

FEB 24 2004
JUDICIARY

HOUSE FILE 2335
BY FORD and BERRY

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

A BILL FOR

1 An Act repealing the statute subjecting certain criminal
2 sentences to a maximum accumulation of earned time of fifteen
3 percent of the total sentence of confinement.

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

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HF 2335

1 Section 1. Section 822.2, subsection 6, Code 2003, is
2 amended to read as follows:

3 6. The person's reduction of sentence pursuant to sections
4 903A.1 through 903A.7 903A.6 or section 903A.7, Code 2003, has
5 been unlawfully forfeited and the person has exhausted the
6 appeal procedure of section 903A.3, subsection 2; or

7 Sec. 2. Section 901.5B, Code Supplement 2003, is amended
8 to read as follows:

9 901.5B REOPENING OF SENTENCE -- SENTENCES SUBJECT TO
10 MAXIMUM EARNED TIME ACCUMULATION OF FIFTEEN PERCENT.

11 1. A defendant serving a sentence under section 902.12,
12 Code 2003, prior to July 1, 2003, or who is serving a sentence
13 under section 902.12, Code Supplement 2003, prior to July 1,
14 2004, who is sentenced by the court to the custody of the
15 director of the department of corrections, may have the
16 judgment and sentence reopened for resentencing if all of the
17 following apply:

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

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

28 2. Upon the court granting the motion to reopen the
29 sentence, the court shall order that the defendant be eligible
30 for consideration of parole or work release ~~in-the-same-manner~~
31 ~~as-a-defendant-serving-a-sentence-under-section-902-12.~~

32 ~~3.--For-purposes-of-calculating-earned-time-under-section~~
33 ~~903A-2, the-sentencing-date-for-a-defendant-whose-sentence-has~~
34 ~~been-reopened-under-this-section-shall-be-the-date-of-the~~
35 ~~original-sentencing-order.~~

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

5 Sec. 3. Section 901.8, Code 2003, is amended to read as
6 follows:

7 901.8 CONSECUTIVE SENTENCES.

8 If a person is sentenced for two or more separate offenses,
9 the sentencing judge may order the second or further sentence
10 to begin at the expiration of the first or succeeding
11 sentence. If a person is sentenced for escape under section
12 719.4 or for a crime committed while confined in a detention
13 facility or penal institution, the sentencing judge shall
14 order the sentence to begin at the expiration of any existing
15 sentence. If the person is presently in the custody of the
16 director of the Iowa department of corrections, the sentence
17 shall be served at the facility or institution in which the
18 person is already confined unless the person is transferred by
19 the director. Except as otherwise provided in section 903A.7,
20 Code 2003, if consecutive sentences are specified in the order
21 of commitment, the several terms shall be construed as one
22 continuous term of imprisonment.

23 Sec. 4. Section 903A.2, subsection 1, Code Supplement
24 2003, is amended to read as follows:

25 1. Each inmate committed to the custody of the director of
26 the department of corrections is eligible to earn a reduction
27 of sentence in the manner provided in this section. ~~For~~
28 ~~purposes-of-calculating-the-amount-of-time-by-which-an~~
29 ~~inmate's-sentence-may-be-reduced,-inmates-shall-be-grouped~~
30 ~~into-the-following-two-sentencing-categories-~~

31 a. ~~Category-"A"-sentences-are-those-sentences-which-are~~
32 ~~not-subject-to-a-maximum-accumulation-of-earned-time-of~~
33 ~~fifteen-percent-of-the-total-sentence-of-confinement-under~~
34 ~~section-902.12.--To-the-extent-provided-in-subsection-5,~~
35 ~~category-"A"-sentences-also-include-life-sentences-imposed~~

1 ~~under-section-902-11~~ An inmate of an institution under the
2 control of the department of corrections ~~who-is-serving-a~~
3 ~~category-"A"-sentence~~ is eligible for a reduction of sentence
4 equal to one and two-tenths days for each day the inmate
5 demonstrates good conduct and satisfactorily participates in
6 any program or placement status identified by the director to
7 earn the reduction. The programs include but are not limited
8 to the following:

- 9 (1) Employment in the institution.
- 10 (2) Iowa state industries.
- 11 (3) An employment program established by the director.
- 12 (4) A treatment program established by the director.
- 13 (5) An inmate educational program approved by the
14 director.

