

House File 579 - Introduced

HOUSE FILE 579
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 377)

A BILL FOR

1 An Act relating to criminal sentencing by modifying criminal
2 penalties for cocaine base and attempted murder, making
3 inapplicable certain provisions relating to mandatory
4 sentences, mandatory minimum sentences, limitations on
5 parole and work release, and limitations on earned time, and
6 modifying the reconsideration of certain felons' sentences.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 1, paragraph a,
2 subparagraph (3), Code 2017, is amended to read as follows:

3 (3) More than ~~fifty~~ one 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 2017, is amended to read as follows:

8 (3) More than ~~ten~~ twenty grams but not more than ~~fifty~~
9 one 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 2017, is amended to read as follows:

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

15 Sec. 4. Section 124.413, subsection 1, Code 2017, is amended
16 to read as follows:

17 1. Except as provided in subsection 3 and sections 901.11
18 and 901.12, a person sentenced pursuant to section 124.401,
19 subsection 1, paragraph "a", "b", "~~e~~", "e", or "f", shall not
20 be eligible for parole or work release until the person has
21 served a minimum ~~period~~ term of confinement of one-third of the
22 maximum indeterminate sentence prescribed by law.

23 Sec. 5. Section 124.413, subsection 3, Code 2017, is amended
24 to read as follows:

25 3. A person serving a sentence pursuant to section 124.401,
26 subsection 1, paragraph "b" ~~or "e"~~, shall be denied parole
27 or work release, based upon all the pertinent information as
28 determined by the court under section 901.11, subsection 1,
29 until the person has served between one-half of the minimum
30 term of confinement prescribed in subsection 1 and the maximum
31 indeterminate sentence prescribed by law.

32 Sec. 6. Section 707.11, Code 2017, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 5. a. As used in this subsection, "peace
35 officer" means the same as defined in section 801.4.

1 **b.** For purposes of determining the category of sentence
2 under section 903A.2, the fact finder shall determine whether
3 the attempt to commit murder was against a peace officer, with
4 the knowledge that the person against whom the attempt to
5 commit murder was committed was a peace officer acting in the
6 officer's official capacity.

7 **c.** If the fact finder determines the attempt to commit
8 murder was against a peace officer as described in paragraph
9 "b", the person shall serve one hundred percent of the term of
10 confinement imposed and shall be denied parole, work release,
11 or other early release.

12 **Sec. 7. NEW SECTION. 901.5C Standard sentence.**

13 1. **a.** As used in this section, "*standard sentence*" means
14 a sentencing option whereby the court at sentencing allows a
15 person to be sentenced within the parameters of the misdemeanor
16 or felony offense classification and makes inapplicable other
17 provisions, or any combination of such provisions, that would
18 otherwise have the effect of mandating a term of confinement,
19 lengthening the term of confinement, limiting the accumulation
20 of earned time pursuant to section 903A.2, subsection 1,
21 paragraph "b", limiting eligibility for parole or work release,
22 or imposing an additional sentence commencing upon completion
23 of the underlying sentence pursuant to chapter 903B.

24 **b.** (1) If a person is sentenced to a term of confinement
25 under a standard sentence classified as a felony, the term of
26 the person's sentence shall be as provided in section 902.9
27 applicable to the classification of the offense.

28 (2) If a person is sentenced to a term of confinement under
29 a standard sentence classified as a misdemeanor, the term of
30 the person's sentence shall be as provided in section 903.1,
31 with the place of confinement as provided in section 903.4.

32 2. The court may impose a standard sentence if the court
33 finds all of the following:

34 **a.** A compelling reason that imposing a sentence other than
35 a standard sentence would result in a substantial injustice to

1 the defendant.

2 *b.* A sentence other than a standard sentence is not
3 necessary for the protection of the public.

4 3. A standard sentence shall not be imposed for the
5 following offenses:

6 *a.* Operating while intoxicated in violation of section
7 321J.2.

8 *b.* Any class "A" felony offense, except a class "A" felony
9 offense in violation of section 124.401D.

10 *c.* Murder in the second degree in violation of section
11 707.3.

12 *d.* Domestic abuse assault in violation of section 708.2A.

