



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF CORRECTIONS
W.L. KAUTZKY, DIRECTOR

**Section 1. Chapter 902 is amended by adding the following new section:
902.9A Alternative Sentence – Class C and D Felons.**

If the offense is a class C or class D felony, is not a forcible felony, and the offender is not a habitual offender the court may impose an alternative sentence of incarceration. The alternative sentence shall suspend the balance of the maximum sentence set in chapter 902.9 and establish a condition of probation requiring the service of a lesser portion of the sentence in the custody of the director of the department of corrections. The alternative sentence shall be 6 to 12 months for a class C felon and 3 to 6 months for a class D felon. The provisions of chapter 903A shall not reduce an alternative sentence and the offender is not eligible for parole or work release. Upon discharge of an alternative sentence, an offender shall be supervised under the provisions of chapter 907.

If an offender sentenced under this section commits a new public offense, violates the terms and conditions of supervision imposed under chapter 907, or upon petition by the department of corrections for a violation of rules established under chapter 904, the court may reconsider the alternative sentence and re-sentence the offender under the provisions of section 902.9 or any other applicable chapter. An offender who is re-sentenced under this section shall receive credit for time served, earned time under the provisions of chapter 903A, and shall be eligible for parole or work release as if the original sentence had been imposed under chapter 902.9 or other applicable chapter.

**Section 2. Chapter 902 is amended by adding the following new section.
902.13 – Waiver of Mandatory Sentence.**

Notwithstanding any provision to the contrary, the court may waive any mandatory sentence, except those imposed under section 902.12, when in the opinion of the court it is warranted by the circumstances of the case. When the conviction is for a felony covered by section 902.12 the court may impose a sentence for a specific term of years that is less than the maximum allowed by law if mitigating circumstances exist and those circumstances are stated specifically in the record.

Section 3. Section 906.5, subsection 2, code 2001, is amended to read as follows:

2. It is the intent of the general assembly that the board shall implement a parole and work release plans of early release in such a manner as to balance an effort to assist in controlling the prison population with available bed space and assuring in order to assure adequate prison space for the confinement of the most serious offenders whose release would be detrimental to the safety of the citizens of this state. The board, in consultation with the department of corrections, shall develop rules to implement this section. The board shall report to the

legislative fiscal bureau on a ~~monthly~~ quarterly basis concerning the implementation of this plan section, and the number of inmates ~~paroled~~ released pursuant to this plan section, and the average length of stay of those ~~paroled~~ released.

Section 4. Section 907.1, subsection 3, Code 2001, is amended to read as follows:

3. "Suspended sentence" means a sentencing option whereby the court pronounces judgment and imposes a sentence and then suspends execution of the sentence, or any portion of the sentence, subject to the defendant's compliance with conditions set by the court as a requirement of the suspended sentence. Revocation of the suspended sentence results in the execution of sentence already pronounced.

Section 5 Section 907.3, subsection 3, unnumbered paragraph one, Code 2001, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence, or any portion of the sentence, and place the defendant on probation upon such terms and conditions as it may require including commitment to the custody of the director of the department of corrections for a term less than the maximum allowed by law if the conviction is for a felony, an alternate jail facility, a residential substance abuse treatment facility, or a community correctional residential treatment facility to be followed by a term of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate and the payment of fees imposed under section 905.14. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend any of the following sentences:

Section 6. Section 907.6, code 2001, is amended to read as follows:

Probationers are subject to the conditions established by the judicial district department of correctional services subject to the approval of the court, and any additional reasonable conditions, which the court or district department may impose to promote rehabilitation of the defendant or protection of the community. Conditions may include, but are not limited to, the following:

- a. Requiring the offender to report to and be available for contact with the assigned probation officer as directed,
- b. The offender shall not possess or consume controlled substances except those obtained through lawfully issued prescriptions,
- c. The offender shall pay supervision fees as determined by the district department,
- d. Requiring the offender to remain within, or outside of, a specified geographical boundary,
- e. The offender shall not have direct or indirect contact with the victim of the crime for which the offender was convicted or other specified persons,
- f. The offender shall participate in crime-related treatment or counseling services,
- g. The offender shall not consume alcohol,
- h. The offender shall comply with any crime-related prohibitions,
- i. adherence to regulations generally applicable to persons released on parole and including requiring unpaid community service as allowed pursuant to section 907.13.

Prior to or during placement on probation, upon the recommendation of the district department, the court may remove or modify any condition of probation.

Section 7. Legislative Intent

The Iowa general assembly acknowledges that the criminal justice system is complex and requires the cooperative efforts between multiple agencies and jurisdictions in order to function effectively and within the financial resources of the state.

The Iowa general assembly also recognizes that the criminal justice system is charged with the multiple tasks of helping protect public safety, promoting the rehabilitation of offenders, and providing appropriate punishment for criminal offenders.

The Iowa general assembly further recognizes that each criminal case has unique characteristics and circumstances that must be weighed by public officials charged with implementing the laws of this state.

The Iowa general assembly also asserts that prison space is a limited and costly public resource, which should be reserved for offenders who present the greatest risk to public safety.

