

Maddox, Angelo, Fraise

Succeeded By
(SF) HF 2300

SSB 3114

SENATE FILE Judiciary
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MADDOX)

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

A BILL FOR

1 An Act relating to criminal sentencing by permitting a
2 conditional discharge for certain second or subsequent
3 offenses, creating different penalties for crimes against a
4 person, prohibiting misdemeanants from serving a sentence at a
5 correctional institution, repealing a provision mandating
6 criminal sentences that require a maximum accumulation of
7 earned time credits of fifteen percent of the total term of
8 confinement and making related changes, and making persons
9 serving such a sentence eligible for parole.

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

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1 Section 1. Section 124.409, subsection 1, Code 2001, is
2 amended to read as follows:

3 1. Whenever If a person who-has-not-previously-been is
4 convicted of an offense under this chapter or-an-offense-under
5 a-state-or-federal-statute-relating-to-narcotic-drugs-or
6 cocaine, marijuana, or stimulant, depressant, or
7 hallucinogenic drugs, pleads guilty to or is found guilty of
8 possession of a controlled substance under section 124.401,
9 subsection 5, or is sentenced pursuant to section 124.410, the
10 court, without entering a judgment of guilt and with the
11 consent of the accused, may defer further proceedings and
12 place the accused on probation upon terms and conditions as it
13 requires. When a person is placed on probation under this
14 subsection, the person's appearance bond may be discharged at
15 the discretion of the court. Upon violation of a term or
16 condition, the court may enter an adjudication of guilt and
17 proceed as otherwise provided. Upon fulfillment of the terms
18 and conditions, the court shall discharge the person and
19 dismiss the proceedings against the person. Discharge and
20 dismissal under this section shall be without court
21 adjudication of guilt and is not a conviction for purposes of
22 this section or for purposes of disqualifications or
23 disabilities imposed by law upon conviction of a crime,
24 including the additional penalties imposed for second or
25 subsequent convictions under section 124.411. ~~Discharge and~~
26 ~~dismissal under this section may occur only once with respect~~
27 ~~to any person.~~

28 Sec. 2. Section 142C.10, subsection 3, Code 2001, is
29 amended to read as follows:

30 3. A person who violates this section is guilty of a class
31 "C" felony and-is-subject-to-imprisonment-not-to-exceed-ten
32 years and, notwithstanding section 902.9, is subject to a fine
33 not to exceed two hundred fifty thousand dollars, or both.

34 Sec. 3. NEW SECTION. 702.6A CRIME AGAINST A PERSON.

35 A crime against a person is any felonious crime involving

1 death, injury, threats, coercion, intimidation, or duress, or
2 any attempt involving the same, or any felonious crime or
3 attempt to commit any crime involving a minor.

4 Sec. 4. Section 822.2, subsection 6, Code 2001, is amended
5 to read as follows:

6 6. The person's reduction of sentence pursuant to sections
7 903A.1 through ~~903A.7~~ 903A.6 has been unlawfully forfeited and
8 the person has exhausted the appeal procedure of section
9 903A.3, subsection 2; or

10 Sec. 5. Section 901.5A, Code 2001, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 1A. A defendant may have a judgment and
13 sentence entered under section 901.5 reopened for resentencing
14 if all of the following apply:

15 a. The sentence of the defendant is subject to a maximum
16 accumulation of earned time of fifteen percent of the total
17 sentence of confinement under section 902.12, Code 2001.

18 b. The board of parole and the department of corrections
19 file a joint motion in the sentencing court to reopen the
20 sentence of the defendant.

21 c. The county attorney from the county which prosecuted
22 the defendant is served a copy of the motion to reopen by
23 certified mail. The motion shall specify that the county
24 attorney has thirty days to consult with the victim, if
25 possible, and to file a written objection.

26 d. The court, upon hearing, grants the motion.

