

House File 564 - Introduced

HOUSE FILE 564

BY SHIPLEY

A BILL FOR

1 An Act eliminating mandatory minimum sentences for drug
2 offenses.

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

1 Section 1. Section 124.401, subsection 5, unnumbered
2 paragraphs 5 and 6, Code 2019, are amended to read as follows:

3 If a person commits a violation of **this subsection**, the
4 court shall order the person to serve a term of imprisonment ~~of~~
5 ~~not less than forty-eight hours~~. Any sentence imposed may be
6 suspended, and the court shall place the person on probation
7 upon such terms and conditions as the court may impose. If
8 the person is not sentenced to confinement under the custody
9 of the director of the department of corrections, the terms
10 and conditions of probation shall require submission to random
11 drug testing. If the person fails a drug test, the court may
12 transfer the person's placement to any appropriate placement
13 permissible under the court order.

14 If the controlled substance is amphetamine, its salts,
15 isomers, or salts of its isomers, or methamphetamine, its
16 salts, isomers, or salts of its isomers, the court shall order
17 the person to serve a term of imprisonment ~~of not less than~~
18 ~~forty-eight hours~~. Any sentence imposed may be suspended,
19 and the court shall place the person on probation upon such
20 terms and conditions as the court may impose. The court may
21 place the person on intensive probation. However, the terms
22 and conditions of probation shall require submission to random
23 drug testing. If the person fails a drug test, the court may
24 transfer the person's placement to any appropriate placement
25 permissible under the court order.

26 Sec. 2. Section 124.401E, subsection 3, Code 2019, is
27 amended by striking the subsection.

28 Sec. 3. Section 124.406, subsection 1, paragraph a, Code
29 2019, is amended to read as follows:

30 a. Unlawfully distributes or possesses with intent to
31 distribute a substance listed in schedule I or II to a person
32 under eighteen years of age commits a class "B" felony and
33 ~~shall serve a minimum term of confinement of five years.~~
34 ~~However, if the substance was distributed in or on, or within~~
35 ~~one thousand feet of, the real property comprising a public or~~

1 ~~private elementary or secondary school, public park, public~~
2 ~~swimming pool, public recreation center, or on a marked school~~
3 ~~bus, the person shall serve a minimum term of confinement of~~
4 ~~ten years.~~

5 Sec. 4. Section 124.413, Code 2019, is amended by striking
6 the section.

7 Sec. 5. Section 232.45, subsection 14, paragraph a, Code
8 2019, is amended to read as follows:

9 a. If a child who is alleged to have delivered,
10 manufactured, or possessed with intent to deliver or
11 manufacture, a controlled substance except marijuana, as
12 defined in [chapter 124](#), is waived to district court for
13 prosecution, ~~the mandatory minimum sentence provided in section~~
14 ~~124.413 shall not be imposed if a conviction is had; however,~~
15 ~~each~~ a child convicted of such an offense shall be confined for
16 ~~not less than thirty days~~ in a secure facility.

17 Sec. 6. Section 901.10, subsection 2, Code 2019, is amended
18 to read as follows:

19 2. Notwithstanding [subsection 1](#), if the sentence under
20 section 124.413 involves an amphetamine or methamphetamine
21 offense under [section 124.401, subsection 1](#), paragraph "a" or
22 "b", the court shall not grant any reduction of sentence unless
23 the defendant pleads guilty. ~~If the defendant pleads guilty,~~
24 ~~the court may, at its discretion, reduce the mandatory minimum~~
25 ~~sentence by up to one-third.~~ If the defendant additionally
26 cooperates in the prosecution of other persons involved in the
27 sale or use of controlled substances, and if the prosecutor
28 requests an additional reduction in the defendant's sentence
29 because of such cooperation, the court may grant a further
30 reduction in the defendant's ~~mandatory minimum~~ sentence, up to
31 one-half of the remaining ~~mandatory minimum~~ sentence.

