

House File 225 - Introduced

HOUSE FILE 225

BY OLSON

A BILL FOR

1 An Act eliminating a deferred sentence as a criminal sentencing
2 option.

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

1 Section 1. Section 124.401, subsection 1, paragraphs e and
2 f, Code 2017, are amended to read as follows:

3 e. A person in the immediate possession or control of a
4 firearm while participating in a violation of **this subsection**
5 shall be sentenced to two times the term otherwise imposed by
6 law, and ~~no such judgment, sentence, or part thereof shall be~~
7 deferred or shall not be deferred and the sentence shall not
8 be suspended.

9 f. A person in the immediate possession or control of
10 an offensive weapon, as defined in **section 724.1**, while
11 participating in a violation of **this subsection**, shall be
12 sentenced to three times the term otherwise imposed by law,
13 and ~~no such judgment, sentence, or part thereof shall be~~
14 deferred or shall not be deferred and the sentence shall not
15 be suspended.

16 Sec. 2. Section 216A.136, subsection 10, Code 2017, is
17 amended to read as follows:

18 10. Deferred judgment, ~~deferred or~~ suspended sentence, and
19 probation records maintained under **chapter 907**.

20 Sec. 3. Section 232.8, subsection 3, paragraph a, Code 2017,
21 is amended to read as follows:

22 a. The juvenile court, after a hearing and in accordance
23 with the provisions of **section 232.45**, may waive jurisdiction
24 of a child alleged to have committed a public offense so that
25 the child may be prosecuted as an adult or youthful offender
26 for such offense in another court. If the child pleads guilty
27 or is found guilty of a public offense other than a class
28 "A" felony in another court of this state, that court may
29 suspend the sentence or, with the consent of the child, defer
30 judgment ~~or sentence~~ and, without regard to restrictions placed
31 upon deferred judgments ~~or sentences~~ for adults, place the
32 child on probation for a period of not less than one year
33 upon such conditions as it may require. Upon fulfillment of
34 the conditions of probation, a child who receives a deferred
35 judgment shall be discharged without entry of judgment. A

1 child prosecuted as a youthful offender shall be sentenced
2 pursuant to [section 907.3A](#).

3 Sec. 4. Section 462A.14, subsection 3, paragraph a,
4 unnumbered paragraph 1, Code 2017, is amended to read as
5 follows:

6 Notwithstanding the provisions of [sections 901.5](#) and [907.3](#),
7 the court shall not defer judgment ~~or sentencing~~, or suspend
8 execution of any mandatory minimum sentence of incarceration
9 applicable to the defendant under [subsection 2](#), and shall not
10 suspend execution of any other part of a sentence not involving
11 incarceration imposed pursuant to [subsection 2](#), if any of the
12 following apply:

13 Sec. 5. Section 462A.14B, subsection 4, Code 2017, is
14 amended to read as follows:

15 4. The court shall not defer judgment ~~or sentencing~~, or
16 suspend execution of any order or fine applicable under this
17 section.

18 Sec. 6. Section 664A.7, subsection 3, Code 2017, is amended
19 to read as follows:

20 3. If convicted of or held in contempt for a violation of a
21 no-contact order or a modified no-contact order for a public
22 offense referred to in [section 664A.2, subsection 1](#), or held
23 in contempt of a no-contact order issued during a contempt
24 proceeding brought pursuant to [section 236.11](#), the person shall
25 be confined in the county jail for a minimum of seven days.
26 A jail sentence imposed pursuant to [this subsection](#) shall
27 be served on consecutive days. No portion of the mandatory
28 minimum term of confinement imposed by [this subsection](#) shall be
29 deferred or suspended. A deferred judgment, ~~deferred sentence~~,
30 or suspended sentence shall not be entered for a violation of
31 a no-contact order, modified no-contact order, or protective
32 order and the court shall not impose a fine in lieu of the
33 minimum sentence, although a fine may be imposed in addition
34 to the minimum sentence.