27 Sec. 6. Section 901.5A, subsections 2 and 3, Code 2001,
28 are amended to read as follows:

29 2. Upon a finding by the court that the defendant
30 cooperated in the prosecution of other persons or upon the
31 court granting a motion to reopen the sentence by the board of
32 parole and the department of corrections, the court may reduce
33 the maximum sentence imposed under the original sentencing
34 order.

35 3. For purposes of calculating earned time under section

1 903A.2, the sentencing date for a defendant whose sentence has
2 been reopened under ~~this-section~~ subsection 1 shall be the
3 date of the original sentencing order. If the original
4 sentence was subject to the maximum accumulation of earned
5 time of fifteen percent of the total sentence of confinement
6 under section 902.12, Code 2001, the maximum accumulation of
7 earned time on the new sentence of confinement shall not be
8 fifteen percent of the new total sentence of confinement
9 imposed by the court upon reopening but shall accumulate as
10 provided in section 903A.2. Any earned time accumulated on
11 the original sentence shall be credited to the new sentence
12 upon reopening.

13 Sec. 7. Section 901.5A, Code 2001, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 3A. A person serving a sentence that was
16 subject to the maximum accumulation of earned time of fifteen
17 percent of the total sentence of confinement under section
18 902.12, Code 2001, if the sentence is reopened a person may be
19 paroled if eligible.

20 Sec. 8. Section 901.8, Code 2001, is amended to read as
21 follows:

22 901.8 CONSECUTIVE SENTENCES.

23 If a person is sentenced for two or more separate offenses,
24 the sentencing judge may order the second or further sentence
25 to begin at the expiration of the first or succeeding
26 sentence. If a person is sentenced for escape under section
27 719.4 or for a crime committed while confined in a detention
28 facility or penal institution, the sentencing judge shall
29 order the sentence to begin at the expiration of any existing
30 sentence. If the person is presently in the custody of the
31 director of the Iowa department of corrections, the sentence
32 shall be served at the facility or institution in which the
33 person is already confined unless the person is transferred by
34 the director. ~~Except-as-otherwise-provided-in-section-903A-77~~
35 if If consecutive sentences are specified in the order of

1 commitment, the several terms shall be construed as one
2 continuous term of imprisonment.

3 Sec. 9. Section 902.3A, subsection 1, paragraph e, Code
4 Supplement 2001, is amended to read as follows:

5 e. This section does not apply to an offense classified as
6 a forcible felony, a felony under section 321J.2, felonies in
7 chapters 707, 708, and 709, a person sentenced as a habitual
8 offender, felonies listed in section 901A.1, ~~felonies-listed~~
9 ~~in-section-902-127~~, or a felony committed by a person on parole
10 or work release, or while in the custody of the director of
11 the department of corrections.

12 Sec. 10. Section 902.9, subsection 2, Code Supplement
13 2001, is amended to read as follows:

14 2. A class "B" felon shall be confined for no more than
15 twenty-five years for a crime against a person and fifteen
16 years for all other felonies classified as a class "B" felony.

17 Sec. 11. Section 902.9, subsections 4 and 5, Code
18 Supplement 2001, are amended to read as follows:

19 4. A class "C" felon, not an habitual offender, shall be
20 confined for no more than ten years, ~~and-in~~ for a crime
21 against a person and seven years for all other felonies
22 classified as a class "C" felony. In addition the felon shall
23 be sentenced to a fine of at least one thousand dollars but
24 not more than ten thousand dollars.

25 5. A class "D" felon, not an habitual offender, shall be
26 confined for no more than five years, ~~and-in~~ for a crime
27 against a person and three years for all other felonies
28 classified as a class "D" felony. In addition the felon shall
29 be sentenced to a fine of at least seven hundred fifty dollars
30 but not more than seven thousand five hundred dollars. A
31 class "D" felon, such felony being for a violation of section
32 321J.2, may be sentenced to imprisonment for up to one year in
33 the county jail.

