

HSB 677

JUDICIARY

Succeeded By

SF / HF 2555

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON

JUDICIARY BILL BY

CHAIRPERSON LARSON)

TREMME, Ch.
Shelley
Kettering

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act creating new criminal offenses, providing for enhancements
2 and penalties, and providing an effective date.

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

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1 Section 1. Section 124.401, subsection 1, paragraph a,
2 subparagraph (2), Code 2001, is amended by adding the
3 following new subparagraph subdivision:

4 NEW SUBPARAGRAPH SUBDIVISION. (g) 3,4-
5 methylenedioxymethamphetamine (MDMA), its salts, isomers, or
6 salts of isomers.

7 Sec. 2. Section 124.401, subsection 1, paragraph b, Code
8 2001, is amended by adding the following new subparagraph:

9 NEW SUBPARAGRAPH. (9) More than ten grams but not more
10 than five kilograms of 3,4-methylenedioxymethamphetamine
11 (MDMA), its salts, isomers, or salts of isomers, or any
12 compound, mixture or preparation which contains any quantity
13 of detectable amount of MDMA, its salts, isomers, or salts of
14 isomers.

15 Sec. 3. Section 124.401, subsection 1, paragraph c, Code
16 2001, is amended by adding the following new subparagraph:

17 NEW SUBPARAGRAPH. (7A) Ten grams or less of 3,4-
18 methylenedioxymethamphetamine (MDMA), its salts, isomers, or
19 salts of isomers, or any compound, mixture or preparation
20 which contains any quantity of detectable amount of MDMA, its
21 salts, isomers, or salts of isomers.

22 Sec. 4. Section 124.401, subsection 4, unnumbered
23 paragraph 1, Code 2001, is amended to read as follows:

24 A person who possesses any product containing any of the
25 following commits a class "D" felony, if the person possesses
26 with the intent ~~to-use-the-product~~ that the product be used to
27 manufacture any controlled substance:

28 Sec. 5. Section 124.409, subsection 1, Code 2001, is
29 amended by striking the subsection.

30 Sec. 6. Section 321J.2, subsection 3, paragraph a,
31 subparagraph (3), Code 2001, is amended by striking the
32 subparagraph.

33 Sec. 7. Section 462A.14, subsection 3, paragraph a,
34 subparagraph (3), Code 2001, is amended by striking the
35 subparagraph.

1 Sec. 8. Section 711.3, Code 2001, is amended to read as
2 follows

3 711.3 ROBBERY IN THE SECOND DEGREE.

4 All robbery which is not robbery in the first degree is
5 robbery in the second degree, except as provided in section
6 711.3A. Robbery in the second degree is a class "C" felony.

7 Sec. 9. NEW SECTION. 711.3A ROBBERY IN THE THIRD DEGREE.

8 A person commits robbery in the third degree when, while
9 perpetrating a robbery, the person commits an assault
10 punishable as a simple misdemeanor under section 708.2.

11 Robbery in the third degree is a class "D" felony.

12 Sec. 10. Section 713.6A, subsection 2, Code Supplement
13 2001, is amended to read as follows:

14 2. Burglary in the third degree involving a burglary of an
15 unoccupied motor vehicle or motor truck as defined in section
16 321.1, or a vessel defined in section 462A.2, is an aggravated
17 misdemeanor for a first offense. A-second-or-subsequent If
18 the person has a prior conviction under this section chapter,
19 the offense is punishable under subsection 1.

20 Sec. 11. Section 713.6B, subsection 2, Code Supplement
21 2001, is amended to read as follows:

22 2. Attempted burglary in the third degree involving an
23 attempted burglary of an unoccupied motor vehicle or motor
24 truck as defined in section 321.1, or a vessel defined in
25 section 462A.2, is a serious misdemeanor for a first offense.
26 A-second-or-subsequent If the person has a prior conviction
27 under this section chapter, the offense is punishable under
28 subsection 1.

29 Sec. 12. NEW SECTION. 901.11 DEFERRED JUDGMENTS --
30 PREVIOUS OFFENSES FOR PURPOSES OF ENHANCEMENT.

31 In determining if an offense is a second or subsequent
32 offense for purposes of sentencing, the following shall apply:

33 1. A deferred judgment entered pursuant to section 907.3
34 for the same offense shall be counted as a previous offense.

35 2. A conviction or the equivalent of a deferred judgment

1 for a violation in any other state under a statute
2 substantially corresponding to the offense shall be counted as
3 a previous offense. The courts shall judicially notice the
4 statutes of other states which define offenses substantially
5 equivalent to those defined in the Code and can therefore be
6 considered corresponding statutes. Each previous offense for
7 which conviction or deferral of judgment was entered prior to
8 the date of the violation charged shall be considered and
9 counted as a separate previous offense.

10 Sec. 13. Section 902.3A, subsection 1, unnumbered
11 paragraph 1, Code Supplement 2001, is amended to read as
12 follows:

13 Notwithstanding section 902.3, when a conviction for a
14 class "D" felony is entered against a person, the court, at
15 its discretion, in imposing a sentence of confinement pursuant
16 to section 901.5, may commit the person into the custody of
17 the director of the Iowa department of corrections for a
18 determinate term of less than the maximum length of the
19 sentence prescribed by section 902.9, subsection 5~~7~~-if
20 ~~mitigating-circumstances-exist-and-those-circumstances-are~~
21 ~~stated-specifically-on-the-record.~~

22 Sec. 14. Section 902.3A, subsection 1, paragraph e, Code
23 Supplement 2001, is amended to read as follows:

24 e. This section does not apply to an offense classified as
25 a forcible felony, a felony under section 321J.2, ~~felonies-in~~
26 ~~chapters-7077-7087-and-7097-a-person-sentenced-as-a-habitual~~
27 ~~offender7-felonies-listed-in-section-901A.17~~ or felonies
28 listed in section 902.12~~7-or-a-felony-committed-by-a-person-on~~
29 ~~parole-or-work-release7-or-while-in-the-custody-of-the~~
30 ~~director-of-the-department-of-corrections.~~

31 Sec. 15. Section 902.3A, subsection 3, Code Supplement
32 2001, is amended by striking the subsection.

33 Sec. 16. Section 907.3, subsection 1, paragraph c, Code
34 2001, is amended to read as follows:

35 c. Prior to the commission of the offense the defendant

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1 had been granted a deferred judgment or similar relief, ~~two or~~
2 ~~more times~~ anywhere in the United States.

3 Sec. 17. Section 907.3, subsection 1, paragraph d, Code
4 2001, is amended by striking the paragraph.

5 Sec. 18. Section 907.3, subsection 1, paragraph g,
6 subparagraph (3), Code 2001, is amended by striking the
7 subparagraph.

8 Sec. 19. 2001 Iowa Acts, chapter 186, section 6,
9 subsection 6, is amended by striking the subsection.

10 Sec. 20. EFFECTIVE DATE. The section of this Act amending
11 2001 Iowa Acts, chapter 186, section 6, subsection 6, being
12 deemed of immediate importance, takes effect upon enactment.

13 EXPLANATION

14 This bill makes changes to criminal definitions,
15 enhancements, and penalties, and provides an effective date.

16 The amendments to Code section 124.401(1) provide that a
17 person who conspires to manufacture for delivery, delivers or
18 conspires to deliver, or possesses with the intent to deliver
19 the drug 3,4-methylenedioxymethamphetamine (MDMA) or "ecstasy"
20 commits what is commonly referred to as a super class "B"
21 felony if the amount of MDMA is greater than 5 kilograms. A
22 person commits a class "B" felony if the amount of MDMA is
23 more than 10 grams but not more than 5 kilograms. If the
24 amount of MDMA is 10 grams or less, the person commits a class
25 "C" felony. Current law provides that a person commits a
26 class "C" felony, regardless of the quantity of MDMA involved
27 in the criminal activity.

28 The amendment to Code section 124.401(4) makes changes to
29 the crime of possession of drug-making materials. The bill
30 provides that a person who possesses certain products with the
31 intent that the product be used to manufacture a controlled
32 substance commits a class "D" felony. Current law provides
33 that the person possess the product with the intent to use the
34 product to manufacture a controlled substance.

