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Legal Background Briefings are prepared and updated periodically by the Legal Services Division of the Iowa Legislative Services Agency, a nonpartisan agency providing legislative drafting and research services to the committees and members of the Iowa General Assembly. The Briefings provide background information regarding a particular area of law. Although a briefing may identify issues for consideration by the General Assembly, nothing contained in a briefing should be interpreted as advocating a particular course of action. The reader is cautioned against using information contained in a briefing to draw conclusions as to the legality of a particular behavior or set of circumstances.

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Legal Background Briefing on...

Seventy Percent Sentences

Overview

Iowa is among many states that enacted 85 percent mandatory minimum sentence laws following enactment of the federal Violent Offender Incarceration/Truth-in-Sentencing (VOI/TIS) Act in 1994.¹ An 85 percent sentence is now known as a 70 percent sentence. During the 2003 Legislative Session, a person convicted of an 85 percent sentence after July 1, 2003, became eligible for parole after serving 70 percent of that sentence.² The next year during the 2004 Legislative Session, all persons convicted of an 85 percent sentence prior to July 1, 2003, became eligible for parole after serving 70 percent of the sentence.³ Under the VOI/TIS Act, the United States Attorney General provides Violent Offender Incarceration grants to the states to build or expand prisons for violent criminal offenders.⁴ To be eligible to receive a minimum grant, a state must submit an application to the United States Attorney General indicating that the state has implemented correctional policies and programs to ensure that a person who commits a violent offense serves a minimum of 85 percent of the sentence imposed by the court.⁵ A violent offense under the federal law means murder, nonnegligent manslaughter, forcible rape, robbery, and aggravated assault.⁶ In 1996 Iowa enacted its version of violent offender truth-in-sentencing, commonly known as the 85 percent sentence law.⁷ As a result of passing the 85 percent sentence law, Iowa received a total of \$22.9 million in VOI/TIS Act funds to build prisons and correctional facilities over a six-year period: \$1,248,453 (1996); \$5,622,682 (1997); \$4,216,254 (1998); \$3,797,288 (1999); \$3,518,579 (2000); and \$4,521,574 (2001).⁸ Funding VOI/TIS Act grants ceased after 2001 when the goals of

the program had been achieved, and no other state had applied for the grants.⁹ A total of 29 states and the District of Columbia received VOI/TIS Act grants.¹⁰

References to the Code in this briefing are to the 2007 Iowa Code unless otherwise noted.

Seventy Percent Sentence in Iowa Criminal Offenses

The 70 percent sentence is established in Iowa Code section 902.12. The criminal offenses listed in Iowa Code section 902.12 include:

- Murder in the second degree
- Attempted murder
- Sexual abuse in the second degree
- Kidnapping in the second degree
- Robbery in the first degree
- Robbery in the second degree.¹¹
- Vehicular homicide if the defendant is found to be intoxicated or driving recklessly or eluding a peace officer, and also leaves the scene.¹²

A 70 percent sentence essentially limits an inmate's ability to accumulate earned time at a normal rate and limits an inmate's parole eligibility.

Application of 70 Percent Sentence

Limitation on earned time credit. A 70 percent sentence operates by placing a limitation on the usual credit for earned time. For purposes of calculating earned time, sentences are classified as either category "A" or "B" sentences.¹³

Most sentences are classified as category "A" sentences, which make an inmate eligible for a reduction in sentence of one and two-tenths days for each day of good conduct while committed to a correctional facility.¹⁴ Thus an inmate serving a 25-year category "A" sentence will discharge the inmate's sentence after serving 11.36 years in prison if the inmate is not paroled prior to the expiration of the sentence and the inmate has not forfeited any earned time. In order to determine the discharge of sentence date of

an inmate serving a category "A" sentence, first convert the 1.2 days of earned time for each day served to a fraction. If an inmate serves 5 days in prison, the inmate receives earned time credits for 11 days off the sentence (5 days actually served plus the 1.2 days served for each day of good conduct equals 11 days). Since the inmate is receiving 11 days off the sentence for every 5 days served, multiply the fraction 5/11 or .454545 by 25 years to reach 11.36 years in prison.

However, 70 percent sentences are classified as category "B" sentences, and inmates serving a category "B" sentence are only eligible to earn fifteen eighty-fifths of a day for each day of good conduct.¹⁵ For example, an inmate sentenced to a 25-year category "B" sentence will discharge the sentence after serving 20.59 years in prison if the inmate is not paroled prior to the expiration of the sentence and the inmate has not forfeited any earned time.¹⁶ In order to determine the discharge of sentence date of an inmate serving a category "B" sentence, multiply 15/85 or .176471 by 25 years, which calculates into 4.41 years of earned time, and then subtract 4.41 from 25 to reach a total of 20.59 years in prison before discharge of sentence.