34 Sec. 12. Section 902.11, unnumbered paragraph 1, Code
35 2001, is amended to read as follows:

1 A person serving a sentence for conviction of a felony,
2 ~~other-than-a-forcible-felony-under-section-902-12~~, who has a
3 criminal record of one or more prior convictions for a
4 forcible felony or a crime of a similar gravity in this or any
5 other state, shall be denied parole or work release unless the
6 person has served at least one-half of the maximum term of the
7 defendant's sentence. However, the mandatory sentence
8 provided for by this section does not apply if either of the
9 following apply:

10 Sec. 13. Section 903.1, subsection 2, Code Supplement
11 2001, is amended to read as follows:

12 2. When a person is convicted of an aggravated
13 misdemeanor, and a specific penalty is not provided for, the
14 maximum penalty shall be ~~imprisonment~~ confinement in the
15 county jail not to exceed two years. There shall be a fine of
16 at least five hundred dollars but not to exceed five thousand
17 dollars. When a judgment of conviction of an aggravated
18 misdemeanor is entered against any person and the court
19 imposes a sentence of confinement for a period of more than
20 one year the term shall be an indeterminate term.

21 Sec. 14. Section 903.4, Code Supplement 2001, is amended
22 to read as follows:

23 903.4 PROVIDING PLACE OF CONFINEMENT.

24 All persons sentenced to confinement for a ~~period-of-one~~
25 ~~year-or-less~~ misdemeanor shall be confined in a place to be
26 furnished by the county where the conviction was had unless
27 the person is presently committed to the custody of the
28 director of the Iowa department of corrections, in which case
29 the provisions of section 901.8 apply, or unless the person is
30 serving a determinate term of confinement of one year pursuant
31 to section 902.3A. All persons sentenced to confinement for a
32 ~~period-of-more-than-one-year~~ felony shall be committed to the
33 custody of the director of the Iowa department of corrections
34 to be confined in a place to be designated by the director and
35 the cost of the confinement shall be borne by the state. The

1 director may contract with local governmental units for the
2 use of detention or correctional facilities maintained by the
3 units for the confinement of such persons.

4 Sec. 15. Section 903A.2, subsection 1, unnumbered
5 paragraph 1, Code 2001, is amended to read as follows:

6 Each inmate committed to the custody of the director of the
7 department of corrections is eligible to earn a reduction of
8 sentence in the manner provided in this section. ~~For purposes~~
9 ~~of calculating the amount of time by which an inmate's~~
10 ~~sentence may be reduced, inmates shall be grouped into the~~
11 ~~following two sentencing categories:~~

12 Sec. 16. Section 903A.2, subsection 1, paragraph a,
13 unnumbered paragraph 1, Code 2001, is amended to read as
14 follows:

15 ~~Category "A" sentences are those sentences which are not~~
16 ~~subject to a maximum accumulation of earned time of fifteen~~
17 ~~percent of the total sentence of confinement under section~~
18 ~~902.12. To the extent provided in subsection 5, category "A"~~
19 ~~sentences also include life sentences imposed under section~~

20 902.1. An inmate of an institution under the control of the
21 department of corrections ~~who is serving a category "A"~~
22 ~~sentence~~ is eligible for a reduction of sentence equal to one
23 and two-tenths days for each day the inmate demonstrates good
24 conduct and satisfactorily participates in any program or
25 placement status identified by the director to earn the
26 reduction. The programs include but are not limited to the
27 following:

28 Sec. 17. Section 903A.2, subsection 1, paragraph b, Code
29 2001, is amended by striking the paragraph.

30 Sec. 18. Section 902.12, Code 2001, is repealed.

31 Sec. 19. Section 903A.7, Code 2001, is repealed.

32 Sec. 20. IMPLEMENTATION OF ACT. Section 25B.2, subsection
33 3, shall not apply to this Act.

34 EXPLANATION

35 This bill makes changes to criminal sentencing.

1 The bill permits a defendant to receive a second or
2 subsequent conditional discharge of a sentence for an offense
3 committed under Code chapter 124 or any other drug-related
4 offense. A conditional discharge permits the court, upon a
5 plea or conviction of guilt, to defer entering judgment of
6 guilt and place the defendant on probation. If the defendant
7 violates probation, the court may enter an adjudication of
8 guilt and sentence the defendant. If the defendant fulfills
9 the terms of probation, the court shall dismiss the
10 proceedings against the defendant without an adjudication of
11 guilt.