35 The amendment to Code section 124.409 eliminates the

1 ability of a defendant to receive a conditional discharge of a
2 sentence for first offense for either possession of a
3 controlled substance pursuant to Code section 124.401(5) or an
4 accommodation offense pursuant to Code section 124.410. A
5 conditional discharge under Code section 124.409(1) generally
6 permits the court, upon a plea or conviction of guilt, to
7 defer entering judgment of guilt and place the defendant on
8 probation. If the defendant violates probation, the court may
9 enter an adjudication of guilt and sentence the defendant. If
10 the defendant fulfills the terms of probation, the court shall
11 dismiss the proceedings against the defendant without an
12 adjudication of guilt.

13 The amendment to Code section 711.3 and new Code section
14 711.3A creates a new criminal offense of robbery in the third
15 degree. The bill provides that a person commits robbery in
16 the third degree if the person, having the intent to commit a
17 theft, commits a simple misdemeanor assault to assist or
18 further the commission of the intended theft.

19 The amendments to Code sections 713.6A and 713.6B provide
20 that a person who commits burglary or attempted burglary in
21 the third degree involving an unoccupied vehicle or boat
22 commits a class "D" felony if the person has a previous
23 burglary conviction. Current law provides that a person
24 commits a class "D" felony if the person has a previous
25 burglary in the third degree conviction, otherwise the person
26 commits an aggravated misdemeanor.

27 New Code section 901.11 relates to counting previous
28 criminal offenses for purposes of determining whether a
29 current criminal offense is a second or subsequent offense.
30 In determining whether a criminal offense is a second or
31 subsequent offense, the bill provides that a deferred judgment
32 and convictions or deferred judgments incurred in another
33 state count as a previous offense.

34 The amendment to Code section 902.3A(1) removes the
35 requirement that the court must find mitigating circumstances

1 in determining whether a person should be sentenced to a
2 determinate sentence pursuant to Code section 902.3A.

3 The amendment to Code section 902.3A(1)(e) permits the
4 following class "D" felons to be sentenced to a determinate
5 term: habitual offenders, violators of Code chapters 707
6 through 709, persons sentenced under Code chapter 901A, or
7 persons who commit an offense while in prison or on parole or
8 work release.

9 The amendment to Code section 902.3A(3) enhances the
10 organization and readability of the Code section.

11 The amendments to Code chapter 907 provide that a defendant
12 may only receive one deferred judgment. Current law provides
13 that a defendant under certain circumstances may receive two
14 deferred judgments.

15 The amendment to 2001 Iowa Acts, chapter 186, section 6,
16 eliminates certain restrictions placed on drug courts
17 established during the 2001-2002 state fiscal year. The
18 restrictions eliminated by the bill require drug courts to be
19 offered only to persons who have been convicted of a crime and
20 to give priority to felons over misdemeanants. This provision
21 takes effect upon enactment.

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FEB 26 2002

Place On Calendar

HOUSE FILE 2555
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 677)

(p. 807)
Passed House, Date 3-14-02 Passed Senate, Date _____
Vote: Ayes 87 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating new criminal offenses, providing for enhancements
2 and penalties, and providing an effective date.

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

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HF 2555

1 Section 1. Section 124.401, subsection 1, paragraph a,
2 subparagraph (2), Code 2001, is amended by adding the
3 following new subparagraph subdivision:

4 NEW SUBPARAGRAPH SUBDIVISION. (g) 3,4-
5 methylenedioxymethamphetamine (MDMA), its salts, isomers, or
6 salts of isomers.

7 Sec. 2. Section 124.401, subsection 1, paragraph b, Code
8 2001, is amended by adding the following new subparagraph:

9 NEW SUBPARAGRAPH. (9) More than ten grams but not more
10 than five kilograms of 3,4-methylenedioxymethamphetamine
11 (MDMA), its salts, isomers, or salts of isomers, or any
12 compound, mixture or preparation which contains any quantity
13 of detectable amount of MDMA, its salts, isomers, or salts of
14 isomers.

15 Sec. 3. Section 124.401, subsection 1, paragraph c, Code
16 2001, is amended by adding the following new subparagraph:

17 NEW SUBPARAGRAPH. (7A) Ten grams or less of 3,4-
18 methylenedioxymethamphetamine (MDMA), its salts, isomers, or
19 salts of isomers, or any compound, mixture or preparation
20 which contains any quantity of detectable amount of MDMA, its
21 salts, isomers, or salts of isomers.

22 Sec. 4. Section 124.401, subsection 4, unnumbered
23 paragraph 1, Code 2001, is amended to read as follows:

24 A person who possesses any product containing any of the
25 following commits a class "D" felony, if the person possesses
26 with the intent ~~to use the product~~ that the product be used to
27 manufacture any controlled substance:

28 Sec. 5. Section 124.409, subsection 1, Code 2001, is
29 amended by striking the subsection.

30 Sec. 6. Section 321J.2, subsection 3, paragraph a,
31 subparagraph (3), Code 2001, is amended by striking the
32 subparagraph.

33 Sec. 7. Section 462A.14, subsection 3, paragraph a,
34 subparagraph (3), Code 2001, is amended by striking the
35 subparagraph.

1 Sec. 8. Section 711.3, Code 2001, is amended to read as
2 follows

3 711.3 ROBBERY IN THE SECOND DEGREE.

4 All robbery which is not robbery in the first degree is
5 robbery in the second degree, except as provided in section
6 711.3A. Robbery in the second degree is a class "C" felony.

7 Sec. 9. NEW SECTION. 711.3A ROBBERY IN THE THIRD DEGREE.

8 A person commits robbery in the third degree when, while
9 perpetrating a robbery, the person does not do any of the
10 following: cause injury, attempt to cause injury, threaten to
11 cause injury or to commit a forcible felony, purposefully put
12 another in fear of injury, possess a firearm or dangerous
13 weapon, commit a theft of cash or an item with a value greater
14 than twenty-five dollars, or commit a robbery of a financial
15 institution as defined in section 12C.1. Robbery in the third
16 degree is a class "C" felony.

17 Sec. 10. Section 713.6A, subsection 2, Code Supplement
18 2001, is amended to read as follows:

19 2. Burglary in the third degree involving a burglary of an
20 unoccupied motor vehicle or motor truck as defined in section
21 321.1, or a vessel defined in section 462A.2, is an aggravated
22 misdemeanor for a first offense. A-second-or-subsequent If
23 the person has a prior conviction under this section chapter,
24 the offense is punishable under subsection 1.

25 Sec. 11. Section 713.6B, subsection 2, Code Supplement
26 2001, is amended to read as follows:

27 2. Attempted burglary in the third degree involving an
28 attempted burglary of an unoccupied motor vehicle or motor
29 truck as defined in section 321.1, or a vessel defined in
30 section 462A.2, is a serious misdemeanor for a first offense.
31 A-second-or-subsequent If the person has a prior conviction
32 under this section chapter, the offense is punishable under
33 subsection 1.

34 Sec. 12. Section 901.5, Code 2001, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 13. In addition to any sentence or other
2 penalty imposed against the defendant, the court shall
3 sentence the defendant to an additional term of years if
4 required under section 902.13.

5 Sec. 13. NEW SECTION. 901.11 DEFERRED JUDGMENTS --
6 PREVIOUS OFFENSES FOR PURPOSES OF ENHANCEMENT.

7 In determining if an offense is a second or subsequent
8 offense for purposes of sentencing, the following shall apply:

9 1. A deferred judgment entered pursuant to section 907.3
10 for the same offense shall be counted as a previous offense.

11 2. A conviction, deferred judgment, or the equivalent of a
12 deferred judgment for a violation in any other state under a
13 statute substantially corresponding to the offense shall be
14 counted as a previous offense. The courts shall judicially
15 notice the statutes of other states which define offenses
16 substantially equivalent to those defined in the Code and can
17 therefore be considered corresponding statutes.

18 3. Each previous offense for which conviction or deferral
19 of judgment was entered prior to the date of the violation
20 charged shall be considered and counted as a separate previous
21 offense.

22 Sec. 14. Section 902.3A, subsection 1, unnumbered
23 paragraph 1, Code Supplement 2001, is amended to read as
24 follows:

25 Notwithstanding section 902.3, when a conviction for a
26 class "D" felony is entered against a person, the court, at
27 its discretion, in imposing a sentence of confinement pursuant
28 to section 901.5, may commit the person into the custody of
29 the director of the Iowa department of corrections for a
30 determinate term of less than the maximum length of the
31 sentence prescribed by section 902.9, subsection 5, ~~if~~
32 ~~mitigating-circumstances-exist-and-those-circumstances-are~~
33 ~~stated-specifically-on-the-record.~~

34 Sec. 15. Section 902.3A, subsection 1, paragraph e, Code
35 Supplement 2001, is amended to read as follows:

1 e. This section does not apply to an offense classified as
2 a forcible felony, a felony under section 321J.2, felonies in
3 chapters 707, 708, and 709, a person sentenced as a habitual
4 offender, felonies listed in section 901A.1, or felonies
5 listed in section 902.12 or 902.13, or a felony committed by a
6 person on parole or work release, or while in the custody of
7 the director of the department of corrections.

