

Reprinted 3/19/69

February 5, 1969  
Passed on File

SENATE FILE 175

*Law Enforcement 2-6* By CONKLIN, NICHOLSON, SULLIVAN,  
*Page 2-13*  
~~House Law Enforcement~~  
*Reassigned Law Enforcement 1-13-70*

MESSERLY, HOUGEN, BALLOUN  
and STANLEY

(Fischer of Grundy, Rex,  
Koch, Welden, Kitner,  
Bergman, Hansen of Black  
Hawk and Miller of Marshall)

Passed Senate, Date..... Passed House, Date .....

Vote: Ayes ..... Nays ..... Vote: Ayes ..... Nays .....

Approved .....

## A BILL FOR

- 1 An Act relating to penalties for the commission of or the
- 2 attempt to commit crimes when armed with firearms.
- 3 *Be It Enacted by the General Assembly of the State of Iowa:*

This is a Companion Bill; for complete text see House File 144

- 1 Amend Senate File 175 as follows:
- 2 1. By inserting in page 2, line 10, after the word
- 3 "imprisonment" the words "in the penitentiary or the men's
- 4 reformatory".
- 5 2. By inserting in page 2, line 11, after the word
- 6 "imprisonment" the words "in the penitentiary".
- 7 3. By inserting in page 2, line 12, after the word
- 8 "imprisonment" the words "in the penitentiary".
- 9 4. By inserting in page 2, line 13, after the word
- 10 "imprisonment" the words "in the penitentiary".

Filed  
February 19, 1969

*Withdrawn 3/19*

By CONKLIN

- 1 Amend Senate File 175 as follows:  
2 1. By inserting in page 2, line 10, after the word  
3 "imprisonment" the words "in the penitentiary or the men's  
4 reformatory".  
5 2. By inserting in page 2, line 11, after the word  
6 "imprisonment" the words "in the penitentiary".  
7 3. By inserting in page 2, line 12, after the word  
8 "imprisonment" the words "in the penitentiary".  
9 4. By inserting in page 2, line 13, after the word  
10 "imprisonment" the words "in the penitentiary".

Filed  
February 19, 1969

By CONKLIN

March 19, 1969

SENATE FILE 175

*Reassigned Law Enforcement 1-13-70*

By CONKLIN, NICHOLSON, SULLIVAN,  
MESSERLY, HOUGEN, BALLOUN,  
and STANLEY  
(Fischer of Grundy, Rex,  
Koch, Welden, Kitner,  
Bergman, Hansen of Black  
Hawk, and Miller of Marshall)  
(As Passed by the Senate)

Passed Senate, Date 3-19-69 Passed House, Date 4-10-69

Vote: Ayes 45 Nays 15 Vote: Ayes 99 Nays 17

Approved .....

*Recalled from Governor*

## A BILL FOR

- 1 An Act relating to penalties for the commission of or the
- 2 attempt to commit crimes when armed with firearms.
- 3 *Be It Enacted by the General Assembly of the State of Iowa:*
- 4 Section 1. As used in this Act, the term "firearm" means
- 5 any pistol, revolver, rifle, shotgun, machine gun, automatic
- 6 and semiautomatic rifle, or other firearm as the term is
- 7 commonly used, or any gun, device or instrument in the nature
- 8 of a weapon from which may be fired or ejected any solid
- 9 projectile, ball, slug, pellet, missile, or bullet.
- 10 It shall also include, without limitation, any firearm which
- 11 is in the nature of any air gun, spring gun or pistol, carbon
- 12 dioxide or compressed air gun or pistol, or other weapon of a
- 13 similar nature in which the propelling force is a spring, elastic
- 14 band, carbon dioxide, compressed or other gas or vapor, air
- 15 or compressed air, or is ignited by compressed air, and
- 16 ejecting a bullet or missile smaller than three-eighths of an
- 17 inch in diameter, with sufficient force to injure the person.
- 18 Sec. 2. Any person who commits or attempts to commit an
- 19 assault punishable as a felony, robbery, larceny of property
- 20 exceeding twenty dollars in value, burglary, breaking and