12 The bill creates a different penalty for a crime committed
13 against a person as opposed to a crime which is not committed
14 against a person. The bill defines a crime against a person
15 as a felonious crime involving a death, injury, threats,
16 coercion, intimidation, or duress, or any attempt involving
17 the same, or any felonious crime or attempt to commit any
18 crime involving a minor. The bill does not change the current
19 maximum term of confinement generally applicable for a crime
20 committed against a person. However, the bill does change the
21 maximum term of confinement generally applicable for a crime
22 which is not committed against a person.

23 The maximum term of confinement for a class "B" felony
24 under the bill is 25 years for a crime against a person and 15
25 years for any other felony classified as a class "B" felony.
26 The maximum term of confinement for a class "C" felony under
27 the bill is 10 years for a crime against a person and seven
28 years for any other felony classified as a class "C" felony.
29 The maximum term of confinement for a class "D" felony under
30 the bill is five years for a crime against a person and three
31 years for any other felony classified as a class "D" felony.

32 The different penalties created within each felony
33 classification under this bill do not apply to a class "A"
34 felony, or a class "B" felony requiring a maximum term of
35 confinement of 50 years, or a misdemeanor.

1 The bill provides that the maximum period of incarceration
 2 for an aggravated misdemeanor is confinement in the county
 3 jail for not more than two years, rather than allowing such
 4 confinement to be at a correctional institution. Current law
 5 provides that if the court sentences a person to a term of
 6 confinement greater than one year, the person serves the
 7 sentence at a correctional institution; if the term is one
 8 year or less, the person serves the sentence in the county
 9 jail.

10 The bill repeals Code section 902.12, which provides for
 11 criminal sentences that require a maximum accumulation of
 12 earned time credits of 15 percent of the total sentence of
 13 confinement, and makes eligible for parole persons currently
 14 serving such a criminal sentence. A sentence that requires a
 15 maximum accumulation of earned time credits of 15 percent of
 16 the total sentence is commonly referred to as an 85 percent
 17 sentence.

18 Currently, Code section 902.12 applies an 85 percent
 19 sentence for conviction of the following felonies: murder in
 20 the second degree, attempted murder, sexual abuse in the
 21 second degree, kidnapping in the second degree, robbery in the
 22 first or second degree, and certain homicide-by-vehicle
 23 offenses. Upon repeal of the applicability of an 85 percent
 24 sentence, a person charged with a criminal offense which would
 25 have required confinement for 85 percent of the total sentence
 26 would now serve a sentence that can be reduced by the full
 27 amount of earned time credits pursuant to Code chapter 903A.

28 The bill also provides for the reopening of a judgment and
 29 sentence for a person currently serving an 85 percent
 30 sentence.

31 Under the bill, an 85 percent sentence may be reopened upon
 32 a motion by the board of parole and the department of
 33 corrections if the original sentencing court grants the
 34 motion. The county attorney from the county which prosecuted
 35 the defendant may, after consulting with the victim, if the

1 victim can be found, file an objection to the motion to
2 reopen. If the sentence is reopened, the court may resentence
3 the defendant and reduce the maximum sentence imposed in the
4 original sentencing order and the new sentence shall no longer
5 be subject to the maximum accumulation of earned time of 15
6 percent of the total sentence of confinement. If a defendant
7 is resentenced to a new maximum sentence, the maximum
8 accumulation of earned time shall be calculated in the same
9 manner as other offenses in Code chapter 903A, which is one
10 and two-tenths days for each day the inmate demonstrates good
11 conduct or satisfactorily participates in prison programs.
12 Any earned time accumulated on the original sentence shall be
13 credited to the new sentence upon reopening. If a sentence is
14 reopened, the defendant may be paroled if eligible.

