

**Senate Study Bill 1173 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

**A BILL FOR**

1 An Act relating to criminal sentencing by modifying criminal  
2 penalties for cocaine base, making inapplicable certain  
3 provisions relating to mandatory sentences, mandatory  
4 minimum sentences, limitations on parole and work release,  
5 and limitations on earned time.

6 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 two hundred fifty 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~~ fifty grams but not more than two hundred  
9 fifty grams of a mixture or substance described in subparagraph  
10 (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~~ Fifty grams or less of a mixture or substance  
14 described in subparagraph (2) which contains cocaine base.

15 Sec. 4. Section 124.413, subsection 3, Code 2017, is amended  
16 to read as follows:

17 3. A person serving a sentence pursuant to section 124.401,  
18 subsection 1, paragraph "b" or "c", shall be denied parole  
19 or work release, based upon all the pertinent information as  
20 determined by the court under [section 901.11, subsection 1](#),  
21 until the person has served between one-half of the minimum  
22 term of confinement prescribed in [subsection 1](#) and the maximum  
23 indeterminate sentence prescribed by law, except that a person  
24 serving a sentence pursuant to section 124.401, subsection  
25 1, paragraph "c", who does not have a prior forcible felony  
26 conviction shall not be required to serve a minimum term of  
27 confinement as prescribed by this section.

28 Sec. 5. NEW SECTION. 901.5C Standard sentence.

29 1. a. As used in this section, "standard sentence" means  
30 a sentencing option whereby the court at sentencing allows a  
31 person to be sentenced within the parameters of the misdemeanor  
32 or felony offense classification and makes inapplicable other  
33 provisions, or any combination of such provisions, that would  
34 otherwise have the effect of mandating a term of confinement,  
35 lengthening the term of confinement, limiting the accumulation

1 of earned time pursuant to section 903A.2, subsection 1,  
2 paragraph "b", limiting eligibility for parole or work release,  
3 or imposing an additional sentence commencing upon completion  
4 of the underlying sentence pursuant to chapter 903B.

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

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

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

15     *a.* A compelling reason that imposing a sentence other than  
16 a standard sentence would result in a substantial injustice to  
17 the defendant.

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

20     3. A standard sentence shall not be imposed for the  
21 following offenses:

22     *a.* Operating while intoxicated in violation of section  
23 321J.2.

24     *b.* Any class "A" felony offense.

25     *c.* Murder in the second degree in violation of section  
26 707.3.

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

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

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

32     *g.* Assaults on persons engaged in certain occupations in  
33 violation of section 708.3A.

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

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

- 1     *j.* Administering harmful substances in violation of section  
2 708.5.
- 3     *k.* Intimidation with a dangerous weapon in violation of  
4 section 708.6.
- 5     *l.* Harassment in violation of section 708.7, subsection 2.
- 6     *m.* Going armed with intent in violation of section 708.8.
- 7     *n.* Hazing in violation of section 708.10, subsection 3.
- 8     *o.* Stalking in violation of section 708.11, subsection 3,  
9 paragraph "a" or "b".
- 10    *p.* Removal of an officer's communication or control device  
11 in violation of section 708.12.
- 12    *q.* Disarming a peace officer of a dangerous weapon in  
13 violation of section 708.13.
- 14    *r.* A violation of chapter 708A.
- 15    *s.* A violation of section 708B.1.
- 16    *t.* A violation of chapter 709, except a violation of  
17 section 709.4, subsection 1, paragraph "b", subparagraph (3),  
18 subparagraph division (d).
- 19    *u.* Kidnapping in the second degree in violation of section  
20 710.3.
- 21    *v.* Child stealing in violation of section 710.5.
- 22    *w.* Enticing a minor in violation of section 710.10,  
23 subsection 1, 2, or 3.
- 24    *x.* Purchase or sale of individual in violation of section  
25 710.11.
- 26    *y.* A violation of chapter 710A.
- 27    *z.* Robbery in the first degree in violation of section  
28 711.2.
- 29    *aa.* Extortion in violation of section 711.4, subsection 1,  
30 paragraph "a".
- 31    *ab.* Arson in the first degree in violation of section 712.2.
- 32    *ac.* Threats in violation of section 712.8.
- 33    *ad.* Burglary in the first degree in violation of section  
34 713.3.
- 35    *ae.* Attempted burglary in the first degree in violation of

1 section 713.4.

2 *af.* Prostitution in violation of section 725.1, subsection  
3 2, paragraph "b".

4 *ag.* Pimping in violation of section 725.2, subsection 2.

5 *ah.* Pandering in violation of section 725.3, subsection 2.

6 *ai.* Incest in violation of section 726.2.

7 *aj.* Child endangerment in violation of section 726.6,  
8 subsection 4, 5, or 6.

9 *ak.* Multiple acts of child endangerment in violation of  
10 section 726.6A.

11 *al.* Wanton neglect of a resident of a health care facility  
12 in violation of section 726.7.

13 *am.* Wanton neglect or nonsupport of a dependent adult in  
14 violation of section 726.8.