8 Sec. 16. Section 902.3A, subsection 3, Code Supplement
9 2001, is amended by striking the subsection.

10 Sec. 17. Section 902.11, unnumbered paragraph 1, Code
11 2001, is amended to read as follows:

12 A person serving a sentence for conviction of a felony,
13 other than a forcible felony under section 902.12 or 902.13,
14 who has a criminal record of one or more prior convictions for
15 a forcible felony or a crime of a similar gravity in this or
16 any other state, shall be denied parole or work release unless
17 the person has served at least one-half of the maximum term of
18 the defendant's sentence. However, the mandatory sentence
19 provided for by this section does not apply if either of the
20 following apply:

21 Sec. 18. Section 902.12, subsection 5, unnumbered
22 paragraph 1, Code 2001, is amended to read as follows:

23 5. Robbery in the first or second degree in violation of
24 section 711.2 or 711.3.

25 Sec. 19. NEW SECTION. 902.13 MINIMUM SENTENCE -- ROBBERY
26 SECOND.

27 1. Except as otherwise provided in section 903A.2, a
28 person serving a sentence for conviction of robbery in the
29 second degree shall serve one hundred percent of the maximum
30 term of the person's sentence and shall not be released on
31 parole or work release.

32 2. The person shall also be sentenced to an additional
33 term of three years. The board of parole shall determine
34 whether the person should be released on parole or placed in a
35 work release program. When a person commences service of the

1 additional term of years, the person shall initially be
2 released by the board of parole subject to the terms and
3 conditions set out in chapter 906. Violations of the terms
4 and conditions of release shall be subject to the procedures
5 set out in chapter 905 or 908 or rules adopted under those
6 chapters. The sentence of an additional term of years shall
7 be consecutive to the original term of confinement.

8 Sec. 20. Section 903A.2, subsection 1, paragraph a, Code
9 2001, is amended to read as follows:

10 a. Category "A" sentences are those sentences which are
11 not subject to a maximum accumulation of earned time of
12 ~~fifteen-percent-of-the-total-sentence-of-confinement~~ under
13 section 902.12 or 902.13. To the extent provided in
14 subsection 5, category "A" sentences also include life
15 sentences imposed under section 902.1. An inmate of an
16 institution under the control of the department of corrections
17 who is serving a category "A" sentence is eligible for a
18 reduction of sentence equal to one and two-tenths days for
19 each day the inmate demonstrates good conduct and
20 satisfactorily participates in any program or placement status
21 identified by the director to earn the reduction. The
22 programs include but are not limited to the following:

23 Sec. 21. Section 903A.2, subsection 1, Code 2001, is
24 amended by adding the following new paragraph:

25 NEW PARAGRAPH. c. Category "C" sentences are those
26 sentences which are subject to a maximum accumulation of
27 earned time of thirty percent of the total sentence of
28 confinement under section 902.13. An inmate of an institution
29 under the control of the department of corrections who is
30 serving a category "C" sentence is eligible for a reduction of
31 sentence equal to three-sevenths of a day for each day of good
32 conduct by the inmate.

33 Sec. 22. Section 903A.7, Code 2001, is amended to read as
34 follows:

35 903A.7 SEPARATE SENTENCES.

1 Consecutive multiple sentences that are within the same
2 category under section 903A.2 shall be construed as one
3 continuous sentence for purposes of calculating reductions of
4 sentence for earned time. If a person is sentenced to serve
5 sentences of both multiple categories, category "B" sentences
6 shall be served before category "C" and category "A" sentences
7 are served, and category "C" sentences shall be served before
8 category "A" sentences are served, and earned time accrued
9 against the category "B" sentences shall not be used to reduce
10 the category "C" or category "A" sentences, and earned time
11 accrued against category "C" sentences shall not be used to
12 reduce category "A" or category "B" sentences. If an inmate
13 serving a category "A" sentence is sentenced to serve a
14 category "B" sentence or a category "C" sentence, the category
15 "A" sentence shall be interrupted, and no further earned time
16 shall accrue against that sentence until the category "B"
17 sentence is completed. If an inmate serving a category "C"
18 sentence is sentenced to serve a category "B" sentence, the
19 category "C" sentence shall be interrupted, and no further
20 earned time shall accrue against that sentence until the
21 category "B" sentence is completed.

22 Sec. 23. Section 906.15, unnumbered paragraph 1, Code
23 2001, is amended to read as follows:

24 Unless sooner discharged, a person released on parole shall
25 be discharged when the person's term of parole equals the
26 period of imprisonment specified in the person's sentence,
27 less all time served in confinement. Discharge from parole
28 may be granted prior to such time, when an early discharge is
29 appropriate. The board shall periodically review all paroles,
30 and when the board determines that any person on parole is
31 able and willing to fulfill the obligations of a law-abiding
32 citizen without further supervision, the board shall discharge
33 the person from parole. A parole officer shall periodically
34 review all paroles assigned to the parole officer, and when
35 the parole officer determines that any person assigned to the

1 officer is able and willing to fulfill the obligations of a
2 law-abiding citizen without further supervision, the officer
3 may discharge the person from parole after notification and
4 approval of the district director and notification of the
5 board of parole. In any event, discharge from parole shall
6 terminate the person's sentence. However, if a person has
7 been sentenced to an additional term of years under section
8 902.13, the person shall not be discharged from the term until
9 the additional term of years has been served. However, a
10 person convicted of a violation of section 709.3, 709.4 or
11 709.8 committed on or with a child shall not be discharged
12 from parole until the person's term of parole equals the
13 period of imprisonment specified in the person's sentence,
14 less all time served in confinement.

15 Sec. 24. Section 907.3, subsection 1, paragraph c, Code
16 2001, is amended to read as follows:

17 c. Prior to the commission of the offense the defendant
18 had been granted a deferred judgment or similar relief, ~~two or~~
19 ~~more times~~ anywhere in the United States.

20 Sec. 25. Section 907.3, subsection 1, paragraph d, Code
21 2001, is amended by striking the paragraph.

22 Sec. 26. Section 907.3, subsection 1, paragraph g,
23 subparagraph (3), Code 2001, is amended by striking the
24 subparagraph.

25 Sec. 27. 2001 Iowa Acts, chapter 186, section 6,
26 subsection 6, is amended by striking the subsection.

27 Sec. 28. EFFECTIVE DATE. The section of this Act amending
28 2001 Iowa Acts, chapter 186, section 6, subsection 6, being
29 deemed of immediate importance, takes effect upon enactment.

30 EXPLANATION

31 This bill makes changes to criminal definitions,
32 enhancements, and penalties, and provides an effective date.

33 The amendments to Code section 124.401(1) provide that a
34 person who conspires to manufacture for delivery, delivers or
35 conspires to deliver, or possesses with the intent to deliver

1 the drug 3,4-methylenedioxymethamphetamine (MDMA) or "ecstasy"
2 commits what is commonly referred to as a super class "B"
3 felony if the amount of MDMA is greater than 5 kilograms. A
4 person commits a class "B" felony if the amount of MDMA is
5 more than 10 grams but not more than 5 kilograms. If the
6 amount of MDMA is 10 grams or less, the person commits a class
7 "C" felony. Current law provides that a person commits a
8 class "C" felony, regardless of the quantity of MDMA involved
9 in the criminal activity.

10 The amendment to Code section 124.401(4) makes changes to
11 the crime of possession of drug-making materials. The bill
12 provides that a person who possesses certain products with the
13 intent that the product be used to manufacture a controlled
14 substance commits a class "D" felony. Current law provides
15 that the person possess the product with the intent to use the
16 product to manufacture a controlled substance.

17 The amendment to Code section 124.409 eliminates the
18 ability of a defendant to receive a conditional discharge of a
19 sentence for first offense for either possession of a
20 controlled substance pursuant to Code section 124.401(5) or an
21 accommodation offense pursuant to Code section 124.410. A
22 conditional discharge under Code section 124.409(1) generally
23 permits the court, upon a plea or conviction of guilt, to
24 defer entering judgment of guilt and place the defendant on
25 probation. If the defendant violates probation, the court may
26 enter an adjudication of guilt and sentence the defendant. If
27 the defendant fulfills the terms of probation, the court shall
28 dismiss the proceedings against the defendant without an
29 adjudication of guilt.