15 The bill may include a state mandate as defined in Code
16 section 25B.3. The bill makes inapplicable Code section
17 25B.2, subsection 3, which would relieve a political
18 subdivision from complying with a state mandate if funding for
19 the cost of the state mandate is not provided or specified.
20 Therefore, political subdivisions are required to comply with
21 any state mandate included in the bill.

22 A serious misdemeanor is punishable by confinement for no
23 more than one year and a fine of at least \$250 but not more
24 than \$1,500. An aggravated misdemeanor is punishable by
25 confinement for no more than two years and a fine of at least
26 \$500 but not more than \$5,000. Current law provides a class
27 "B" felony is punishable by confinement for no more than 25
28 years. A class "C" felony is punishable by confinement for no
29 more than 10 years and a fine of at least \$1,000 but not more
30 than \$10,000. A class "D" felony is punishable by confinement
31 for no more than five years and a fine of at least \$750 but
32 not more than \$7,500.

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3/18/02 Returned to Judiciary

FILED FEB 25 2002

SENATE FILE 2300
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3114)

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

A BILL FOR

1 An Act relating to criminal sentencing by permitting a
2 conditional discharge for certain second or subsequent
3 offenses, creating different penalties for crimes against a
4 person, and reopening a sentence that requires a maximum
5 accumulation of earned time credits of fifteen percent of the
6 total term of confinement.

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

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SF 2300

1 Section 1. Section 124.409, subsection 1, Code 2001, is
2 amended to read as follows:

3 1. Whenever if a person who-has-not-previously-been is
4 convicted of an offense under this chapter or-an-offense-under
5 a-state-or-federal-statute-relating-to-narcotic-drugs-or
6 cocaine,-marijuana,-or-stimulant,-depressant,-or
7 hallucinogenic-drugs,-pleads-guilty-to-or-is-found-guilty-of
8 possession-of-a-controlled-substance-under-section-124.401,
9 subsection-5,-or-is-sentenced-pursuant-to-section-124.410, the
10 court, without entering a judgment of guilt and with the
11 consent of the accused, may defer further proceedings and
12 place the accused on probation upon terms and conditions as it
13 requires. When a person is placed on probation under this
14 subsection, the person's appearance bond may be discharged at
15 the discretion of the court. Upon violation of a term or
16 condition, the court may enter an adjudication of guilt and
17 proceed as otherwise provided. Upon fulfillment of the terms
18 and conditions, the court shall discharge the person and
19 dismiss the proceedings against the person. Discharge and
20 dismissal under this section shall be without court
21 adjudication of guilt and is not a conviction for purposes of
22 this section or for purposes of disqualifications or
23 disabilities imposed by law upon conviction of a crime,
24 including the additional penalties imposed for second or
25 subsequent convictions under section 124.411. ~~Discharge-and~~
26 ~~dismissal-under-this-section-may-occur-only-once-with-respect~~
27 ~~to-any-person.~~

28 Sec. 2. Section 142C.10, subsection 3, Code 2001, is
29 amended to read as follows:

30 3. A person who violates this section is guilty of a class
31 "C" felony and-is-subject-to-imprisonment-not-to-exceed-ten
32 years and, notwithstanding section 902.9, is subject to a fine
33 not to exceed two hundred fifty thousand dollars, or both.

34 Sec. 3. NEW SECTION. 702.6A CRIME AGAINST A PERSON.

35 A crime against a person is any felonious crime involving

1 death, injury, threats, coercion, intimidation, or duress, or
2 any attempt involving the same, or any felonious crime or
3 attempt to commit any crime involving a minor.

4 Sec. 4. Section 901.5A, Code 2001, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 1A. A defendant may have a judgment and
7 sentence entered under section 901.5 reopened for resentencing
8 if all of the following apply:

9 a. The sentence of the defendant is subject to a maximum
10 accumulation of earned time of fifteen percent of the total
11 sentence of confinement under section 902.12.