15 *an.* A violation of section 728.12.

16 *ao.* Violation of individual rights in violation of section  
17 729A.2.

18 4. If a person commits an offense that requires the person  
19 to register as a sex offender under chapter 692A, a standard  
20 sentence shall not change the requirement to register or change  
21 the duration of registration. However, if the person is no  
22 longer required to serve a special sentence under chapter 903B  
23 due to the imposition of a standard sentence, the duration of  
24 registration shall not be less than the period specified in  
25 section 692A.106, subsection 1.

26 Sec. 6. Section 901.11, Code 2017, is amended by adding the  
27 following new subsection:

28 NEW SUBSECTION. 4. At the time of sentencing, the court  
29 shall determine when a person convicted of robbery in the first  
30 degree as described in section 902.12, subsection 4, shall  
31 first become eligible for parole or work release within the  
32 parameters specified in section 902.12, subsection 4, based  
33 upon all pertinent information including the person's criminal  
34 record, a validated risk assessment, and the negative impact  
35 the offense has had on the victim or other persons.



1 COCAINE BASE. The bill increases the amounts of controlled  
2 substances containing cocaine base (crack cocaine) that  
3 determine the criminal penalty for certain offenses. Under  
4 the bill, if a person unlawfully manufactures, delivers,  
5 or possesses with the intent to manufacture or deliver a  
6 controlled substance containing cocaine base, or unlawfully  
7 acts with, enters into a common scheme or design with, or  
8 conspires with one or more persons to manufacture, deliver,  
9 or possess with the intent to manufacture or deliver such  
10 a controlled substance, the person commits the following  
11 offenses: a class "B" felony punishable by confinement of no  
12 more than 50 years and a fine of not more than \$1 million if the  
13 controlled substance containing cocaine base is more than 250  
14 grams rather than the current more than 50 grams; a class "B"  
15 felony punishable by confinement of no more than 25 years and a  
16 fine of not less than \$5,000 but not more than \$100,000 if the  
17 controlled substance is more than 50 grams but not more than  
18 250 grams rather than the current more than 10 but not more  
19 than 50 grams; or a class "C" felony punishable by a fine of not  
20 less than \$1,000 but not more than \$50,000 if the controlled  
21 substance containing cocaine base is 50 grams or less rather  
22 than the current 10 grams or less.

23 CERTAIN DRUG OFFENSE SENTENCES THAT COMMENCED PRIOR TO JULY  
24 1, 2017. Effective July 1, 2017, the bill provides that a  
25 person whose sentence commenced prior to July 1, 2017, for a  
26 conviction under Code section 124.401(1)(c) (class "C" felony  
27 small quantity, drug manufacturing, delivery, or possession  
28 with intent to manufacture or deliver offenses), who has not  
29 been previously convicted of a forcible felony, and who does  
30 not have a prior conviction under Code section 124.401(1)(a),  
31 (b), or (c), shall not be required to serve a minimum term of  
32 confinement as prescribed by Code section 124.413.

33 CERTAIN DRUG OFFENSE SENTENCES BEING SERVED ON OR AFTER JULY  
34 1, 2017. A person serving a sentence for a conviction under  
35 Code section 124.401(1)(c) (class "C" felony, small quantity,

1 drug manufacturing, delivery, or possession with intent to  
2 manufacture or deliver), shall not be required to serve a  
3 minimum term of confinement as prescribed by Code section  
4 124.413, if the person has not previously been convicted of a  
5 forcible felony.

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

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

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

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

33 The bill provides that if a person commits an offense that  
34 requires the person to register as a sex offender, a standard  
35 sentence shall not change the requirement to register or change



1 the duration of registration. However, if the person is no  
2 longer required to serve a special sentence under Code chapter  
3 903B due to the imposition of a standard sentence, the duration  
4 of registration shall not be less than the period specified in  
5 Code section 692A.106(1) which is 10 years.

6 ROBBERY IN THE FIRST DEGREE SENTENCES THAT COMMENCED PRIOR  
7 TO JULY 1, 2017. Effective July 1, 2017, the bill provides  
8 that a person whose sentence commenced prior to July 1, 2017,  
9 for a robbery in the first degree conviction under Code section  
10 711.2, who has not previously been convicted of a forcible  
11 felony, shall first be eligible for parole or work release  
12 after the person has served one-half of the minimum term of  
13 confinement prescribed in Code section 902.12.

14 ROBBERY IN THE FIRST DEGREE. The bill provides that an  
15 offender serving a sentence for a conviction for robbery in  
16 the first degree for a conviction that occurs on or after July  
17 1, 2017, shall serve between 50 and 70 percent of a 25-year  
18 class "B" felony sentence. In determining when the person  
19 first becomes eligible for parole or work release within the  
20 parameters of 50 and 70 percent of the 25-year sentence,  
21 the sentencing court shall base its determination upon all  
22 pertinent information including the person's criminal record, a  
23 validated risk assessment, and the negative impact the offense  
24 has had on the victim or other persons.