15 b. An inmate ~~servng-a-category-"A"-sentence~~ is also
16 eligible for an additional reduction of sentence of up to
17 three hundred sixty-five days of the full term of the sentence
18 of the inmate for exemplary acts. In accordance with section
19 903A.4, the director shall by policy identify what constitutes
20 an exemplary act that may warrant an additional reduction of
21 sentence.

22 ~~b.--Category-"B"-sentences-are-those-sentences-which-are~~
23 ~~subject-to-a-maximum-accumulation-of-earned-time-of-fifteen~~
24 ~~percent-of-the-total-sentence-of-confinement-under-section~~
25 ~~902-12.--An-inmate-of-an-institution-under-the-control-of-the~~
26 ~~department-of-corrections-who-is-serving-a-category-"B"~~
27 ~~sentence-is-eligible-for-a-reduction-of-sentence-equal-to~~
28 ~~fifteen-eighty-fifths-of-a-day-for-each-day-of-good-conduct-by~~
29 ~~the-inmate.~~

30 Sec. 5. Section 905.6, subsection 9, Code Supplement 2003,
31 is amended to read as follows:

32 9. Notify the board of parole, thirty days prior to
33 release, of the release from a residential facility operated
34 by the district department of a person serving a sentence
35 under section 902.12, Code 2003 or Code Supplement 2003.

1 Sec. 6. Section 905.11, Code Supplement 2003, is amended
2 to read as follows:

3 905.11 RESIDENTIAL FACILITY RESIDENCY -- MINIMUM.

4 A person who is serving a sentence under section 902.12,
5 Code 2003 or Code Supplement 2003, the maximum term of which
6 exceeds ten years, and who is released on parole or work
7 release shall reside in a residential facility operated by the
8 district department for a period of not less than one year.

9 Sec. 7. Section 906.4, unnumbered paragraph 2, Code
10 Supplement 2003, is amended to read as follows:

11 A person on parole or work release who is serving a
12 sentence under section 902.12, Code 2003 or Code Supplement
13 2003, shall begin parole or work release in a residential
14 facility operated by a judicial district department of
15 correctional services.

16 Sec. 8. Section 902.12, Code Supplement 2003, is repealed.

17 Sec. 9. Section 903A.7, Code 2003, is repealed.

18 EXPLANATION

19 This bill repeals the statute subjecting certain criminal
20 sentences to a maximum accumulation of earned time of 15
21 percent of the total sentence of confinement, otherwise known
22 as an 85 percent sentence.

23 The bill provides that an offender sentenced for a criminal
24 offense listed in Code section 902.12 no longer serves an 85
25 percent sentence. An offender, sentenced for an offense
26 previously subject to an 85 percent sentence, serves a
27 sentence that is subject to the same parole eligibility
28 requirements and earned time calculations as other offenders.
29 An offender serving a sentence previously subject to an 85
30 percent sentence may now receive a reduction of sentence equal
31 to one and two-tenths days of a day for each day of good
32 conduct by the inmate and is parole-eligible. Current law
33 provides that a person serving an 85 percent sentence for an
34 offense listed in Code section 902.12 is only eligible for a
35 reduction of sentence equal to fifteen eighty-fifths of a day

1 for each day of good conduct by the inmate, and is not parole
2 eligible.

3 The bill provides that a person serving an 85 percent
4 sentence prior to July 1, 2004, is eligible to have the
5 person's sentence reopened if the county attorney from the
6 county which prosecuted the defendant files a motion in the
7 sentencing court to reopen the sentence of the defendant. If
8 the court grants the motion to reopen the sentence, the person
9 becomes eligible for parole or work release. If the sentence
10 is not reopened, the person serves 85 percent of the person's
11 sentence in confinement.

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