

CHAPTER 156**CRIMES, SENTENCING, AND PROCEDURE
— MISCELLANEOUS REVISIONS***S.F. 422*

AN ACT relating to criminal sentencing and procedure by modifying the penalties for certain offenses related to controlled substances by permitting the reopening of a sentence that requires a maximum accumulation of earned time credits of fifteen percent of the total term of confinement and by changing the parole and work release eligibility of a person serving such a sentence, repealing certain determinate sentences, and providing a penalty.

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

Section 1. Section 124.401, subsection 1, paragraph a, subparagraph (2), unnumbered paragraph 1, Code 2003, is amended to read as follows:

More than five ~~kilograms~~ hundred grams of a mixture or substance containing a detectable amount of any of the following:

Sec. 2. Section 124.401, subsection 1, paragraph a, subparagraph (2), subparagraph subdivisions (d) and (e), Code 2003, are amended by striking the subparagraph subdivisions.

Sec. 3. Section 124.401, subsection 1, paragraph a, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) More than five kilograms of a mixture or substance containing a detectable amount of any of the following:

- (a) Methamphetamine, its salts, isomers, or salts of isomers.
- (b) Amphetamine, its salts, isomers, and salts of isomers.
- (c) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) and (b).

Sec. 4. Section 124.401, subsection 1, paragraph b, subparagraph (2), unnumbered paragraph 1, Code 2003, is amended to read as follows:

More than five ~~one~~ hundred grams but not more than five ~~kilograms~~ hundred grams of any of the following:

Sec. 5. Section 124.401, subsection 1, paragraph b, subparagraph (3), Code 2003, is amended to read as follows:

(3) More than five ~~ten~~ grams but not more than fifty grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

Sec. 6. Section 124.401, subsection 1, paragraph c, subparagraph (2), unnumbered paragraph 1, Code 2003, is amended to read as follows:

Five One hundred grams or less of any of the following:

Sec. 7. Section 124.401, subsection 1, paragraph c, subparagraph (3), Code 2003, is amended to read as follows:

(3) Five Ten grams or less of a mixture or substance described in subparagraph (2) which contains cocaine base.

Sec. 8. Section 901.5, subsection 13, Code 2003, is amended by striking the subsection.

Sec. 9. NEW SECTION. 901.5B REOPENING OF SENTENCE FOR PERSONS SERVING SENTENCE SUBJECT TO MAXIMUM ACCUMULATION OF EARNED TIME OF FIFTEEN PERCENT.

1. A defendant serving a sentence under section 902.12 prior to the effective date of this Act, who is sentenced by the court to the custody of the director of the department of corrections, may have the judgment and sentence reopened for resentencing if all of the following apply:

a. The county attorney from the county which prosecuted the defendant files a motion in the sentencing court to reopen the sentence of the defendant. The county attorney shall notify the victim pursuant to section 915.13 of the filing of the motion. The motion shall specify that the county attorney has informed the victim about the filing of the motion, and that the victim has thirty days from the date of the filing of the motion to file a written objection with the court.

b. No written objection is filed or if a written objection is filed, and upon hearing the court grants the motion.

2. Upon the court granting the motion to reopen the sentence, the court shall order that the defendant be eligible for consideration of parole or work release in the same manner as a defendant serving a sentence under section 902.12.

3. For purposes of calculating earned time under section 903A.2, the sentencing date for a defendant whose sentence has been reopened under this section shall be the date of the original sentencing order.

4. The filing of a motion or reopening of a sentence under this section shall not constitute grounds to stay any other court proceedings, or to toll or restart the time for filing of any post-trial motion or any appeal.

Sec. 10. Section 902.11, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A person serving a sentence for conviction of a felony, ~~other than a forcible felony under section 902.12,~~ who has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, shall be denied parole or work release unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if either of the following apply:

Sec. 11. Section 902.12, unnumbered paragraph 1, Code 2003, is amended to read as follows:

~~Except as otherwise provided in section 903A.2, a~~ person serving a sentence for conviction of the following forcible felonies shall ~~serve one hundred percent of the maximum term of the person's sentence and shall not be released on~~ be denied parole or work release unless the person has served at least seven-tenths of the maximum term of the person's sentence:

Sec. 12. Section 902.12, subsection 5, unnumbered paragraph 2, Code 2003, is amended to read as follows:

~~Except as otherwise provided in section 903A.2, a person serving a sentence for conviction under~~

6. Vehicular homicide in violation of section 707.6A, subsection 1 or 2, shall serve one hundred percent of the maximum term of the person's sentence and shall not be released on parole or work release if the person was also convicted under section 321.261, subsection 3, based on the same facts or event that resulted in the conviction under section 707.6A, subsection 1 or 2.

Sec. 13. Section 903.4, Code 2003, is amended to read as follows:

903.4 PROVIDING PLACE OF CONFINEMENT.

All persons sentenced to confinement for a period of one year or less shall be confined in a place to be furnished by the county where the conviction was had unless the person is presently committed to the custody of the director of the Iowa department of corrections, in which

case the provisions of section 901.8 apply, ~~or unless the person is serving a determinate term of confinement of one year pursuant to section 902.3A.~~ All persons sentenced to confinement for a period of more than one year shall be committed to the custody of the director of the Iowa department of corrections to be confined in a place to be designated by the director and the cost of the confinement shall be borne by the state. The director may contract with local governmental units for the use of detention or correctional facilities maintained by the units for the confinement of such persons.

Sec. 14. Section 905.6, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Notify the board of parole, thirty days prior to release, of the release from a residential facility operated by the district department of a person serving a sentence under section 902.12.

Sec. 15. NEW SECTION. 905.11 RESIDENTIAL FACILITY RESIDENCY — MINIMUM.

A person who is serving a sentence under section 902.12, the maximum term of which exceeds ten years, and who is released on parole or work release shall reside in a residential facility operated by the district department for a period of not less than one year.

Sec. 16. Section 906.4, Code 2003, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. A person on parole or work release who is serving a sentence under section 902.12 shall begin parole or work release in a residential facility operated by a judicial district department of correctional services.

Sec. 17. Section 907.3, subsection 1, paragraph m, Code 2003, is amended by striking the paragraph.

Sec. 18. Section 907.3, subsection 2, paragraph g, Code 2003, is amended by striking the paragraph.

Sec. 19. Section 907.3, subsection 3, paragraph g, Code 2003, is amended by striking the paragraph.

Sec. 20. Section 915.13, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The filing of a motion to reopen a sentence of a defendant pursuant to section 901.5B. Notwithstanding section 915.10, the notice shall be served by certified mail. Notice shall include the scheduled date, time, and place of any hearing to reopen a sentence and that the victim has thirty days from the date of the service of the motion to file a written objection with the court.

Sec. 21. Section 915.14, Code 2003, is amended to read as follows:

915.14 NOTIFICATION BY CLERK OF THE DISTRICT COURT.

The clerk of the district court shall notify a registered victim of all dispositional orders of the case in which the victim was involved and may advise the victim of any other orders regarding custody or confinement. If a motion to reopen the sentence has been filed pursuant to section 901.5B, the clerk of the district court shall notify a registered victim of the case in which the victim was involved. The notice shall include the scheduled date, time, and place of the hearing, and the clerk shall notify the victim of a cancellation or postponement of any hearing regarding the motion to reopen.

Sec. 22. Section 902.3A, Code 2003, is repealed.