

**CHAPTER 1042****OPERATING WHILE INTOXICATED —  
PENALTIES FOR THIRD OR SUBSEQUENT OFFENSES***H.F. 2230*

**AN ACT** relating to sentences of incarceration for third or subsequent operating-while-intoxicated motor vehicle offenses.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 321J.2, subsection 2, paragraph c, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

c. A class "D" felony for a third offense and each subsequent offense, and shall be committed to the custody of the director of the department of corrections for an indeterminate term not to exceed five years, shall be confined for a mandatory minimum term of thirty days, and shall be assessed a fine of not less than two thousand five hundred dollars nor more than seven thousand five hundred dollars.

(1) If the court does not suspend a person's sentence of commitment to the custody of the director of the department of corrections under this paragraph "c", the person shall be assigned to a facility pursuant to section 904.513.

(2) If the court suspends a person's sentence of commitment to the custody of the director of the department of corrections under this paragraph "c", the court shall order the person to serve not less than thirty days nor more than one year in the county jail, and the person may be committed to treatment in the community under section 907.6.

Sec. 2. Section 902.3, Code 2001, is amended to read as follows:

**902.3 INDETERMINATE SENTENCE.**

When a judgment of conviction of a felony other than a class "A" felony is entered against a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the Iowa department of corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by section 902.9, unless otherwise prescribed by statute, nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided. However, ~~if the court may sentence a person convicted of a class "D" felony for a violation of section 321J.2 to imprisonment for up to one year in a county jail under section 902.9, subsection 5, and the person shall not be under the custody of the director of the Iowa department of corrections~~ suspends a person's sentence under section 321J.2, subsection 2, paragraph "c", the court shall order the offender to serve time in the county jail as provided in section 321J.2, subsection 2, paragraph "c", notwithstanding any provision to the contrary in section 903.4.

Sec. 3. Section 902.9, subsection 5, Code Supplement 2001, is amended to read as follows:

5. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars. ~~A class "D" felon, such felony being for a violation of section 321J.2, may be sentenced to imprisonment for up to one year in the county jail.~~

Approved March 29, 2002