13 *e.* Assault in violation of individual rights in violation of
14 section 708.2C, subsection 2, 3, or 4.

15 *f.* Assault while participating in a felony, in violation of
16 section 708.3, subsection 1.

17 *g.* Assaults on persons engaged in certain occupations in
18 violation of section 708.3A.

19 *h.* Inmate assaults in violation of section 708.3B.

20 *i.* Willful injury in violation of section 708.4.

21 *j.* Administering harmful substances in violation of section
22 708.5.

23 *k.* Intimidation with a dangerous weapon in violation of
24 section 708.6.

25 *l.* Harassment in violation of section 708.7, subsection 2.

26 *m.* Going armed with intent in violation of section 708.8.

27 *n.* Hazing in violation of section 708.10, subsection 3.

28 *o.* Stalking in violation of section 708.11, subsection 3,
29 paragraph "a" or "b".

30 *p.* Removal of an officer's communication or control device
31 in violation of section 708.12.

32 *q.* Disarming a peace officer of a dangerous weapon in
33 violation of section 708.13.

34 *r.* A violation of chapter 708A.

35 *s.* A violation of section 708B.1.

- 1 *t.* A violation of chapter 709, except a violation of
2 section 709.4, subsection 1, paragraph "b", subparagraph (3),
3 subparagraph division (d).
- 4 *u.* Kidnapping in the second degree in violation of section
5 710.3.
- 6 *v.* Child stealing in violation of section 710.5.
- 7 *w.* Enticing a minor in violation of section 710.10,
8 subsection 1, 2, or 3.
- 9 *x.* Purchase or sale of individual in violation of section
10 710.11.
- 11 *y.* A violation of chapter 710A.
- 12 *z.* Robbery in the first degree in violation of section
13 711.2.
- 14 *aa.* Extortion in violation of section 711.4, subsection 1,
15 paragraph "a".
- 16 *ab.* Arson in the first degree in violation of section 712.2.
- 17 *ac.* Threats in violation of section 712.8.
- 18 *ad.* Burglary in the first degree in violation of section
19 713.3.
- 20 *ae.* Attempted burglary in the first degree in violation of
21 section 713.4.
- 22 *af.* Prostitution in violation of section 725.1, subsection
23 2, paragraph "b".
- 24 *ag.* Pimping in violation of section 725.2, subsection 2.
- 25 *ah.* Pandering in violation of section 725.3, subsection 2.
- 26 *ai.* Incest in violation of section 726.2.
- 27 *aj.* Child endangerment in violation of section 726.6,
28 subsection 4, 5, or 6.
- 29 *ak.* Multiple acts of child endangerment in violation of
30 section 726.6A.
- 31 *al.* Wanton neglect of a resident of a health care facility
32 in violation of section 726.7.
- 33 *am.* Wanton neglect or nonsupport of a dependent adult in
34 violation of section 726.8.
- 35 *an.* A violation of section 728.12.

1 *ao.* Violation of individual rights in violation of section
2 729A.2.

3 4. If a person commits an offense that requires the person
4 to register as a sex offender under chapter 692A, a standard
5 sentence shall not change the requirement to register or change
6 the duration of registration. However, if the person is no
7 longer required to serve a special sentence under chapter 903B
8 due to the imposition of a standard sentence, the duration of
9 registration shall not be less than the period specified in
10 section 692A.106, subsection 1.

11 Sec. 8. Section 901.11, subsection 1, Code 2017, is amended
12 to read as follows:

13 1. At the time of sentencing, the court shall determine
14 when a person convicted under [section 124.401, subsection 1](#),
15 paragraph "b" or "~~e~~", shall first become eligible for parole
16 or work release within the parameters described in section
17 124.413, subsection 3, based upon all the pertinent information
18 including the person's criminal record, a validated risk
19 assessment, and the negative impact the offense has had on the
20 victim or other persons.