It is the intent of the Iowa general assembly that the laws of this state shall be interpreted so as to provide public officials with the maximum flexibility to balance offender risk with the treatment, supervision, and security resources available to control that risk. The general assembly hereby reaffirms the principle that punishment for a public offense should be carried out in the least restrictive manner consistent with the circumstances of the offense, public safety, and the rehabilitation of the offender. It is also the intent of the Iowa general assembly that the laws of the state are applied equitably and uniformly across the state and that the full range of available sentencing options available by law be utilized in all jurisdictions.

The chief justice of the supreme court, the attorney general, the director of the department of corrections, the director of the department of public safety, the chairman of the board of parole, a county attorney, the state public defender, and the director of the criminal and juvenile justice planning agency of the department of human rights, or their respective designees, shall meet as needed, but not less than quarterly, to examine criminal justice system issues on an ongoing basis. The group will examine issues concerning: charging practices, sentencing practices, the effectiveness of existing criminal sanctions, equality in the application of those sanctions, the appropriate use of criminal justice system resources, and such other issues as the group deems appropriate that will advance the intent of the general assembly. The criminal and juvenile justice planning agency of the department of human rights will report to the general assembly in January 2002, and each subsequent January, on any findings or recommendations by the group.

Section 8. Chapter 901B – Intermediate Criminal Sanctions, is amended to read as follows:

1. The corrections continuum consists of the following:

a. LEVEL ONE. Noncommunity-based corrections sanctions including the following:

(1) Self-monitored sanctions. Self-monitored sanctions which are not monitored for compliance including, but not limited to, fines and community service.

(2) Other than self-monitored sanctions. Other than self-monitored sanctions which are monitored for compliance by other than the district department of correctional services including, but not limited to, mandatory mediation, victim and offender reconciliation, and noncommunity-based corrections supervision.

b. LEVEL TWO. Probation and parole options consisting of the following:

(1) Monitored sanctions. Monitored sanctions are administrative supervision sanctions which are monitored for compliance by the district department of correctional services and include, but are not limited to, low-risk offender-diversion programs.

- (2) Supervised sanctions. Supervised sanctions are regular probation or parole supervision and any conditions established in the probation or parole agreement or by court order.
- (3) Intensive supervision sanctions. Intensive supervision sanctions provide levels of supervision above sanctions in subparagraph (2) but are less restrictive than sanctions under paragraph "c" and include electronic monitoring, day reporting, day programming, live-out programs for persons on work release or who have violated chapter 321J, and institutional work release under section 904.910.
- c. LEVEL THREE. Quasi-incarceration sanctions. Quasi-incarceration sanctions are those supported by residential facility placement or twenty-four hour electronic monitoring including, but not limited to, the following:
- (1) Residential treatment facilities.
 - (2) Operating while intoxicated offender treatment facilities.
 - (3) Work release facilities.
 - (4) House arrest with electronic monitoring.
 - (5) Substance abuse treatment facilities.
- d. LEVEL FOUR. Short-term incarceration designed to be of short duration, including, but not limited to, the following:
- (1) Twenty-one day shock incarceration for persons who violate chapter 321J.
 - (2) Jail for less than thirty days.
 - (3) Violators' facilities.
 - (4) Prison with sentence reconsideration.
- e. LEVEL FIVE. Incarceration, which consists of the following:
- (1) Prison.
 - (2) Jail for thirty days or longer.
2. "Intermediate criminal sanctions program" means a program structured around the corrections continuum in subsection 1, describing sanctions and services available in each level of the continuum in the district and containing the policies of the district department of correctional services regarding placement of a person in a particular level of sanction and the requirements and conditions under which a defendant will be transferred between levels in the corrections continuum under the program.
3. An intermediate criminal sanctions program shall consist of only levels two, three, and sublevels one and three of level four of the corrections continuum and shall be operated in accordance with an intermediate criminal sanctions plan adopted by the chief judge of the judicial district and the director of the judicial district department of correctional services. The plan adopted shall be designed to reduce probation revocations to prison through the use of incremental, community-based sanctions for probation violations.
- The plan shall be subject to rules adopted by the department of corrections. The rules shall include provisions for transferring individuals between levels in the continuum. The provisions shall include a requirement that the reasons for the transfer be in writing and that an opportunity for the individual to contest the transfer be made available.
- A copy of the program and plan shall be filed with the chief judge of the judicial district, the department of corrections, and the division of criminal and juvenile justice planning of the department of human rights.
4. A. The district department of correctional services shall place an individual committed to it under section 907.3 to the sanction and level of supervision, which is appropriate to the individual based upon a current risk assessment evaluation. Placements may be to levels two and three of the corrections continuum. The district department may, with the approval of the department of corrections, place an individual in a level four-violator facility established pursuant to section 904.20 only as a penalty for a violation of a condition imposed under this section.

b. The district department may transfer an individual along the intermediate criminal sanctions program operated pursuant to subsection 3 as necessary and appropriate during the period the individual is assigned to the district department. However, nothing in this section shall limit the district department's ability to seek a revocation of the individual's probation pursuant to section 908.11.