30 The amendment to Code section 711.3 and new Code section
31 711.3A creates a new criminal offense of robbery in the third
32 degree. The bill provides that a person commits robbery in
33 the third degree if while perpetrating a robbery does not do
34 any of the following: cause injury, attempt to cause injury,
35 threaten to cause injury or commit a forcible felony,

1 purposefully put another in fear of injury, possess a firearm
2 or dangerous weapon, commit a theft of cash or an item with a
3 value greater than \$25 or commit a robbery of a financial
4 institution. Robbery in the third degree is a class "C"
5 felony but is not subject to Code section 902.12.

6 The amendments to Code sections 713.6A and 713.6B provide
7 that a person who commits burglary or attempted burglary in
8 the third degree involving an unoccupied vehicle or boat
9 commits a class "D" felony if the person has a previous
10 burglary conviction. Current law provides that a person
11 commits a class "D" felony if the person has a previous
12 burglary in the third degree conviction, otherwise the person
13 commits an aggravated misdemeanor.

14 The amendments to Code sections 901.5, 902.3A(1)(e),
15 902.11, 902.12, 903A.2, 903A.7, and 906.15, and new Code
16 section 902.13, relate to changes in the sentence for robbery
17 in the second degree. The bill provides that a robbery in the
18 second degree sentence is now subject to a maximum
19 accumulation of earned time credits of 30 percent of the total
20 term of confinement. Current law provides that the sentence
21 is subject to a maximum accumulation of earned time credits of
22 15 percent of the total term of confinement. The bill also
23 requires that a person convicted of robbery in the second
24 degree serve a sentence of three years of parole or work
25 release in addition to a term of confinement. The bill
26 provides that the additional term shall be served
27 consecutively to the original term of confinement.

28 New Code section 901.11 relates to counting previous
29 criminal offenses for purposes of determining whether a
30 current criminal offense is a second or subsequent offense.
31 In determining whether a criminal offense is a second or
32 subsequent offense, the bill provides that a deferred judgment
33 and convictions or deferred judgments incurred in another
34 state count as a previous offense.

35 The amendment to Code section 902.3A(1) removes the

1 requirement that the court must find mitigating circumstances
2 in determining whether a person should be sentenced to a
3 determinate sentence pursuant to Code section 902.3A.

4 The amendment to Code section 902.3A(1)(e) permits the
5 following class "D" felons to be sentenced to a determinate
6 term: habitual offenders, violators of Code chapters 707
7 through 709, persons sentenced under Code chapter 901A, or
8 persons who commit an offense while in prison or on parole or
9 work release.

10 The amendment to Code section 902.3A(3) enhances the
11 organization and readability of the Code section.

12 The amendments to Code chapter 907 provide that a defendant
13 may only receive one deferred judgment. Current law provides
14 that a defendant under certain circumstances may receive two
15 deferred judgments.

16 The amendment to 2001 Iowa Acts, chapter 186, section 6,
17 eliminates certain restrictions placed on drug courts
18 established during the 2001-2002 state fiscal year. The
19 restrictions eliminated by the bill require drug courts to be
20 offered only to persons who have been convicted of a crime and
21 to give priority to felons over misdemeanants. This provision
22 takes effect upon enactment.

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HOUSE FILE 2555

H-8243

1 Amend House File 2555 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 124.401, subsection 1,
5 paragraph a, subparagraph (2), unnumbered paragraph 1,
6 Code 2001, is amended to read as follows:

7 More than five kilograms of a any compound, mixture
8 ~~or, preparation, or substance containing a detectable~~
9 amount of any of the following:

10 Sec. ____ . Section 124.401, subsection 1, paragraph
11 a, subparagraph (2), subparagraph divisions (a), (b),
12 and (c), Code 2001, are amended by striking the
13 subparagraph subdivisions.

14 Sec. ____ . Section 124.401, subsection 1, paragraph
15 a, subparagraph (2), subparagraph division (f), Code
16 2001, is amended to read as follows:

17 (f) Any compound, mixture, or preparation which
18 contains any quantity of any of the substances
19 referred to in ~~subparagraph subdivisions (a) through~~
20 ~~(e) this subparagraph (2).~~"

21 2. Page 1, by inserting after line 6 the
22 following:

23 "Sec. ____ . Section 124.401, subsection 1,
24 paragraph a, subparagraph (3), Code 2001, is amended
25 to read as follows:

26 (3) More than fifty grams of a any compound,
27 mixture or, preparation, or substance described in
28 subparagraph (2) which contains cocaine base
29 containing a detectable amount of any of the
30 following:

31 (a) Coca leaves, except coca leaves and extracts
32 of coca leaves from which cocaine, ecgonine, and
33 derivatives of ecgonine or their salts have been
34 removed.

35 (b) Cocaine, its salts, optical and geometric
36 isomers, and salts of isomers.

37 (c) Ecgonine, its derivatives, their salts,
38 isomers, and salts of isomers.

39 (d) Cocaine base."

40 Sec. ____ . Section 124.401, subsection 1, paragraph
41 b, subparagraph (2), Code 2001, is amended by striking
42 the subparagraph.

43 Sec. ____ . Section 124.401, subsection 1, paragraph
44 b, subparagraph (3), Code 2001, is amended to read as
45 follows:

46 (3) More than five grams but not more than fifty
47 grams of a any compound, mixture, preparation, or
48 substance described in subparagraph (2) which contains
49 cocaine base containing a detectable amount of any of
50 the following:

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Page 2

1 (a) Coca leaves, except coca leaves and extracts
2 of coca leaves from which cocaine, ecgonine, and
3 derivatives of ecgonine or their salts have been
4 removed.

5 (b) Cocaine, its salts, optical and geometric
6 isomers, and salts of isomers.

7 (c) Ecgonine, its derivatives, their salts,
8 isomers, and salts of isomers.

9 (d) Cocaine base."

10 3. Page 1, by inserting after line 14 the
11 following:

12 "Sec. ____ . Section 124.401, subsection 1,
13 paragraph c, subparagraph (2), Code 2001, is amended
14 by striking the subparagraph.

15 Sec. ____ . Section 124.401, subsection 1, paragraph
16 c, subparagraph (3), Code 2001, is amended to read as
17 follows:

18 (3) Five grams or less of a any compound, mixture,
19 preparation, or substance described in subparagraph
20 ~~(2) which contains cocaine base containing a~~
21 detectable amount of any of the following:

22 (a) Coca leaves, except coca leaves and extracts
23 of coca leaves from which cocaine, ecgonine, and
24 derivatives of ecgonine or their salts have been
25 removed.

26 (b) Cocaine, its salts, optical and geometric
27 isomers, and salts of isomers.

28 (c) Ecgonine, its derivatives, their salts,
29 isomers, and salts of isomers.

30 (d) Cocaine base."

31 4. Page 1, by inserting after line 29 the
32 following:

33 "Sec. ____ . Section 232.22, subsection 1, paragraph
34 e, subparagraphs (1) and (2), Code Supplement 2001,
35 are amended to read as follows:

36 (1) A mixture or substance containing cocaine
37 base, also known as crack cocaine, and if the act was
38 committed by an adult, it would be a violation of
39 section 124.401, subsection 1, paragraph "a",
40 subparagraph (3), subparagraph subdivision (d),
41 paragraph "b", subparagraph (3), subparagraph
42 subdivision (d), or paragraph "c", subparagraph (3),
43 subparagraph subdivision (d).

44 (2) A mixture or substance containing cocaine, its
45 salts, optical and geometric isomers, and salts of
46 isomers, and if the act was committed by an adult, it
47 would be a violation of section 124.401, subsection 1,
48 paragraph "a", subparagraph ~~(2)~~ (3), subparagraph
49 subdivision (b), paragraph "b", subparagraph ~~(2)~~ (3),
50 subparagraph subdivision (b), or paragraph "c",

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Page 3

1 subparagraph ~~(2)~~ (3), subparagraph subdivision (b)."
 2 5. By renumbering as necessary.