12 b. The board of parole and the department of corrections
13 file a joint motion in the sentencing court to reopen the
14 sentence of the defendant.

15 c. The county attorney from the county which prosecuted
16 the defendant is served a copy of the motion to reopen by
17 certified mail. The motion shall specify that the county
18 attorney has thirty days to consult with the victim, if
19 possible, and to file a written objection.

20 d. The court, upon hearing, grants the motion.

21 Sec. 5. Section 901.5A, subsections 2 and 3, Code 2001,
22 are amended to read as follows:

23 2. Upon a finding by the court that the defendant
24 cooperated in the prosecution of other persons or upon the
25 court granting a motion to reopen the sentence by the board of
26 parole and the department of corrections, the court may reduce
27 the maximum sentence imposed under the original sentencing
28 order.

29 3. For purposes of calculating earned time under section
30 903A.2, the sentencing date for a defendant whose sentence has
31 been reopened under ~~this-section~~ subsection 1 shall be the
32 date of the original sentencing order. If the original
33 sentence was subject to the maximum accumulation of earned
34 time of fifteen percent of the total sentence of confinement
35 under section 902.12, the maximum accumulation of earned time

1 on the new sentence of confinement shall not be fifteen
2 percent of the new total sentence of confinement imposed by
3 the court upon reopening but shall accumulate as provided in
4 section 903A.2. Any earned time accumulated on the original
5 sentence shall be credited to the new sentence upon reopening.

6 Sec. 6. Section 901.5A, Code 2001, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 3A. Upon reopening, a person serving a
9 sentence that was subject to the maximum accumulation of
10 earned time of fifteen percent of the total sentence of
11 confinement under section 902.12 may be paroled if eligible.

12 Sec. 7. Section 902.9, subsection 2, Code Supplement 2001,
13 is amended to read as follows:

14 2. A class "B" felon shall be confined for no more than
15 twenty-five years for a crime against a person and fifteen
16 years for all other felonies classified as a class "B" felony.

17 Sec. 8. Section 902.9, subsections 4 and 5, Code
18 Supplement 2001, are amended to read as follows:

19 4. A class "C" felon, not an habitual offender, shall be
20 confined for no more than ten years, ~~and in~~ for a crime
21 against a person and seven years for all other felonies
22 classified as a class "C" felony. In addition the felon shall
23 be sentenced to a fine of at least one thousand dollars but
24 not more than ten thousand dollars.

25 5. A class "D" felon, not an habitual offender, shall be
26 confined for no more than five years, ~~and in~~ for a crime
27 against a person and three years for all other felonies
28 classified as a class "D" felony. In addition the felon shall
29 be sentenced to a fine of at least seven hundred fifty dollars
30 but not more than seven thousand five hundred dollars. A
31 class "D" felon, such felony being for a violation of section
32 321J.2, may be sentenced to imprisonment for up to one year in
33 the county jail.