Earned time is important because it in effect shortens the maximum term of the sentence.¹⁷ All sentences other than life sentences expire and the inmate is released from prison when the inmate has served the full term of the inmate's sentence less credit for earned time and other credits not forfeited, if the inmate is not paroled first.¹⁸

Limitation on parole. A 70 percent sentence is also a limitation on parole. Prior to July 1, 2003, an inmate convicted of a 70 percent sentence was not eligible for parole.¹⁹ A change was made during the 2003 Legislative Session which made a person convicted of a 70 percent sentence on or after July 1, 2003, eligible for parole after serving 70 percent of the maximum term of the sentence; thus under the example above, the inmate would be eligible for parole after

serving 17.5 years in prison, if the sentence carried a maximum 25-year term (25 years multiplied by 70 percent).²⁰ Another change was made in the 2004 Legislative Session which made all persons serving an 85 percent sentence eligible for parole after serving 70 percent of the maximum term of the sentence, including persons convicted prior to July 1, 2003.²¹

Convictions and Effect on Prison Population

As of June 30, 2007, a total of 124 offenders serving a 70 percent sentence have been released from prison.²² During FY 2005-2006 59 inmates were released and during FY 2006-2007 65 inmates were released.²³ On June 30, 2007, a total of 855 offenders were serving a 70 percent sentence.²⁴ The following table illustrates by criminal offense the number of inmates serving a 70 percent sentence in correctional facilities as of July 1, 2007.²⁵

Criminal Offense	Prison Population	Mandated Length of Stay in Months
Murder-2nd Degree	58	420
Attempted Murder	60	210
Homicide by Vehicle Class "B"	1	210
Homicide by Vehicle Class "C"	3	84
Sexual Abuse-2nd Degree	171	210
Kidnapping-2nd Degree	15	210
Robbery-1st Degree	135	210
Robbery-2nd Degree	361	84
Robbery-2nd Degree Habitual Offender ²⁶	16	126

³ See S.F. 2275, 2004 Iowa Acts ch. 1150, §1.

⁴ 42 U.S.C. § 13702.

⁵ 42 U.S.C. § 13703.

⁶ 42 U.S.C § 13701. See Iowa Code § 902.12 for a list of violent offenses that qualified the state to receive VOI/TIS Act funds.

⁷ Iowa Code § 902.12.

⁸ Beth Lenstra, Legislative Analyst, Legislative Services Agency, Fiscal Services Division (October 29, 2003, e-mail).

⁹ Adam Spector, Public Affairs Specialist, Office of Justice Programs (November 18, 2003, telephone conversation).

¹⁰ Id.

¹¹ See Iowa Code § 902.12. Murder in the second degree (Iowa Code § 707.3), attempted murder (Iowa Code § 707.11), sexual abuse in the second degree (Iowa Code § 709.3), kidnapping in the second degree (Iowa Code § 710.3), robbery in the first degree (Iowa Code § 711.2), robbery in the second degree (Iowa Code § 711.3). Murder in the first degree, sexual abuse in the first degree, and kidnapping in the first degree are not 85 percent sentences because conviction for the offenses mandates a life sentence.

¹² Iowa Code § 902.12 (70 percent sentence), Iowa Code § 707.6A(1) and (2) (homicide by motor vehicle), and Iowa Code § 321.261(4) (leaving the scene of an accident).

¹³ Iowa Code § 903A.2(1).

¹⁴ Iowa Code § 903A.2(1)(a).

¹⁵ Iowa Code § 903A.2(1)(b).

¹⁶ See Iowa Code § 902.12. Prior to July 1, 2003, a person convicted of an 85 percent sentence was not eligible for parole; thus the inmate's sentence did not expire until the person served the full term of the sentence less earned time and other credits not forfeited. On or after July 1, 2003, a person charged and convicted of an 85 percent sentence is eligible for parole after serving 70 percent of the maximum term of the sentence.

¹⁷ Iowa Code § 903A.5.

¹⁸ Iowa Code § 903A.5.

¹⁹ Iowa Code § 902.12 (2003 Code).

²⁰ Iowa Code § 902.12 (2003 Code Supplement).

²¹ Iowa Code § 902.12.

²² Beth Lenstra, Fiscal Services Division, Legislative Services Agency (September 6, 2007, e-mail).

²³ Id.

²⁴ Id.

²⁵ Id.

²⁶ Iowa Code § 902.12 (robbery in the second degree is a 70 percent offense) and Iowa Code §§ 902.8 (habitual offender) and 902.9(3) (maximum term for a habitual offender).

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Endnotes

¹ 42 U.S.C. § 13711.

² See S.F. 422, 2003 Iowa Acts ch. 156, §§11, 12.