By FORD of Polk

H-8243 FILED MARCH 11, 2002

W/D 3-14-02
(p. 804)

HOUSE FILE 2555

H-8244

1 Amend House File 2555 as follows:

2 1. Page 2, by inserting before line 1 the
 3 following:

4 "Sec. ____ Section 622.53, Code 2001, is amended
 5 to read as follows:

6 622.53 JUDICIAL RECORD -- STATE OR FEDERAL COURTS.

7 A judicial record of this state, including the
 8 filed certified shorthand notes of the official court
 9 reporter as transcribed or a court of the United
 10 States may be proved by the production of the
 11 original, or a copy of it certified by the clerk or
 12 person having the legal custody of it, authenticated
 13 by the custodian's seal of office, if there is a seal.
 14 ~~That~~ A judicial record of another state may be proved
 15 by the attestation of the clerk and the seal of the
 16 court annexed, if there is a seal, ~~together with a~~
 17 ~~certificate of a judge, chief justice, or presiding~~
 18 ~~magistrate that the attestation is in due form of~~
 19 ~~law."~~

20 2. Page 2, line 14, by striking the word "twenty-
 21 five" and inserting the following: "fifty".

22 3. Page 2, line 16, by striking the letter "'C'"
 23 and inserting the following: "'D'".

24 4. Page 3, line 31, by striking the word and
 25 figure "subsection 5" and inserting the following:
 26 "subsection 5".

27 5. Page 4, line 2, by inserting after the words
 28 "forcible felony" the following: "or a class 'C'
 29 felony under section 124.401, subsection 1, paragraph
 30 'c'."

31 6. Title page, line 2, by inserting after the
 32 word "penalties," the following: "relating to
 33 judicial records,".

34 7. By renumbering as necessary.

By TREMMEL of Wapello

H-8244 FILED MARCH 11, 2002

Adopted
3-14-02
(p. 807)

HOUSE FILE 2555

H-8273

1 Amend the amendment, H-8244, to House File 2555 as
2 follows:
3 1. Page 1, by inserting before line 2 the
4 following:
5 "____. Page 1, by inserting after line 27 the
6 following:
7 "Sec. ____ Section 124.401A, Code 2001, is amended
8 to read as follows:
9 124.401A ENHANCED PENALTY FOR MANUFACTURE OR
10 DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.
11 In addition to any other penalties provided in this
12 chapter, a person who is eighteen years of age or
13 older who unlawfully manufactures with intent to
14 distribute, distributes, or possesses with intent to
15 distribute a substance or counterfeit substance listed
16 in schedule I, II, or III, or a simulated controlled
17 substance represented to be a controlled substance
18 classified in schedule I, II, or III, to another
19 person who is eighteen years of age or older in or on,
20 or within one thousand feet of the real property
21 comprising a public or private elementary or secondary
22 school, public park, public swimming pool, public
23 recreation center, or on a marked school bus, may be
24 sentenced up to an additional term of confinement of
25 five years."
26 2. Page 1, by inserting after line 30 the
27 following:
28 "____. Page 4, lines 2 and 3, by striking the
29 words and figures "~~felonies in chapters 707, 708, and~~
30 ~~709,~~" and inserting the following: "felonies in
31 chapters 707,~~708,~~ and 709,."

By TREMMEL of Wapello
HUSER of Polk
LARSON of Linn

H-8273 FILED MARCH 12, 2002

Adopted
3/14/02
(p. 806)

HOUSE FILE 2555

H-8268

1 Amend the amendment, H-8243, to House File 2555 as
2 follows:

3 1. Page 1, by striking lines 28 through 39 and
4 inserting the following: "~~subparagraph (2) which~~
5 ~~contains~~ containing a detectable amount of cocaine
6 base.

7 Sec. _____. Section 124.401, subsection 1, paragraph
8 a, Code 2001, is amended by adding the following new
9 subparagraph:

10 NEW SUBPARAGRAPH. (3A) More than five hundred
11 grams of any compound, mixture, preparation, or
12 substance containing a detectable amount of any of the
13 following:

14 (a) Coca leaves, except coca leaves and extracts
15 of coca leaves from which cocaine, ecgonine, and
16 derivatives of ecgonine or their salts have been
17 removed.

18 (b) Cocaine, its salts, optical and geometric
19 isomers, and salts of isomers.

20 (c) Ecgonine, its derivatives, their salts,
21 isomers, and salts of isomers."

22 2. By striking page 1, line 49, through page 2,
23 line 9 and inserting the following: "containing a
24 detectable amount of cocaine base.

25 Sec. _____. Section 124.401, subsection 1, paragraph
26 b, Code 2001, is amended by adding the following new
27 subparagraph:

28 NEW SUBPARAGRAPH. (3A) More than fifty grams but
29 not more than five hundred grams of any compound,
30 mixture, preparation, or substance containing a
31 detectable amount of any of the following:

32 (a) Coca leaves, except coca leaves and extracts
33 of coca leaves from which cocaine, ecgonine, and
34 derivatives of ecgonine or their salts have been
35 removed.

36 (b) Cocaine, its salts, optical and geometric
37 isomers, and salts of isomers.

38 (c) Ecgonine, its derivatives, their salts,
39 isomers, and salts of isomers."

40 3. Page 2, by striking lines 20 through 30 and
41 inserting the following: "~~(2) which contains~~
42 containing a detectable amount of cocaine base.

43 Sec. _____. Section 124.401, subsection 1, paragraph
44 c, Code 2001, is amended by adding the following new
45 subparagraph:

46 NEW SUBPARAGRAPH. (3A) Fifty grams or less of any
47 compound, mixture, preparation, or substance
48 containing a detectable amount of any of the
49 following:

50 (a) Coca leaves, except coca leaves and extracts

H-8268

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Page 2

- 1 of coca leaves from which cocaine, ecgonine, and
 2 derivatives of ecgonine or their salts have been
 3 removed.
- 4 (b) Cocaine, its salts, optical and geometric
 5 isomers, and salts of isomers.
- 6 (c) Ecgonine, its derivatives, their salts,
 7 isomers, and salts of isomers."
- 8 4. Page 2, line 34, by striking the words and
 9 figures "subparagraphs (1) and (2)" and inserting the
 10 following: "subparagraph (2)".
- 11 5. Page 2, line 35, by striking the word "are"
 12 and inserting the following: "is".
- 13 6. Page 2, by striking lines 36 through 43.
- 14 7. Page 2, line 48, by striking the figure "(3)"
 15 and inserting the following: "(3A)".
- 16 8. Page 2, line 49, by striking the figure "(3)"
 17 and inserting the following: "(3A)".
- 18 9. Page 3, line 1, by striking the figure "(3)"
 19 and inserting the following: "(3A)".
- 20 10. By renumbering as necessary.

By FORD of Polk**H-8268** FILED MARCH 12, 2002

0/0

3/14/02
(p. 804)**HOUSE FILE 2555****H-8251**

- 1 Amend the amendment, H-8244, to House File 2555 as
 2 follows:
- 3 1. Page 1, by inserting after line 23 the
 4 following:
- 5 "____. Page 3, line 26, by inserting after the
 6 word "felony" the following: "or a class "C" felony
 7 under section 124.401, subsection 1, paragraph "c",".
- 8 2. Page 1, by striking lines 27 through 30.

By TREMMEL of Wapello**H-8251** FILED MARCH 12, 2002

Adopted

3-14-02

(p. 806)

Legislative Fiscal Bureau

Fiscal Note

HF 2555 - Sentencing Options (LSB 6627 HV)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)