1 entering, rape, murder, mayhem, arson, extortion, kidnapping,  
2 sodomy or escape from legal custody, when armed with or having  
3 in his possession any firearm, whether or not capable of being  
4 discharged, or any other object or device, whether toy or  
5 imitation, having an appearance similar to or capable of being  
6 mistaken for a firearm, or has a confederate aiding and abetting  
7 him in any one of said crimes, present and armed with or having  
8 in his possession any such firearm, object or device, shall be  
9 guilty of a public offense separate and distinct from the crimes  
10 heretofore enumerated in this section, and shall, in addition to  
11 the punishment provided for that crime, be punished on a first  
12 conviction by imprisonment in the penitentiary for not more than  
13 five years; upon a second conviction by imprisonment in the  
14 penitentiary for ten years; upon a third conviction by imprison-  
15 ment in the penitentiary for twenty years; and upon a fourth or  
16 subsequent conviction, by imprisonment in the penitentiary for  
17 life. The indictment or county attorney's information shall allege  
18 the principal crime charged in one count and the additional crime  
19 charged by reason of section two (2) of this Act in an additional  
20 count. The defendant shall be tried upon both crimes or counts  
21 in the indictment or county attorney's information at the same  
22 trial. The jury shall return a separate verdict of guilty or not  
23 guilty upon each crime charged. In the event the defendant would  
24 be subject to a greater penalty by reason of prior convictions,  
25 the provisions of section six hundred ninety-six point ten (696.10),  
26 seven hundred forty-seven point four (747.4), and seven hundred  
27 seventy-three point three (773.3) of the Code shall be applicable.

28 Sec. 3. A person sentenced as provided in section two (2)  
29 of this Act shall not be granted probation and the sentence required  
30 to be imposed shall not be suspended for any reason by the trial  
31 court or any other court. Said sentence shall be served in full  
32 by such person with reduction for good behavior and the person so  
33 serving the same shall not otherwise be eligible for parole, except  
34 upon a sentence for a first conviction under section two (2) of  
35 this Act.



- 1 Amend Senate File 175 as follows:
- 2 Page 1, line twelve (12), by inserting after the word "pistol"
- 3 the words "water pistol, cap pistol, or sling shot".

Filed and ruled not germane  
April 10, 1969

McINTYRE of Linn

- 1 Amend Senate File 175, page two (2), by striking all of
- 2 section 3 and renumbering the remaining sections.

Filed and lost  
April 10, 1969

JOHNSTON of Johnson

- 1 Amend the Conklin, Gaudineer, et al., amendment
- 2 to Senate File 175 by striking lines 80 through 83, inclusive,
- 3 and inserting in lieu thereof the following:
- 4 "Sec. 11. Section seven hundred eighty-nine
- 5 point thirteen (789.13), Code 1966, is hereby amended by
- 6 adding the following at the end of said section:
- 7 "This section shall not apply to sentences
- 8 pursuant to section two (2) of this Act except a sentence
- 9 upon a first conviction under section two (2) of this Act."

Filed and adopted  
March 19, 1969

By STANLEY, CONKLIN  
and GAUDINEER

- 1 Amend the Conklin, et al., amendment to Senate
- 2 File 175 by striking from lines 31 and 32 the words
- 3 "not more than".

Filed and lost  
March 19, 1969

By HILL

- 1 Amend the Conklin, et al., amendment of March 17, 1969,
- 2 to Senate File 175, by striking section 3 thereof.

Filed and lost  
March 19, 1969

By GLENN

1 Amend Senate File 175 by striking all after the enacting  
2 clause and inserting in lieu thereof the following:

3 Section 1. As used in this Act, the term "firearm" means  
4 any pistol, revolver, rifle, shotgun, machine gun, automatic  
5 and semiautomatic rifle, or other firearm as the term is com-  
6 monly used, or any gun, device or instrument in the nature of  
7 a weapon from which may be fired or ejected any solid projec-  
8 tile, ball, slug, pellet, missile, or bullet.

9 It shall also include, without limitation, any firearm which  
10 is in the nature of any air gun, spring gun or pistol, carbon  
11 dioxide or compressed air gun or pistol, or other weapon of a  
12 similar nature in which the propelling force is a spring,  
13 elastic band, carbon dioxide, compressed or other gas or vapor,  
14 air or compressed air, or is ignited by compressed air, and  
15 ejecting a bullet or missile smaller than three-eighths of an  
16 inch in diameter, with sufficient force to injure the person.

17 Sec. 2. Any person who commits or attempts to commit an  
18 assault, robbery, larceny of property exceeding twenty dollars  
19 in value, burglary, breaking and entering, rape, murder, may-  
20 hem, arson, extortion, kidnapping, sodomy or escape from legal  
21 custody, when armed with or having in his possession any fire-  
22 arm, whether or not capable of being discharged, or any other  
23 object or device, whether toy or imitation, having an appear-  
24 ance similar to or capable of being mistaken for a firearm, or  
25 has a confederate aiding and abetting him in any one of said  
26 crimes, present and armed with or having in his possession  
27 any such firearm, object or device, shall be guilty of a  
28 public offense separate and distinct from the crimes hereto-  
29 fore enumerated in this section, and shall, in addition to  
30 the punishment provided for that crime, be punished on a first  
31 conviction by imprisonment in the penitentiary for not more  
32 than five years; upon a second conviction by imprisonment in  
33 the penitentiary for ten years; upon a third conviction by  
34 imprisonment in the penitentiary for twenty years; upon a  
35 fourth or subsequent conviction, by imprisonment in the peni-  
36 tentiary for life. No such additional punishment shall be  
37 imposed unless the indictment shall have alleged that the  
38 person was armed with or had a firearm in his possession and  
39 conviction was had thereon.

