senate.

33 (2) One member of the house of representatives appointed by
34 the speaker of the house of representatives.

35 2. Notwithstanding section 7E.6, nonlegislative members

1 shall only receive reimbursement for actual expenses for
2 performance of their official duties as members of the
3 commission. Members of the general assembly shall not receive
4 a per diem but shall receive reimbursement for necessary travel
5 and actual expenses incurred in the performance of their
6 official duties.

7 3. *a.* The initial term of a member appointed by the
8 governor pursuant to subsection 1, paragraph "a", subparagraphs
9 (4), (5), and (6), shall be four years, and after the initial
10 term has been served, the appointment shall be for a term of
11 four years.

12 *b.* The initial term of a member appointed by the governor
13 pursuant to subsection 1, paragraph "a", subparagraph (7),
14 shall be two years, and after the initial term has been served,
15 the appointment shall be for a term of four years.

16 4. One nonlegislative member shall be designated by the
17 governor as the chairperson.

18 5. The commission may act or make recommendations only
19 upon a vote of a majority of the voting membership of the
20 commission.

21 6. *a.* The commission shall be charged with developing,
22 implementing, and administering felony sentencing guidelines
23 for use by the courts throughout the state.

24 *b.* The sentencing guidelines shall be discretionary but
25 shall provide a judge with a range of recommended sentencing
26 options.

27 7. The commission shall develop and conduct sentencing
28 guideline education seminars and prepare research related but
29 not limited to the following:

30 *a.* Risk assessments.

31 *b.* Recidivism.

32 *c.* Probation and parole violations.

33 8. The commission shall review the costs associated with
34 the implementation of new or amended criminal code provisions,
35 including costs to the judicial branch, department of

1 corrections, and judicial district departments of correctional
2 services, costs for representing indigent defendants, and costs
3 incurred by political subdivisions of the state.

4 9. The commission may call upon any department, agency, or
5 office of the state, or any political subdivision of the state,
6 for information or assistance as needed in the performance of
7 its duties. The information or assistance shall be furnished
8 to the extent that it is within the resources and authority
9 of the department, agency, office, or political subdivision.
10 This section does not require the production or opening of
11 any records which are required by law to be kept private or
12 confidential.

13 EXPLANATION

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

16 This bill establishes a criminal sentencing commission.
17 The membership of the criminal sentencing commission shall
18 consist of the following nine voting members: the chief
19 justice of the supreme court or the chief justice's designee;
20 one judge of the court of appeals appointed by the chief
21 judge of the court of appeals; one district judge appointed
22 by the judicial council; one county attorney appointed by the
23 governor upon recommendation by the Iowa county attorneys
24 association; one public defender appointed by the governor upon
25 recommendation by the state public defender; one probation or
26 parole officer appointed by the governor; and three members
27 of the public appointed by the governor, one of whom shall be
28 a victim of a crime classified as a felony. The commission
29 shall include two members of the general assembly who shall
30 serve as ex officio, nonvoting members, and who shall be
31 appointed as follows: one member of the senate appointed by
32 the majority leader of the senate, and one member of the house
33 of representatives appointed by the speaker of the house of
34 representatives. The bill provides that the initial term of
35 members appointed by the governor shall be staggered, and after

1 the initial term has been served, the appointment shall be for
2 a term of four years.

3 The bill provides that nonlegislative members shall only
4 receive reimbursement for actual expenses for performance
5 of their official duties as members of the commission.
6 Legislative members shall not receive a per diem under the
7 bill, but legislative members shall receive reimbursement
8 for necessary travel and actual expenses incurred in the
9 performance of their official duties.

10 The bill specifies that a nonlegislative member of
11 the commission shall be designated by the governor as the
12 chairperson.

13 The bill provides that the commission shall be charged with
14 developing, implementing, and administering felony sentencing
15 guidelines for use by the courts throughout the state. The
16 sentencing guidelines shall be discretionary but shall provide
17 a judge with a range of recommended sentencing options.

18 The bill requires the commission to develop and conduct
19 sentencing guideline education seminars and prepare research
20 related to but not limited to the following: risk assessments,
21 recidivism, and probate and parole violations.

22 The bill requires the commission to review the costs
23 associated with the implementation of new or amended criminal
24 code provisions, including costs to the judicial branch,
25 department of corrections, and judicial district departments
26 of correctional services, costs for representing indigent
27 defendants, and costs incurred by political subdivisions of the
28 state.

29 The bill transfers duties relating to the study of
30 recidivism and the review of costs associated with the
31 implementation of criminal code provisions from the public
32 safety advisory board established in Code section 216A.133 to
33 the commission.

34 The bill also permits the commission to call upon any
35 department, agency, or office of the state, or any political

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1 subdivision of the state for assistance in the performance of
2 any of the duties of the commission.