Fiscal Note Version - New

Requested by Representative Mark Tremmel

Description

House File 2555 makes changes to criminal definitions, enhancements, and penalties. Sections One, Two and Three relate to the drug "ecstasy." A person who conspires to manufacture for delivery, delivers or conspires to deliver, or possesses with intent to deliver ecstasy commits a Super Class B felony if the amount is greater than five kilograms. A person commits a Class B felony if the amount is more than ten grams but less than five kilograms. If the amount is ten grams or less, the person commits a Class C felony. Current law provides that a person commits a Class C felony regardless of the amount of the drug involved. Section Four provides that a person who possesses certain products with the intent to use that product to manufacture a controlled substance commits a Class D felony. Section Five eliminates the ability of a defendant to receive a conditional discharge of a sentence for a first offense for either possession of a controlled substance or an accommodation offense. Sections 6, 7, 13, 24, 25, and 26 relate to deferred judgments for the offenses of Operating While Intoxicated (OWI) for a vehicle or boat, for the purposes of sentencing enhancements, granting deferred judgments where the defendant had previously been granted one for a felony in the last five years, and restricts a defendant to receiving one deferred judgment. Section Eight and Nine of the Bill create a new criminal offense of Robbery in the third degree. Section 10 and 11 provide that a person who commits Burglary or Attempted Burglary in the third degree commits a Class D felony if the person has a previous Burglary conviction. Sections 12, 15, and 17 through 23 relate to changes in the sentence for Robbery in the second degree. The Bill creates a "70.0%" sentence where the inmate must serve 70.0% of the sentence in prison, and also must serve three years of parole or work release upon release from prison. Under current law, these inmates are required to serve 85.0% of their sentence in prison, and are not subject to mandatory supervision requirements when they are released. Section 14 removes the requirement that the court must find mitigating circumstances in determining whether a person should be sentenced to a determinate sentence. Section 16 makes a technical change. Section 27 relates to drug courts established in Community-Based Corrections District Departments, and it strikes language that requires drug courts only be offered to convicted offenders and to give priority to felons over misdemeanants. This provision takes effect upon enactment.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 2002. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Data was also used from the Adult Corrections Information System, which is the adult prison system database.
5. Sections One through Three of the Bill will have no significant fiscal or correctional impact. According to samples of new prison admissions of drug offenders, there have been no cases involving ecstasy manufacture and/or distribution.
6. There is no readily available information with which to predict how many additional charges or convictions would occur under Section Four. To the extent that the language results in additional charges and convictions, there will be a fiscal and correctional impact on State prisons and Community-Based Corrections (CBC).
7. There is no fiscal impact of Section Five of HF 2555, assuming that Chapter 907, Code of Iowa, continues to apply to the majority of these cases. It is also assumed that the types of

- offenders who would be prohibited from receiving deferred judgments under the Bill would instead be granted deferred sentences and/or suspended sentences, and that their levels of supervision within the CBC system would not be impacted.
8. There will be fewer deferred judgments granted due to Sections 6, 7, 13, 24, 25, and 26. However, there is no readily available information with which to predict the number of deferred judgments that would not be granted due to these changes. There is no significant fiscal or correctional impact of these sections, assuming that the types of offenders who would be prohibited from receiving deferred judgments under the Bill would instead be granted deferred sentences and/or suspended sentences, and that their levels of supervision within the CBC system would not be impacted.
 9. There is no significant correctional or fiscal impact of Sections Eight and Nine. Only one case per year would be eligible for Robbery in the third degree under the provisions of HF 2555.
 10. There is no significant correctional or fiscal impact for Sections 10 and 11. Few offenders have been sentenced since the law was changed last year.
 11. There is no significant correctional or fiscal impact for the next five years for Sections 12, 15, and 17 through 23. These sections reduce the penalty for Robbery in the second degree from an 85.0% sentence to a 70.0% sentence, and impose mandatory supervision upon an inmate's release from prison. Offenders convicted of Robbery in the second degree after July 1, 2002, will expect to serve seven years instead of eight and one-half years on average, assuming accumulation of all earned time credits.
 12. There is no readily available information with which to predict the correctional or fiscal impact of Section 14. There has been little use of the determinate sentencing option since it became available in July 2001. However, of the determinate terms that have been granted during the first six months of FY 2002, 60.0% of these offenders are projected to serve the same or less time in prison than they would have served under an indeterminate sentence. Approximately 40.0% will serve more time in prison than they would have served under an indeterminate sentence. Removing the requirement that a judge must find mitigating circumstances in order to impose a determinate sentence, creates more potential for use of the statute to increase time served in prison. To the extent this occurs, there will be a correctional and fiscal impact.
 13. There is no correctional or fiscal impact to the technical change made in Section 16.
 14. There is no significant correctional or fiscal impact for Section 27. There are a limited number of offenders served by drug courts. The change does permit offenders on pre-trial release status to be served by drug courts.

Correctional Impact

There is no significant correctional impact in the next five years. The changes made to Robbery in the second degree will have no impact in FY 2003, FY 2004, and FY 2005. The prison population is expected to decrease by one inmate in FY 2006, and decrease by two inmates in FY 2007.

Fiscal Impact

There is no fiscal impact under HF 2555.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Office of the State Public Defender

/s/ Dennis C Prouty

March 6, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

5-2-20
Correction Judiciary

HOUSE FILE 2555
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 677)

(As Amended and Passed by the House March 14, 2002)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating new criminal offenses, providing for enhancements
2 and penalties, relating to judicial records, and providing an
3 effective date.

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

5
6 House Amendments _____
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1 Section 1. Section 124.401, subsection 1, paragraph a,
2 subparagraph (2), Code 2001, is amended by adding the
3 following new subparagraph subdivision:

4 NEW SUBPARAGRAPH SUBDIVISION. (g) 3,4-
5 methylenedioxymethamphetamine (MDMA), its salts, isomers, or
6 salts of isomers.

7 Sec. 2. Section 124.401, subsection 1, paragraph b, Code
8 2001, is amended by adding the following new subparagraph:

9 NEW SUBPARAGRAPH. (9) More than ten grams but not more
10 than five kilograms of 3,4-methylenedioxymethamphetamine
11 (MDMA), its salts, isomers, or salts of isomers, or any
12 compound, mixture or preparation which contains any quantity
13 of detectable amount of MDMA, its salts, isomers, or salts of
14 isomers.

15 Sec. 3. Section 124.401, subsection 1, paragraph c, Code
16 2001, is amended by adding the following new subparagraph:

17 NEW SUBPARAGRAPH. (7A) Ten grams or less of 3,4-
18 methylenedioxymethamphetamine (MDMA), its salts, isomers, or
19 salts of isomers, or any compound, mixture or preparation
20 which contains any quantity of detectable amount of MDMA, its
21 salts, isomers, or salts of isomers.

22 Sec. 4. Section 124.401, subsection 4, unnumbered
23 paragraph 1, Code 2001, is amended to read as follows:

24 A person who possesses any product containing any of the
25 following commits a class "D" felony, if the person possesses
26 with the intent ~~to use the product~~ that the product be used to
27 manufacture any controlled substance:

28 Sec. 5. Section 124.401A, Code 2001, is amended to read as
29 follows:

30 124.401A ENHANCED PENALTY FOR MANUFACTURE OR DISTRIBUTION
31 TO PERSONS ON CERTAIN REAL PROPERTY.

32 In addition to any other penalties provided in this
33 chapter, a person who is eighteen years of age or older who
34 unlawfully manufactures with intent to distribute,
35 distributes, or possesses with intent to distribute a

1 substance or counterfeit substance listed in schedule I, II,
2 or III, or a simulated controlled substance represented to be
3 a controlled substance classified in schedule I, II, or III,
4 to another person who is eighteen years of age or older in or
5 on, or within one thousand feet of the real property
6 comprising a public or private elementary or secondary school,
7 public park, public swimming pool, public recreation center,
8 or on a marked school bus, may be sentenced up to an
9 additional term of confinement of five years.

10 Sec. 6. Section 124.409, subsection 1, Code 2001, is
11 amended by striking the subsection.

12 Sec. 7. Section 321J.2, subsection 3, paragraph a,
13 subparagraph (3), Code 2001, is amended by striking the
14 subparagraph.

15 Sec. 8. Section 462A.14, subsection 3, paragraph a,
16 subparagraph (3), Code 2001, is amended by striking the
17 subparagraph.

18 Sec. 9. Section 622.53, Code 2001, is amended to read as
19 follows:

20 622.53 JUDICIAL RECORD -- STATE OR FEDERAL COURTS.

21 A judicial record of this state, including the filed
22 certified shorthand notes of the official court reporter as
23 transcribed or a court of the United States may be proved by
24 the production of the original, or a copy of it certified by
25 the clerk or person having the legal custody of it,
26 authenticated by the custodian's seal of office, if there is a
27 seal. ~~That~~ A judicial record of another state may be proved
28 by the attestation of the clerk and the seal of the court
29 annexed, if there is a seal ~~7-together-with-a-certificate-of-a~~
30 judge ~~7-chief-justice ~~7-or-presiding-magistrate-that-the~~~~
31 attestation-is-in-due-form-of-law.

32 Sec. 10. Section 711.3, Code 2001, is amended to read as
33 follows:

34 711.3 ROBBERY IN THE SECOND DEGREE.

35 All robbery which is not robbery in the first degree is

1 robbery in the second degree, except as provided in section
2 711.3A. Robbery in the second degree is a class "C" felony.