21 Sec. 9. Section 901.12, subsection 1, Code 2017, is amended
22 to read as follows:

23 1. Effective July 1, 2016, and notwithstanding section
24 124.413, a person whose sentence commenced prior to July 1,
25 2016, for a conviction under [section 124.401, subsection 1](#),
26 paragraph "b" or "~~e~~", who has not previously been convicted of
27 a forcible felony, and who does not have a prior conviction
28 under [section 124.401, subsection 1](#), paragraph "a", "b", or "c",
29 shall first be eligible for parole or work release after the
30 person has served one-half of the minimum term of confinement
31 prescribed in [section 124.413](#).

32 Sec. 10. Section 901.12, Code 2017, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 1A. Effective July 1, 2017, a person whose
35 sentence commenced prior to July 1, 2017, for a conviction

1 under section 124.401, subsection 1, paragraph "c", shall not be
2 required to serve a minimum term of confinement as prescribed
3 in section 124.413.

4 Sec. 11. Section 902.4, Code 2017, is amended to read as
5 follows:

6 **902.4 Reconsideration of felon's sentence.**

7 For a period of one year from the date when a person
8 convicted of a felony, other than a class "A" or class "B"
9 ~~felony or a felony for which a minimum sentence of confinement~~
10 ~~is imposed~~, begins to serve a sentence of confinement, the
11 court, on its own motion or on the recommendation of the
12 director of the Iowa department of corrections, may order the
13 person to be returned to the court, at which time the court may
14 review its previous action and reaffirm it or substitute for it
15 any sentence permitted by law. Copies of the order to return
16 the person to the court shall be provided to the attorney
17 for the state, the defendant's attorney, and the defendant.
18 Upon a request of the attorney for the state, the defendant's
19 attorney, or the defendant if the defendant has no attorney,
20 the court may, but is not required to, conduct a hearing on
21 the issue of reconsideration of sentence. The court shall
22 not disclose its decision to reconsider or not to reconsider
23 the sentence of confinement until the date reconsideration is
24 ordered or the date the one-year period expires, whichever
25 occurs first. The district court retains jurisdiction for the
26 limited purposes of conducting such review and entering an
27 appropriate order notwithstanding the timely filing of a notice
28 of appeal. The court's final order in the proceeding shall be
29 delivered to the defendant personally or by regular mail. The
30 court's decision to take the action or not to take the action
31 is not subject to appeal. However, for the purposes of appeal,
32 a judgment of conviction of a felony is a final judgment when
33 pronounced.

34 Sec. 12. Section 902.12, subsection 1, paragraph b, Code
35 2017, is amended to read as follows:

1 *b.* Attempted murder in violation of section 707.11, except
2 as provided in section 707.11, subsection 5.

3 Sec. 13. Section 903A.2, subsection 1, unnumbered paragraph
4 1, Code 2017, is amended to read as follows:

5 Each inmate committed to the custody of the director of the
6 department of corrections is eligible to earn a reduction of
7 sentence in the manner provided in this section. For purposes
8 of calculating the amount of time by which an inmate's sentence
9 may be reduced, inmates shall be grouped into the following ~~two~~
10 three sentencing categories:

11 Sec. 14. Section 903A.2, subsection 1, paragraph a,
12 subparagraph (1), unnumbered paragraph 1, Code 2017, is amended
13 to read as follows:

14 Category "A" sentences are those sentences which are not
15 subject to a maximum accumulation of earned time of fifteen
16 percent of the total sentence of confinement under section
17 902.12 and are not category "C" sentences. To the extent
18 provided in subsection 5, category "A" sentences also include
19 life sentences imposed under section 902.1. An inmate of an
20 institution under the control of the department of corrections
21 who is serving a category "A" sentence is eligible for a
22 reduction of sentence equal to one and two-tenths days for each
23 day the inmate demonstrates good conduct and satisfactorily
24 participates in any program or placement status identified by
25 the director to earn the reduction. The programs include but
26 are not limited to the following:

27 Sec. 15. Section 903A.2, subsection 1, paragraph b, Code
28 2017, is amended to read as follows:

29 *b.* Category "B" sentences are those sentences which are
30 subject to a maximum accumulation of earned time of fifteen
31 percent of the total sentence of confinement under section
32 902.12 and are not category "C" sentences. An inmate of an
33 institution under the control of the department of corrections
34 who is serving a category "B" sentence is eligible for a
35 reduction of sentence equal to fifteen eighty-fifths of a day

1 for each day of good conduct by the inmate.

