

JAN 31 2006  
JUDICIARY

HOUSE FILE 2183  
BY WESSEL-KROESCHELL  
and BERRY

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act repealing certain penalties for controlled substances  
2 offenses.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2183

1 Section 1. Section 124.401E, subsection 3, Code Supplement  
2 2005, is amended to read as follows:

3 3. If a court sentences a person for the person's second  
4 or subsequent conviction for delivery or possession with  
5 intent to deliver a controlled substance under section  
6 124.401, subsection 1, and the controlled substance is  
7 amphetamine, its salts, isomers, or salts of its isomers, or  
8 methamphetamine, its salts, isomers, or salts of its isomers,  
9 the court, in addition to any other authorized penalties,  
10 shall sentence the person to imprisonment in accordance with  
11 section 124.401, subsection 1, ~~and the person shall serve the~~  
12 ~~minimum period of confinement as required by section 124.413.~~

13 Sec. 2. Section 124.406, subsection 1, paragraph a, Code  
14 2005, is amended to read as follows:

15 a. Unlawfully distributes or possesses with intent to  
16 distribute a substance listed in schedule I or II to a person  
17 under eighteen years of age commits a class "B" felony and  
18 ~~shall serve a minimum term of confinement of five years.~~  
19 ~~However, if the substance was distributed in or on, or within~~  
20 ~~one thousand feet of, the real property comprising a public or~~  
21 ~~private elementary or secondary school, public park, public~~  
22 ~~swimming pool, public recreation center, or on a marked school~~  
23 ~~bus, the person shall serve a minimum term of confinement of~~  
24 ~~ten years.~~

25 Sec. 3. Section 124.406, subsection 2, paragraph a, Code  
26 2005, is amended to read as follows:

27 a. Unlawfully distributes or possesses with the intent to  
28 distribute a counterfeit substance listed in schedule I or II,  
29 or a simulated controlled substance represented to be a  
30 substance classified in schedule I or II, to a person under  
31 eighteen years of age commits a class "B" felony. ~~However, if~~  
32 ~~the substance was distributed in or on, or within one thousand~~  
33 ~~feet of, the real property comprising a public or private~~  
34 ~~elementary or secondary school, public park, public swimming~~  
35 ~~pool, public recreation center, or on a marked school bus, the~~

~~1 person shall serve a minimum term of confinement of ten years.~~

2 Sec. 4. Section 232.45, subsection 14, unnumbered  
3 paragraph 1, Code 2005, is amended to read as follows:

4 If a child who is alleged to have delivered, manufactured,  
5 or possessed with intent to deliver or manufacture, a  
6 controlled substance except marijuana, as defined in chapter  
7 124, is waived to district court for prosecution, the  
8 ~~mandatory minimum sentence provided in section 124.413 shall~~  
9 ~~not be imposed if a conviction is had; however, each~~ child  
10 ~~convicted of such an offense~~ shall be confined for not less  
11 than thirty days in a secure facility if convicted.

12 Sec. 5. Section 901.5, subsection 10, paragraph a, Code  
13 Supplement 2005, is amended to read as follows:

14 a. A controlled substance offense under section 124.401,  
15 ~~124.401A~~, 124.402, or 124.403.

16 Sec. 6. Section 901.10, subsection 1, Code 2005, is  
17 amended to read as follows:

18 1. A court sentencing a person for the person's first  
19 conviction under section 124.406~~7~~~~124.413~~ or 902.7 may, at  
20 its discretion, sentence the person to a term less than  
21 provided by the statute if mitigating circumstances exist and  
22 those circumstances are stated specifically in the record.

23 Sec. 7. Section 901.10, subsection 2, Code 2005, is  
24 amended by striking the subsection.

25 Sec. 8. Section 903A.5, unnumbered paragraph 1, Code 2005,  
26 is amended to read as follows:

27 An inmate shall not be discharged from the custody of the  
28 director of the Iowa department of corrections until the  
29 inmate has served the full term for which the inmate was  
30 sentenced, less earned time and other credits earned and not  
31 forfeited, unless the inmate is pardoned or otherwise legally  
32 released. Earned time accrued and not forfeited shall apply  
33 to reduce a mandatory minimum sentence being served pursuant  
34 to section ~~124.4067~~~~124.413~~ 902.7, 902.8, ~~902.8A~~ or 902.11.  
35 An inmate shall be deemed to be serving the sentence from the

1 day on which the inmate is received into the institution. If  
2 an inmate was confined to a county jail or other correctional  
3 or mental facility at any time prior to sentencing, or after  
4 sentencing but prior to the case having been decided on  
5 appeal, because of failure to furnish bail or because of being  
6 charged with a nonbailable offense, the inmate shall be given  
7 credit for the days already served upon the term of the  
8 sentence. However, if a person commits any offense while  
9 confined in a county jail or other correctional or mental  
10 health facility, the person shall not be granted jail credit  
11 for that offense. Unless the inmate was confined in a  
12 correctional facility, the sheriff of the county in which the  
13 inmate was confined shall certify to the clerk of the district  
14 court from which the inmate was sentenced and to the  
15 department of corrections' records administrator at the Iowa  
16 medical and classification center the number of days so  
17 served. The department of corrections' records administrator,  
18 or the administrator's designee, shall apply jail credit as  
19 ordered by the court of proper jurisdiction or as authorized  
20 by this section and section 907.3, subsection 3, and shall  
21 forward a copy of the number of days served to the clerk of  
22 the district court from which the inmate was sentenced.

23 Sec. 9. Sections 124.401A, 124.401C, 124.413, and 902.8A,  
24 Code 2005, are repealed.

25 EXPLANATION

26 This bill relates to mandatory minimum penalties for  
27 certain controlled substances offenses.

28 The bill repeals Code section 124.401A, which provides for  
29 an additional term of confinement of five years if a person is  
30 convicted of a drug-related offense within 1,000 feet of a  
31 school, public park, public swimming pool, public recreation  
32 center, or marked school bus.

33 The bill repeals Code section 124.401C, which provides for  
34 an additional term of confinement of five years if a person  
35 manufactures methamphetamines in the presence of a minor.

1 The bill repeals Code section 124.413 requiring a person,  
2 if convicted of a controlled substance-related offense under  
3 Code section 124.401, subsection 1, to serve a minimum term of  
4 confinement equal to one-third of the maximum sentence.

5 The bill repeals Code section 902.8A requiring a person, if  
6 convicted of an amphetamine or methamphetamine-related offense  
7 under Code section 124.401D, to serve a minimum term of  
8 confinement of 10 years.

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