3 Sec. 11. NEW SECTION. 711.3A ROBBERY IN THE THIRD
4 DEGREE.

5 A person commits robbery in the third degree when, while
6 perpetrating a robbery, the person does not do any of the
7 following: cause injury, attempt to cause injury, threaten to
8 cause injury or to commit a forcible felony, purposefully put
9 another in fear of injury, possess a firearm or dangerous
10 weapon, commit a theft of cash or an item with a value greater
11 than fifty dollars, or commit a robbery of a financial
12 institution as defined in section 12C.1. Robbery in the third
13 degree is a class "D" felony.

14 Sec. 12. Section 713.6A, subsection 2, Code Supplement
15 2001, is amended to read as follows:

16 2. Burglary in the third degree involving a burglary of an
17 unoccupied motor vehicle or motor truck as defined in section
18 321.1, or a vessel defined in section 462A.2, is an aggravated
19 misdemeanor for a first offense. A-second-or-subsequent If
20 the person has a prior conviction under this section chapter,
21 the offense is punishable under subsection 1.

22 Sec. 13. Section 713.6B, subsection 2, Code Supplement
23 2001, is amended to read as follows:

24 2. Attempted burglary in the third degree involving an
25 attempted burglary of an unoccupied motor vehicle or motor
26 truck as defined in section 321.1, or a vessel defined in
27 section 462A.2, is a serious misdemeanor for a first offense.
28 A-second-or-subsequent If the person has a prior conviction
29 under this section chapter, the offense is punishable under
30 subsection 1.

31 Sec. 14. Section 901.5, Code 2001, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 13. In addition to any sentence or other
34 penalty imposed against the defendant, the court shall
35 sentence the defendant to an additional term of years if

1 required under section 902.13.

2 Sec. 15. NEW SECTION. 901.11 DEFERRED JUDGMENTS --
3 PREVIOUS OFFENSES FOR PURPOSES OF ENHANCEMENT.

4 In determining if an offense is a second or subsequent
5 offense for purposes of sentencing, the following shall apply:

6 1. A deferred judgment entered pursuant to section 907.3
7 for the same offense shall be counted as a previous offense.

8 2. A conviction, deferred judgment, or the equivalent of a
9 deferred judgment for a violation in any other state under a
10 statute substantially corresponding to the offense shall be
11 counted as a previous offense. The courts shall judicially
12 notice the statutes of other states which define offenses
13 substantially equivalent to those defined in the Code and can
14 therefore be considered corresponding statutes.

15 3. Each previous offense for which conviction or deferral
16 of judgment was entered prior to the date of the violation
17 charged shall be considered and counted as a separate previous
18 offense.

19 Sec. 16. Section 902.3A, subsection 1, unnumbered
20 paragraph 1, Code Supplement 2001, is amended to read as
21 follows:

22 Notwithstanding section 902.3, when a conviction for a
23 class "D" felony or a class "C" felony under section 124.401,
24 subsection 1, paragraph "c", is entered against a person, the
25 court, at its discretion, in imposing a sentence of
26 confinement pursuant to section 901.5, may commit the person
27 into the custody of the director of the Iowa department of
28 corrections for a determinate term of less than the maximum
29 length of the sentence prescribed by section 902.9, subsection
30 5, if mitigating circumstances exist and those circumstances
31 are stated specifically on the record.

32 Sec. 17. Section 902.3A, subsection 1, paragraph e, Code
33 Supplement 2001, is amended to read as follows:

34 e. This section does not apply to an offense classified as
35 a forcible felony, a felony under section 321J.2, felonies in

1 chapters 707~~7~~-708~~7~~ and 709, ~~a person sentenced as a habitual~~
2 ~~offender, felonies listed in section 901A.17~~ or felonies
3 listed in section 902.12 or 902.13~~7~~ ~~or a felony committed by a~~
4 ~~person on parole or work release, or while in the custody of~~
5 ~~the director of the department of corrections.~~

6 Sec. 18. Section 902.3A, subsection 3, Code Supplement
7 2001, is amended by striking the subsection.

8 Sec. 19. Section 902.11, unnumbered paragraph 1, Code
9 2001, is amended to read as follows:

10 A person serving a sentence for conviction of a felony,
11 other than a forcible felony under section 902.12 or 902.13,
12 who has a criminal record of one or more prior convictions for
13 a forcible felony or a crime of a similar gravity in this or
14 any other state, shall be denied parole or work release unless
15 the person has served at least one-half of the maximum term of
16 the defendant's sentence. However, the mandatory sentence
17 provided for by this section does not apply if either of the
18 following apply:

19 Sec. 20. Section 902.12, subsection 5, unnumbered
20 paragraph 1, Code 2001, is amended to read as follows:

21 5. Robbery in the first ~~or second~~ degree in violation of
22 section 711.2 ~~or 711.3~~.

23 Sec. 21. NEW SECTION. 902.13 MINIMUM SENTENCE -- ROBBERY
24 SECOND.

25 1. Except as otherwise provided in section 903A.2, a
26 person serving a sentence for conviction of robbery in the
27 second degree shall serve one hundred percent of the maximum
28 term of the person's sentence and shall not be released on
29 parole or work release.

30 2. The person shall also be sentenced to an additional
31 term of three years. The board of parole shall determine
32 whether the person should be released on parole or placed in a
33 work release program. When a person commences service of the
34 additional term of years, the person shall initially be
35 released by the board of parole subject to the terms and

1 conditions set out in chapter 906. Violations of the terms
2 and conditions of release shall be subject to the procedures
3 set out in chapter 905 or 908 or rules adopted under those
4 chapters. The sentence of an additional term of years shall
5 be consecutive to the original term of confinement.

6 Sec. 22. Section 903A.2, subsection 1, paragraph a, Code
7 2001, is amended to read as follows:

8 a. Category "A" sentences are those sentences which are
9 not subject to a maximum accumulation of earned time of
10 ~~fifteen-percent-of-the-total-sentence-of-confinement~~ under
11 section 902.12 or 902.13. To the extent provided in
12 subsection 5, category "A" sentences also include life
13 sentences imposed under section 902.1. An inmate of an
14 institution under the control of the department of corrections
15 who is serving a category "A" sentence is eligible for a
16 reduction of sentence equal to one and two-tenths days for
17 each day the inmate demonstrates good conduct and
18 satisfactorily participates in any program or placement status
19 identified by the director to earn the reduction. The
20 programs include but are not limited to the following:

21 Sec. 23. Section 903A.2, subsection 1, Code 2001, is
22 amended by adding the following new paragraph:

23 NEW PARAGRAPH. c. Category "C" sentences are those
24 sentences which are subject to a maximum accumulation of
25 earned time of thirty percent of the total sentence of
26 confinement under section 902.13. An inmate of an institution
27 under the control of the department of corrections who is
28 serving a category "C" sentence is eligible for a reduction of
29 sentence equal to three-sevenths of a day for each day of good
30 conduct by the inmate.

31 Sec. 24. Section 903A.7, Code 2001, is amended to read as
32 follows:

33 903A.7 SEPARATE SENTENCES.

34 Consecutive multiple sentences that are within the same
35 category under section 903A.2 shall be construed as one

1 continuous sentence for purposes of calculating reductions of
2 sentence for earned time. If a person is sentenced to serve
3 sentences of both multiple categories, category "B" sentences
4 shall be served before category "C" and category "A" sentences
5 are served, and category "C" sentences shall be served before
6 category "A" sentences are served, and earned time accrued
7 against the category "B" sentences shall not be used to reduce
8 the category "C" or category "A" sentences, and earned time
9 accrued against category "C" sentences shall not be used to
10 reduce category "A" or category "B" sentences. If an inmate
11 serving a category "A" sentence is sentenced to serve a
12 category "B" sentence or a category "C" sentence, the category
13 "A" sentence shall be interrupted, and no further earned time
14 shall accrue against that sentence until the category "B"
15 sentence is completed. If an inmate serving a category "C"
16 sentence is sentenced to serve a category "B" sentence, the
17 category "C" sentence shall be interrupted, and no further
18 earned time shall accrue against that sentence until the
19 category "B" sentence is completed.