32 Sec. 7. Section 901.12, Code 2019, is amended by striking
33 the section.

34 Sec. 8. Section 903A.5, subsection 1, Code 2019, is amended
35 to read as follows:

1 1. An inmate shall not be discharged from the custody
2 of the director of the Iowa department of corrections until
3 the inmate has served the full term for which the inmate was
4 sentenced, less earned time and other credits earned and not
5 forfeited, unless the inmate is pardoned or otherwise legally
6 released. Earned time accrued and not forfeited shall apply
7 to reduce a ~~mandatory minimum~~ sentence being served pursuant
8 to [section 124.406](#), ~~[124.413](#)~~, [902.7](#), [902.8](#), [902.8A](#), or [902.11](#).
9 An inmate shall be deemed to be serving the sentence from the
10 day on which the inmate is received into the institution. If
11 an inmate was confined to a county jail, municipal holding
12 facility, or other correctional or mental facility at any time
13 prior to sentencing, or after sentencing but prior to the case
14 having been decided on appeal, because of failure to furnish
15 bail or because of being charged with a nonbailable offense,
16 the inmate shall be given credit for the days already served
17 upon the term of the sentence. However, if a person commits
18 any offense while confined in a county jail, municipal holding
19 facility, or other correctional or mental health facility,
20 the person shall not be granted credit for that offense.
21 Unless the inmate was confined in a correctional facility, the
22 sheriff of the county in which the inmate was confined or the
23 officer in charge of the municipal holding facility in which
24 the inmate was confined shall certify to the clerk of the
25 district court from which the inmate was sentenced and to the
26 department of corrections' records administrator at the Iowa
27 medical and classification center the number of days so served.
28 The department of corrections' records administrator, or the
29 administrator's designee, shall apply credit as ordered by the
30 court of proper jurisdiction or as authorized by [this section](#)
31 and [section 907.3, subsection 3](#).

32

EXPLANATION

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

35 This bill eliminates mandatory minimum sentences for drug

1 offenses.

2 The bill removes the mandatory 48-hour minimum sentence for
3 a person committing a violation of Code section 124.401(5) for
4 a person knowingly or intentionally possessing a controlled
5 substance unless such substance was obtained directly from, or
6 pursuant to, a valid prescription or order of a practitioner
7 while acting in the course of the practitioner's professional
8 practice, or except as otherwise authorized under Code chapter
9 124 (controlled substances).

10 The bill removes the mandatory 48-hour minimum sentence for
11 a violation of Code section 124.401(5) when the controlled
12 substance is amphetamine, its salts, isomers, or salts of its
13 isomers, or methamphetamine, its salts, isomers, or salts of
14 its isomers.

15 The bill strikes Code section 124.401E(3) requiring a
16 minimum term of confinement for a person's second or subsequent
17 conviction for delivery or possession with intent to deliver an
18 amphetamine, its salts, isomers, or salts of its isomers, or
19 methamphetamine, its salts, isomers, or salts of its isomers.

20 The bill removes the minimum term of confinement of five
21 years for a person over 18 years of age who unlawfully
22 distributes or possesses with intent to distribute a schedule
23 I or schedule II controlled substance to a person under 18
24 years of age. The bill strikes language requiring a mandatory
25 minimum term of confinement of 10 years if the substance
26 was distributed in or on, or within 1,000 feet of, the real
27 property comprising a public or private elementary or secondary
28 school, public park, public swimming pool, public recreation
29 center, or on a marked school bus.

30 The bill strikes Code section 124.413 (mandatory minimum
31 sentence — parole eligibility).

32 The bill strikes the requirement that a child who is
33 alleged to have delivered, manufactured, or possessed with
34 intent to deliver or manufacture, a controlled substance
35 except marijuana, as defined in Code chapter 124, is waived to

1 district court for prosecution, and is convicted of such an
2 offense, be confined in a secure facility for a minimum of 30
3 days.

4 The bill removes references to the reduction of a mandatory
5 minimum sentence for a defendant who either pleads guilty to
6 an amphetamine or methamphetamine offense or cooperates in the
7 prosecution of other persons involved in the sale or use of
8 controlled substances.

9 The bill strikes Code section 901.12 (minimum sentence —
10 parole or work release eligibility — certain drug offenses).

11 The bill removes the reference to mandatory minimum
12 sentences and provides that earned time accrued and not
13 forfeited shall apply to reduce a sentence being served
14 pursuant to Code section 124.406 (distribution to person under
15 age 18), 902.7 (minimum sentence — use of a dangerous weapon),
16 902.8 (minimum sentence — habitual offender), 902.8A (minimum
17 sentence for conspiring to manufacture, or delivery of,
18 amphetamine or methamphetamine to a minor), or 902.11 (minimum
19 sentence — eligibility of prior forcible felon for parole or
20 work release).