35 Sec. 7. Section 692A.111, subsection 1, Code 2017, is

1 amended to read as follows:

2 1. A sex offender who violates any requirements of section
3 692A.104, 692A.105, 692A.108, 692A.112, 692A.113, 692A.114, or
4 692A.115 commits an aggravated misdemeanor for a first offense
5 and a class "D" felony for a second or subsequent offense.
6 However, a sex offender convicted of an aggravated offense
7 against a minor, a sex offense against a minor, or a sexually
8 violent offense committed while in violation of any of the
9 requirements specified in section 692A.104, 692A.105, 692A.108,
10 692A.112, 692A.113, 692A.114, or 692A.115 is guilty of a class
11 "C" felony, in addition to any other penalty provided by law.
12 Any fine imposed for a second or subsequent violation shall
13 not be suspended. Notwithstanding section 907.3, the court
14 shall not defer judgment ~~or sentence~~ for any violation of any
15 requirements specified in this chapter. For purposes of this
16 subsection, a violation occurs when a sex offender knows or
17 reasonably should know of the duty to fulfill a requirement
18 specified in this chapter as referenced in the offense charged.

19 Sec. 8. Section 707.6A, subsection 7, Code 2017, is amended
20 to read as follows:

21 7. Notwithstanding the provisions of sections 901.5 and
22 907.3, the court shall not defer judgment ~~or sentencing~~, or
23 suspend execution of any part of the sentence applicable to the
24 defendant for a violation of subsection 1, or for a violation
25 of subsection 4 involving the operation of a motor vehicle
26 while intoxicated.

27 Sec. 9. Section 708.2A, subsections 7 and 10, Code 2017, are
28 amended to read as follows:

29 7. a. A person convicted of violating subsection 2 or 3
30 shall serve a minimum term of two days of the sentence imposed
31 by law, and shall not be eligible for suspension of the minimum
32 sentence. The minimum term shall be served on consecutive
33 days. The court shall not impose a fine in lieu of the minimum
34 sentence, although a fine may be imposed in addition to the
35 minimum sentence. This section does not prohibit the court

1 from sentencing and the person from serving the maximum term of
2 confinement or from paying the maximum fine permitted pursuant
3 to [chapters 902 and 903](#), and does not prohibit the court from
4 entering a deferred judgment ~~or sentence~~ pursuant to section
5 907.3, if the person has not previously received a deferred
6 sentence or judgment for a violation of [section 708.2](#) or this
7 section which was issued on a domestic abuse assault.

8 *b.* A person convicted of violating [subsection 4](#) shall
9 be sentenced as provided under [section 902.9, subsection 1](#),
10 paragraph "e", and shall be denied parole or work release until
11 the person has served a minimum of one year of the person's
12 sentence. Notwithstanding section 901.5, subsections 1, 3, and
13 5, and [section 907.3](#), the person cannot receive a suspended ~~or~~
14 ~~deferred~~ sentence or a deferred judgment; however, the person
15 sentenced shall receive credit for any time the person was
16 confined in a jail or detention facility following arrest.

17 10. In addition to the mandatory minimum term of confinement
18 imposed by [subsection 7](#), paragraph "a", the court shall order
19 a person convicted under [subsection 2 or 3](#) to participate
20 in a batterers' treatment program as required under section
21 708.2B. In addition, as a condition of deferring judgment ~~or~~
22 ~~sentence~~ pursuant to [section 907.3](#), the court shall order the
23 person to participate in a batterers' treatment program. The
24 clerk of the district court shall send a copy of the judgment
25 or deferred judgment to the judicial district department of
26 correctional services.

27 Sec. 10. Section 901.3, subsection 1, paragraph g, Code
28 2017, is amended to read as follows:

29 *g.* Any mitigating circumstances relating to the offense and
30 the defendant's potential as a candidate for deferred judgment,
31 ~~deferred sentencing~~, a suspended sentence, or probation, if the
32 defendant is charged with or convicted of assisting suicide
33 pursuant to [section 707A.2](#).