34 Sec. 9. IMPLEMENTATION OF ACT. Section 25B.2, subsection
35 3, shall not apply to this Act.

EXPLANATION

1
2 This bill makes changes to criminal sentencing.
3 DRUG-RELATED OFFENSES AND DISCHARGE. The bill permits a
4 defendant to receive a second or subsequent conditional
5 discharge of a sentence for an offense committed under Code
6 chapter 124 or any other drug-related offense. A conditional
7 discharge permits the court, upon a plea or conviction of
8 guilt, to defer entering judgment of guilt and place the
9 defendant on probation. If the defendant violates probation,
10 the court may enter an adjudication of guilt and sentence the
11 defendant. If the defendant fulfills the terms of probation,
12 the court shall dismiss the proceedings against the defendant
13 without an adjudication of guilt.
14 PROPERTY CRIME PENALTIES. The bill creates a different
15 penalty for a crime committed against a person as opposed to a
16 crime which is not committed against a person. The bill
17 defines a crime against a person as a felonious crime
18 involving a death, injury, threats, coercion, intimidation, or
19 duress, or any attempt involving the same, or any felonious
20 crime or attempt to commit any crime involving a minor. The
21 bill does not change the current maximum term of confinement
22 generally applicable for a crime committed against a person.
23 However, the bill does change the maximum term of confinement
24 generally applicable for a crime which is not committed
25 against a person.
26 The maximum term of confinement for a class "B" felony
27 under the bill is 25 years for a crime against a person and 15
28 years for any other felony classified as a class "B" felony.
29 The maximum term of confinement for a class "C" felony under
30 the bill is 10 years for a crime against a person and seven
31 years for any other felony classified as a class "C" felony.
32 The maximum term of confinement for a class "D" felony under
33 the bill is five years for a crime against a person and three
34 years for any other felony classified as a class "D" felony.
35 The different penalties created within each felony

1 classification under this bill do not apply to a class "A"
2 felony, or a class "B" felony requiring a maximum term of
3 confinement of 50 years, or a misdemeanor.

4 EIGHTY-FIVE PERCENT SENTENCE REOPENINGS. The bill also
5 provides for the reopening of a judgment and sentence for a
6 person serving a sentence that requires the maximum
7 accumulation of earned time credits of 15 percent of the total
8 sentence of confinement or most commonly referred to as an 85
9 percent sentence.

10 Under the bill, an 85 percent sentence may be reopened upon
11 a motion by the board of parole and the department of
12 corrections if the original sentencing court grants the
13 motion. The county attorney from the county which prosecuted
14 the defendant may, after consulting with the victim, if the
15 victim can be found, file an objection to the motion to
16 reopen. If the sentence is reopened, the court may resentence
17 the defendant and reduce the maximum sentence imposed in the
18 original sentencing order and the new sentence shall no longer
19 be subject to the maximum accumulation of earned time of 15
20 percent of the total sentence of confinement. If a defendant
21 is resentenced to a new maximum sentence, the maximum
22 accumulation of earned time shall be calculated in the same
23 manner as other offenses in Code chapter 903A, which is one
24 and two-tenths days for each day the inmate demonstrates good
25 conduct or satisfactorily participates in prison programs.
26 Any earned time accumulated on the original sentence shall be
27 credited to the new sentence upon reopening. If a sentence is
28 reopened, the defendant may be paroled if eligible.

29 A serious misdemeanor is punishable by confinement for no
30 more than one year and a fine of at least \$250 but not more
31 than \$1,500. An aggravated misdemeanor is punishable by
32 confinement for no more than two years and a fine of at least
33 \$500 but not more than \$5,000. Current law provides a class
34 "B" felony is punishable by confinement for no more than 25
35 years. A class "C" felony is punishable by confinement for no

1 more than 10 years and a fine of at least \$1,000 but not more
2 than \$10,000. A class "D" felony is punishable by confinement
3 for no more than five years and a fine of at least \$750 but
4 not more than \$7,500.

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Legislative Fiscal Bureau

Fiscal Note

SF 2300 - Sentencing Options (LSB 5611 SV)

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

Fiscal Note Version - New

Requested by Senator O. Gene Maddox

Description

Senate File 2300 amends criminal sentencing options. Section One permits a second or subsequent deferred judgment for certain drug-related offenses. Section Two changes the penalty for violations of Section 142C.10, Code of Iowa. Sections Three, Seven, and Eight create a different penalty for a crime committed against a person as opposed to a crime that is not committed against a person. Under the Bill, crimes that are not against a person have a shorter period of confinement. Sections Four through Six provide for a reopening of a judgment and sentence for certain crimes referred to as "85.0%" sentences. That is, under current law, an inmate must serve 85.0% of the sentence to be eligible for release from prison.