2 Sec. 16. Section 903A.2, subsection 1, Code 2017, is amended
3 by adding the following new paragraph:

4 NEW PARAGRAPH. *c.* Category "C" sentences are those
5 sentences for attempted murder described in section 707.11,
6 subsection 5. Notwithstanding paragraphs "a" or "b", an inmate
7 serving a category "C" sentence is ineligible for a reduction
8 of sentence under this section.

9 Sec. 17. Section 903A.7, Code 2017, is amended to read as
10 follows:

11 **903A.7 Separate sentences.**

12 1. Consecutive multiple sentences that are within the
13 same category under [section 903A.2](#) shall be construed as one
14 continuous sentence for purposes of calculating reductions of
15 sentence for earned time.

16 2. If a person is sentenced to serve both category "A"
17 and category "B" sentences of both categories, category
18 "B" sentences shall be served before category "A" sentences
19 are served, and earned time accrued against the category
20 "B" sentences shall not be used to reduce the category "A"
21 sentences. If an inmate serving a category "A" sentence is
22 sentenced to serve a category "B" sentence, the category "A"
23 sentence shall be interrupted, and no further earned time shall
24 accrue against that sentence until the category "B" sentence
25 is completed.

26 3. If a person is sentenced to serve both a category "C"
27 sentence and another category sentence, the category "C"
28 sentence shall be served before the other category sentence
29 is served, and no earned time shall accrue until the category
30 "C" sentence has been served. If an inmate serving a category
31 sentence other than a category "C" sentence is sentenced to
32 serve a category "C" sentence, the sentence of the other
33 category sentence shall be interrupted, and no further earned
34 time shall accrue against that sentence until the category "C"
35 sentence is completed.

1

EXPLANATION

2

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

3

4 This bill relates to criminal sentencing by modifying
5 criminal penalties for cocaine base and attempted murder,
6 making inapplicable certain provisions relating to mandatory
7 sentences, mandatory minimum sentences, limitations on parole
8 and work release, and limitations on earned time.

9 COCAINE BASE. The bill increases the amounts of controlled
10 substances containing cocaine base (crack cocaine) that
11 determine the criminal penalty for certain offenses. Under
12 the bill, if a person unlawfully manufactures, delivers,
13 or possesses with the intent to manufacture or deliver a
14 controlled substance containing cocaine base, or unlawfully
15 acts with, enters into a common scheme or design with, or
16 conspires with one or more persons to manufacture, deliver,
17 or possess with the intent to manufacture or deliver such
18 a controlled substance, the person commits the following
19 offenses: a class "B" felony punishable by confinement of no
20 more than 50 years and a fine of not more than \$1 million if the
21 controlled substance containing cocaine base is more than 100
22 grams rather than the current more than 50 grams; a class "B"
23 felony punishable by confinement of no more than 25 years and a
24 fine of not less than \$5,000 but not more than \$100,000 if the
25 controlled substance is more than 20 grams but not more than
26 100 grams rather than the current more than 10 but not more
27 than 50 grams; or a class "C" felony punishable by a fine of not
28 less than \$1,000 but not more than \$50,000 if the controlled
29 substance containing cocaine base is 20 grams or less rather
30 than the current 10 grams or less.

31 CERTAIN DRUG OFFENSE SENTENCES. Under current law,
32 a person serving a sentence for a conviction under Code
33 section 124.401(1)(c) (class "C" felony, small quantity,
34 drug manufacturing, delivery, or possession with intent to
35 manufacture or deliver), shall not be required to serve a

1 minimum term of confinement as prescribed by Code sections
2 124.413 and 902.12, if the person has not previously been
3 convicted of a forcible felony and does not have a prior
4 conviction under Code section 124.401, subsection 1, paragraph
5 "a", "b", or "c". The bill strikes the requirement that a
6 person serving a sentence under Code section 124.401(1)(c)
7 serve the minimum term of confinement as prescribed by Code
8 sections 124.413 and 902.12, even if the person has a prior
9 forcible felony conviction or a prior conviction under section
10 124.401, subsection 1, paragraph "a", "b", or "c".