20 Sec. 25. Section 906.15, unnumbered paragraph 1, Code
21 2001, is amended to read as follows:

22 Unless sooner discharged, a person released on parole shall
23 be discharged when the person's term of parole equals the
24 period of imprisonment specified in the person's sentence,
25 less all time served in confinement. Discharge from parole
26 may be granted prior to such time, when an early discharge is
27 appropriate. The board shall periodically review all paroles,
28 and when the board determines that any person on parole is
29 able and willing to fulfill the obligations of a law-abiding
30 citizen without further supervision, the board shall discharge
31 the person from parole. A parole officer shall periodically
32 review all paroles assigned to the parole officer, and when
33 the parole officer determines that any person assigned to the
34 officer is able and willing to fulfill the obligations of a
35 law-abiding citizen without further supervision, the officer

1 may discharge the person from parole after notification and
2 approval of the district director and notification of the
3 board of parole. In any event, discharge from parole shall
4 terminate the person's sentence. However, if a person has
5 been sentenced to an additional term of years under section
6 902.13, the person shall not be discharged from the term until
7 the additional term of years has been served. However, a
8 person convicted of a violation of section 709.3, 709.4 or
9 709.8 committed on or with a child shall not be discharged
10 from parole until the person's term of parole equals the
11 period of imprisonment specified in the person's sentence,
12 less all time served in confinement.

13 Sec. 26. Section 907.3, subsection 1, paragraph c, Code
14 2001, is amended to read as follows:

15 c. Prior to the commission of the offense the defendant
16 had been granted a deferred judgment or similar relief, ~~two or~~
17 ~~more times~~ anywhere in the United States.

18 Sec. 27. Section 907.3, subsection 1, paragraph d, Code
19 2001, is amended by striking the paragraph.

20 Sec. 28. Section 907.3, subsection 1, paragraph g,
21 subparagraph (3), Code 2001, is amended by striking the
22 subparagraph.

23 Sec. 29. 2001 Iowa Acts, chapter 186, section 6,
24 subsection 6, is amended by striking the subsection.

25 Sec. 30. EFFECTIVE DATE. The section of this Act amending
26 2001 Iowa Acts, chapter 186, section 6, subsection 6, being
27 deemed of immediate importance, takes effect upon enactment.

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Legislative Fiscal Bureau

Fiscal Note

HF 2555 - Sentencing Options (LSB 6627 HV.1)

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Fiscal Note Version – As Passed by the House

Requested by Senator O. Gene Maddox

Description

House File 2555 as passed by the House makes changes to criminal definitions, enhancements, and penalties. Sections One, Two, and Three relate to the drug "ecstasy." A person who conspires to manufacture for delivery, delivers or conspires to deliver, or possesses with intent to deliver ecstasy commits a Super Class B felony if the amount is greater than five kilograms. A person commits a Class B felony if the amount is more than ten grams but less than five kilograms. If the amount is ten grams or less, the person commits a Class C felony. Current law provides that a person commits a Class C felony regardless of the amount of the drug involved. Section Four provides that a person who possesses certain products with the intent to use that product to manufacture a controlled substance commits a Class D felony. Section Five provides an enhanced penalty (additional term of five years) for manufacturing a controlled substance near certain property. Section Six eliminates the ability of a defendant to receive a conditional discharge of a sentence for a first offense for either possession of a controlled substance or an accommodation offense. Sections 7, 8, 15, 26, 27, and 28 relate to deferred judgments for the offenses of Operating While Intoxicated (OWI) for a vehicle or boat, for the purposes of sentencing enhancements, granting deferred judgments where the defendant had previously been granted one for a felony in the last five years, and restricts a defendant to receiving one deferred judgment. Section Nine relates to judicial records from other states. Sections 10 and 11 of the Bill create a new criminal offense of Robbery in the third degree. Section 12 and 13 provide that a person who commits Burglary or Attempted Burglary in the third degree commits a Class D felony if the person has a previous Burglary conviction. Sections 14, 17, and 19 through 25 relate to changes in the sentence for Robbery in the second degree. The Bill creates a "70.0%" sentence where the inmate must serve 70.0% of the sentence in prison, and also must serve three years of parole or work release upon release from prison. Under current law, these inmates are required to serve 85.0% of their sentence in prison, and are not subject to mandatory supervision requirements when they are released. Section 16 removes the requirement that the court must find mitigating circumstances in determining whether a person should be sentenced to a determinate term for certain Class D and Class C felonies. Section 18 makes a technical change. Sections 29 and 30 relate to drug courts established in Community-Based Corrections District Departments, and it strikes language that requires drug courts only be offered to convicted offenders and to give priority to felons over misdemeanants. This provision takes effect upon enactment.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 2002. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Data was also used from the Adult Corrections Information System, which is the adult prison system database.
5. Sections One through Three of the Bill will have no significant fiscal or correctional impact. According to samples of new prison admissions of drug offenders, there have been no cases involving ecstasy manufacture and/or distribution.
6. There is no readily available information with which to predict how many additional charges or convictions would occur under Section Four. To the extent that the language results in

- additional charges and convictions, there will be a fiscal and correctional impact on State prisons and Community-Based Corrections (CBC).
7. Section Five would result in more offenders receiving an additional five years in prison for certain offenses involving the manufacture with intent to distribute controlled substances. During FY 2001, four offenders were admitted to prison for convictions under this statute. It is assumed there will not be a significant fiscal or correctional impact for this provision.
 8. There is no fiscal impact of Section Six of HF 2555 as passed by the House, assuming that Chapter 907, Code of Iowa, continues to apply to the majority of these cases. It is also assumed that the types of offenders who would be prohibited from receiving deferred judgments under the Bill would instead be granted deferred sentences and/or suspended sentences, and that their levels of supervision within the CBC system would not be impacted.
 9. There will be fewer deferred judgments granted due to Sections 7, 8, 15, 26, 27, and 28. However, there is no readily available information with which to predict the number of deferred judgments that would not be granted due to these changes. There is no significant fiscal or correctional impact of these sections, assuming that the types of offenders who would be prohibited from receiving deferred judgments under the Bill would instead be granted deferred sentences and/or suspended sentences, and that their levels of supervision within the CBC system would not be impacted.
 10. There is no fiscal impact associated with Section Nine.
 11. There is no significant correctional or fiscal impact of Sections 10 and 11. Only one case per year would be eligible for Robbery in the third degree under the provisions of HF 2555 as passed by the House.
 12. There is no significant correctional or fiscal impact for Sections 12 and 13. Few offenders have been sentenced since the law was changed last year.
 13. There is no significant correctional or fiscal impact for the next five years for Sections 14, 17, and 19 through 25. These sections reduce the penalty for Robbery in the second degree from an 85.0% sentence to a 70.0% sentence, and impose mandatory supervision upon an inmate's release from prison. Offenders convicted of Robbery in the second degree after July 1, 2002, will expect to serve seven years instead of eight and one-half years on average, assuming accumulation of all earned time credits.
 14. There is no readily available information with which to predict the correctional or fiscal impact of Section 16. There has been little use of the determinate sentencing option since it became available in July 2001. However, of the determinate terms that have been granted during the first six months of FY 2002, 60.0% of these offenders are projected to serve the same or less time in prison than they would have served under an indeterminate sentence. Approximately 40.0% will serve more time in prison than they would have served under an indeterminate sentence. Removing the requirement that a judge must find mitigating circumstances in order to impose a determinate term for certain Class C and Class D felonies, creates more potential for use of the statute to increase time served in prison. To the extent this occurs, there will be a correctional and fiscal impact. Additionally, during FY 2001, there were 429 Class C felony drug offenders admitted to prison. These convictions would be eligible for determinate sentencing under HF 2555 as passed by the House. Making these Class C offenses eligible for determinate sentencing without mitigating circumstances will likely result in quite a variation in sentencing. The range of possible terms for Class C determinate felonies is almost twice the range of possible terms for Class D determinate felonies. The wider variation in terms would increase the potential for Class C felons sentenced to a determinate term to serve a longer prison sentence than if they had received an indeterminate term. To the extent this occurs, there will be a correctional and fiscal impact.
 15. There is no correctional or fiscal impact to the technical change made in Section 18.
 16. There is no significant correctional or fiscal impact for Sections 29 and 30. There are a limited number of offenders served by drug courts. The change does permit offenders on pre-trial release status to be served by drug courts.

Correctional Impact

There is no significant correctional impact in the next five years. The changes made to Robbery in the second degree and Robbery in the third degree will have no impact in FY 2003, FY 2004, and FY 2005. The prison population is expected to decrease by four inmates in FY 2007.

Fiscal Impact

House File 2555 as passed by the House would not have a significant fiscal impact.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Office of the State Public Defender

/s/ Dennis C Prouty

March 19, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.