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 correctional 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. There were 9,432 offenders convicted under Chapter 124, Code of Iowa, during FY 2001. Of these, approximately 16.0% received deferred judgments. There is no readily available information with which to predict how many additional deferred judgments may be granted under Section One of SF 2300. However, to the extent that the number of deferred judgments granted increases, there will be a reduction in the use of incarceration and parole or probation supervision levels for these offenders.
5. There have been no convictions under Chapter 142C, Code of Iowa, in recent years. Therefore, there is no significant correctional or fiscal impact under Section Two of SF 2300.
6. Sections Three, Seven, and Eight reduce the penalty for property offenses. The average length of stay projected for property offenses under this Bill is based on the current average length of stay for these offenses in comparison with the current maximum terms for these offenses.
7. Sections Four through Six relate to reopening an 85.0% sentence. Given the provisions of the Bill, it is likely that if a county attorney opposes reopening a sentence, the Department of Corrections (DOC) and Board of Parole will not pursue the case.
8. Projections relating to sentencing reopening are based on the current length of stay for 85.0% prisoners, plus information from the Board of Parole. Approximately, 10 cases will be reopened annually, and all reopened cases will result in sentence reduction and parole. During FY 2007, 13 cases will be reopened and the sentences will be reduced.
9. Admissions to prison will not change. However, the length of stay in prison for inmates that committed property offenses will decrease.
10. The Board of Parole will incur additional costs associated with case reviews to consider reopening sentences. There are currently three part-time Board members who work 151

days per year. They receive \$267 per diem. Under the Bill's provisions, each part-time member will work an additional 24 days.

11. The Indigent Defense Program will incur additional costs associated with reopening sentences. The estimated cost per case is \$500.
12. There will be cost reductions for the Indigent Defense Program associated with redefining Class B felonies, non-person offenses. There are approximately 150 of these convictions annually. The savings per case is estimated to be \$1,300.
13. The Judicial Branch will incur additional costs associated with reopening sentences. The average cost is \$120 per case, which includes the expenses of a District Court Judge, court attendant, court reporter, and staff of the Clerk of Court.
14. The marginal cost per day for State prisons is \$16 per inmate.
15. Community-Based Corrections will experience an initial increase in parole cases. However, no long-term impact on caseloads is anticipated.

Correctional Impact

Admissions to prison will not change. However, the average length of stay for certain inmates will decrease. The table below illustrates the cumulative impact on the prison population.

	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
Sentence Reopening	- 10	- 20	- 30	- 40	- 53
Redefine Property Crimes	- 10	- 520	- 548	- 709	- 963
Total	<u>- 20</u>	<u>- 540</u>	<u>- 578</u>	<u>- 749</u>	<u>- 1,016</u>

The cumulative impact is different than the actual number of inmates released annually, due to the long length of stay under current law.

There is no significant impact on CBC parole or probation supervision.

Fiscal Impact

The impact of SF 2300 will result in a net decrease in General Fund expenditures of \$189,000 in FY 2003 and \$3.4 million in FY 2004. The General Fund decrease in annual expenditures is detailed below:

	<u>FY 2003</u>	<u>FY 2004</u>
Sentencing Reopening		
Board of Parole	\$ 19,000	\$ 19,000
State Public Defender	5,000	5,000
Judicial Branch	1,000	1,000
DOC Prisons	- 58,000	- 117,000
Subtotal	<u>\$ - 33,000</u>	<u>\$ - 92,000</u>
Redefine Property Crimes		
State Public Defender	\$ - 98,000	\$ - 196,000
DOC Prisons	- 58,000	- 3,064,000
Subtotal	<u>\$ -156,000</u>	<u>\$ - 3,260,000</u>
Total General Fund Impact	<u>\$ -189,000</u>	<u>\$ - 3,352,000</u>

The prison system is currently operating at 117.0% of design capacity. The savings noted above may be a cost containment effort rather than an actual decrease in the operating budgets.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Board of Parole
Iowa Supreme Court
Office of the State Public Defender

/s/ Dennis C Prouty

March 5, 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.