34 Sec. 11. Section 901.5, subsections 1, 5, and 14, Code 2017,
35 are amended to read as follows:

1 1. If authorized by [section 907.3](#), the court may defer
2 judgment ~~and sentence~~ for an indefinite period in accordance
3 with [chapter 907](#).

4 ~~5. If authorized by [section 907.3](#), the court may defer the~~
5 ~~sentence and assign the defendant to the judicial district~~
6 ~~department of correctional services.~~

7 14. Notwithstanding any provision in [section 907.3](#) or
8 any other provision of law prescribing a mandatory minimum
9 sentence for the offense, if the defendant, other than a
10 child being prosecuted as a youthful offender, is guilty of a
11 public offense other than a class "A" felony, and was under
12 the age of eighteen at the time the offense was committed, the
13 court may suspend the sentence in whole or in part, including
14 any mandatory minimum sentence, or with the consent of the
15 defendant, defer judgment ~~or sentence~~, and place the defendant
16 on probation upon such conditions as the court may require.

17 Sec. 12. Section 901A.2, subsection 7, Code 2017, is amended
18 to read as follows:

19 7. A person sentenced under the provisions of [this section](#)
20 shall not be eligible for deferred judgment, ~~deferred sentence~~,
21 or suspended sentence.

22 Sec. 13. Section 902.1, subsection 1, Code 2017, is amended
23 to read as follows:

24 1. Upon a plea of guilty, a verdict of guilty, or a special
25 verdict upon which a judgment of conviction of a class "A"
26 felony may be rendered, the court shall enter a judgment of
27 conviction and shall commit the defendant into the custody of
28 the director of the Iowa department of corrections for the rest
29 of the defendant's life. Nothing in the Iowa corrections code
30 pertaining to deferred judgment, ~~deferred sentence~~, suspended
31 sentence, or reconsideration of sentence applies to a class "A"
32 felony, and a person convicted of a class "A" felony shall not
33 be released on parole unless the governor commutes the sentence
34 to a term of years.

35 Sec. 14. Section 907.1, subsection 2, Code 2017, is amended

1 by striking the subsection.

2 Sec. 15. Section 907.3, subsection 2, Code 2017, is amended
3 by striking the subsection and inserting in lieu thereof the
4 following:

5 2. On or after July 1, 2017, a deferred sentence shall no
6 longer be ordered by the court except as otherwise provided in
7 section 907.3A.

8 Sec. 16. Section 907.5, subsection 1, unnumbered paragraph
9 1, Code 2017, is amended to read as follows:

10 Before deferring judgment, ~~deferring sentence,~~ or suspending
11 sentence, the court first shall determine which option,
12 if available, will provide maximum opportunity for the
13 rehabilitation of the defendant and protection of the community
14 from further offenses by the defendant and others. In making
15 this determination, the court shall consider all of the
16 following:

17 Sec. 17. Section 907.5, subsection 2, Code 2017, is amended
18 to read as follows:

19 2. The court shall file a specific written statement of
20 its reasons for and the facts supporting its decision to defer
21 judgment, ~~to defer sentence,~~ or to suspend sentence, and its
22 decision on the length of probation.

23 EXPLANATION

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

26 This bill eliminates a deferred sentence as a criminal
27 sentencing option as of July 1, 2017.

28 Current law defines a deferred sentencing option to mean
29 when a court enters an adjudication (conviction) of guilt but
30 does not impose a sentence. Furthermore, under a deferred
31 sentencing option the court retains the power to sentence the
32 defendant to any sentence it originally could have imposed
33 subject to the defendant's compliance with conditions set by
34 the court as a requirement of the deferred sentence.

35 The bill does not strike every instance of the word "deferred

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1 sentence" from the Code due to the use of a defendant's
2 previous "deferred sentence" to enhance possible future
3 criminal penalties.

4 The bill does permit a youthful offender to receive a
5 deferred sentence under Code section 907.3A.