11 ATTEMPT TO COMMIT MURDER — PEACE OFFICER. The bill defines
12 "peace officer" to mean the same as defined in section 801.4.

13 Under the bill, a person who attempts to commit murder
14 against a peace officer in violation of Code section 707.11,
15 with the knowledge that the person against whom the attempt to
16 commit murder is committed is a peace officer, and while the
17 officer is acting within the officer's official capacity, shall
18 serve 100 percent of the term of confinement imposed and shall
19 be denied parole, work release, or other early release.

20 A person who commits attempt to commit murder commits a class
21 "B" felony. A class "B" felony is punishable by confinement
22 for no more than 25 years. Currently, except for the attempt
23 to commit murder against a peace officer in the bill, a person
24 who commits attempt to commit murder shall serve 70 percent of
25 the sentence under Code section 902.12.

26 After a person is sent to a correctional institution for
27 an attempt to commit murder against a peace officer, the
28 bill creates a new category "C" sentence which prohibits
29 such a person from accumulating earned time that reduces the
30 sentence of the person. If a person is sentenced to serve
31 both a category "C" sentence and another category sentence,
32 the category "C" sentence shall be served before the other
33 category sentence is served, and no earned time shall accrue
34 until the category "C" sentence has been served. The bill also
35 provides that if an inmate serving a category sentence other

1 than a category "C" sentence is sentenced to serve a category
2 "C" sentence, the sentence of the other category sentence shall
3 be interrupted, and no further earned time shall accrue against
4 that sentence until the category "C" sentence is completed.

5 STANDARD SENTENCE. As used in the bill, "standard sentence"
6 means a sentencing option whereby the court at sentencing
7 allows a person to be sentenced within the parameters
8 of the misdemeanor or felony offense classification and
9 makes inapplicable other provisions, or any combination
10 of such provisions, that would otherwise have the effect
11 of mandating a term of confinement, lengthening the term
12 of confinement, limiting the accumulation of earned time
13 pursuant to Code section 903A.2, subsection 1, paragraph "b",
14 limiting eligibility for parole or work release, or imposing
15 an additional sentence commencing upon completion of the
16 underlying sentence pursuant to Code chapter 903B.

17 The court may impose a standard sentence pursuant to the
18 bill if the court finds all of the following: a compelling
19 reason that imposing a sentence other than a standard sentence
20 would result in a substantial injustice to the defendant, and a
21 sentence other than a standard sentence is not necessary for
22 the protection of the public.

23 If a person is sentenced to a term of confinement under
24 a standard sentence classified as a felony, the person shall
25 be sentenced as provided in Code section 902.9 applicable for
26 that felony classification, and if the person is sentenced to a
27 term of confinement under a standard sentence classified as a
28 misdemeanor, the person shall be sentenced as provided in Code
29 section 903.1, and confined as provided in Code section 903.4.

30 The bill lists numerous criminal offenses that are not
31 eligible for the imposition of a standard sentence.

32 The bill provides that if a person commits an offense that
33 requires the person to register as a sex offender, a standard
34 sentence shall not change the requirement to register or change
35 the duration of registration. However, if the person is no

1 longer required to serve a special sentence under Code chapter
2 903B due to the imposition of a standard sentence, the duration
3 of registration shall not be less than the period specified in
4 Code section 692A.106(1) which is 10 years.

5 RECONSIDERATION OF FELON'S SENTENCE. The bill provides that
6 from the date a person is convicted of a felony other than a
7 class "A" felony or class "B" felony, and the person begins to
8 serve a sentence of confinement, the court on its own motion
9 or on the recommendation of the director of the department
10 of corrections, may order the person returned to the court,
11 and resentence the person to any sentence permitted by law.
12 Under current law, the reconsideration of a sentence option
13 is not available to a person convicted of a class "A" felony
14 or to a person serving a felony for which a minimum sentence
15 of confinement is imposed. Thus, the bill makes a person
16 serving a class "B" felony ineligible for a reconsideration
17 of a sentence but makes a person serving a felony for which
18 a minimum sentence of confinement is imposed, eligible for
19 reconsideration of the sentence.