

Senate Study Bill 1105 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED AUDITOR OF STATE
BILL)

A BILL FOR

- 1 An Act relating to the penalty for public employees and public
- 2 officials taking money from a public employer.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 907.3, subsection 1, paragraph a, Code
2 2021, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (15) The defendant was a public employee
4 or public official at the time of the offense and the amount
5 taken by the defendant from the public employer exceeded ten
6 thousand dollars.

7 Sec. 2. Section 907.3, subsection 2, paragraph a, Code 2021,
8 is amended by adding the following new subparagraph:
9 NEW SUBPARAGRAPH. (9) The defendant was a public employee
10 or public official at the time of the offense and the amount
11 taken by the defendant from the public employer exceeded ten
12 thousand dollars.

13 Sec. 3. Section 907.3, subsection 3, Code 2021, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. *h.* The defendant was a public employee
16 or public official at the time of the offense and the amount
17 taken by the defendant from the public employer exceeded ten
18 thousand dollars unless the defendant establishes, by clear
19 and convincing evidence, and the sentencing court finds and
20 states specifically on the record, the existence of mitigating
21 circumstances warranting a departure from the otherwise
22 applicable mandatory term of incarceration.

23 Sec. 4. Section 907.3, Code 2021, is amended by adding the
24 following new subsection:

25 NEW SUBSECTION. 4. For the purposes of this section:

26 *a.* "Public employee" means any individual employed by a
27 public employer and includes a contractor or vendor.

28 *b.* "Public employer" means the state, its boards,
29 commissions, agencies, and departments, and its political
30 subdivisions including school districts and other special
31 purpose districts.

32 *c.* "Public official" means the same as defined in section
33 68B.2.

34

EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill prohibits a sentencing court from deferring
3 the judgment or deferring the sentence of a defendant if the
4 defendant was a public employee or public official at the time
5 of the offense and the amount of money taken by the public
6 employee or public official in connection with the offense
7 exceeded \$10,000.

8 The bill prohibits a sentencing court from suspending
9 the sentence of a defendant if the defendant was a public
10 employee or public official at the time of the offense and
11 the amount of money taken by the public employee or public
12 official in connection with the offense exceeded \$10,000 unless
13 the defendant establishes, by clear and convincing evidence,
14 and the sentencing court finds and states specifically on
15 the record, that mitigating circumstances exist warranting
16 a departure from the otherwise mandatory minimum term of
17 incarceration.

18 The bill defines "public employee" as any individual
19 employed by a public employer and includes a contractor
20 or vendor, "public employer" as the state, its boards,
21 commissions, agencies, and departments, and its political
22 subdivisions including school districts and other special
23 purpose districts, and "public official" as officials, local
24 officials, and members of the general assembly (as defined in
25 Code section 68B.2).