40 Sec. 3. A person sentenced as provided in section two (2)  
41 of this Act shall not be granted probation and the sentence  
42 required to be imposed shall not be suspended for any reason  
43 by the trial court or any other court. Said sentence shall be  
44 served in full by such person with reduction for good be-  
45 havior and the person so serving the same shall not be otherwise  
46 be eligible for parole, except upon a sentence for a first  
47 conviction under section two (2) of this Act.

48 Sec. 4. Section two hundred forty-six point thirty-nine  
49 (246.39), Code 1966, is hereby amended by inserting in line  
50 seven (7) after the word "shall" the words "except when sen-  
51 tenced pursuant to section two (2) of this Act".

52 Sec. 5. Section two hundred forty-six point forty-three  
53 (246.43), Code 1966, as amended by Chapter two hundred nine  
54 (209), Acts of the Sixty-second General Assembly, section three  
55 hundred sixty-six (366), is hereby amended by inserting in line  
56 five (5) after the word "director," the words "except when sen-  
57 tenced pursuant to section two (2) of this Act".

58 Sec. 6. Section two hundred forty-seven point five (247.5),  
59 Code 1966, is hereby amended by inserting in line four (4) after  
60 the word "stage" the words "or sentenced pursuant to section  
61 two (2) of this Act".

62 Sec. 7. Section two hundred forty-seven point twenty  
63 (247.20), Code 1966, is hereby amended by inserting in line  
64 six (6) after the word "drug" the words "or where he has been  
65 sentenced pursuant to section two (2) of this Act".

66 Sec. 8. Section seven hundred eight point two (708.2),  
67 Code 1966, is hereby amended by inserting in line three (3)  
68 after the word "weapon," the words "except a firearm as de-  
69 fined in section one (1) of this Act,".

70 Sec. 9. Section seven hundred eleven point two (711.2),  
71 Code 1966, is hereby amended by inserting in line three (3)  
72 after the word "weapon," the words "except a firearm as defined  
73 in section one (1) of this Act,".

74 Sec. 10. Section seven hundred eighty-nine point twelve  
75 (789.12), Code 1966, is hereby amended by adding at the end  
76 a new sentence as follows: "If, however, one of the sentences  
77 is pursuant to section two (2) of this Act, it shall in all in-  
78 stances be separate and cumulative to the other sentence or  
79 sentences imposed by the court."

80 Sec. 11. Section seven hundred eighty-nine point thirteen  
81 (789.13), Code 1966, is hereby amended by inserting in line  
82 five (5) after the word "imprisonment," the words "or where  
83 he has been sentenced pursuant to section two (2) of the Act,".

Filed  
March 17, 1969

By CONKLIN, GAUDINEER, NICHOLSON,  
SULLIVAN, MESSERLY, HOUGEN,  
BALLOUN and STANLEY

1 Amend the Conklin, et al., amendment to Senate File 175 as follows:

2 1. By inserting in line 18 after the word, "assault" the words,  
3 "punishable as a felony".

4 2. By striking all after the word, "life" in lines 36 through  
5 39 and by inserting in lieu thereof the following:

6 "The indictment or county attorney's information shall allege  
7 the principal crime charged in one count and the additional crime  
8 charged by reason of section two (2) of this Act in an additional  
9 count. The defendant shall be tried upon both crimes or counts in  
10 the indictment or county attorney's information at the same trial.  
11 The jury shall return a separate verdict of guilty or not guilty up-  
12 on each crime charged. In the event the defendant would be subject  
13 to a greater penalty by reason of prior convictions, the provisions  
14 of sections six hundred ninety-six point ten (696.10), seven hundred  
15 forty-seven point four (747.4), and seven hundred seventy-three point  
16 three (773.3) of the Code shall be applicable."

17 3. By striking lines 66 through 73, inclusive.

Filed *advised & withdrawn 3/19*  
March 18, 1969

By GAUDINEER and CONKLIN

1 Amend the Conklin amendment to Senate File 175,  
2 dated March 17, 1969, as follows:

3 1. By striking all lines 48 through 51, inclusive.  
4 2. By renumbering the following sections.

Filed  
March 18, 1969

*advised 3/19*  
By CONKLIN