



## Legal Services Division

December 2010

### Inside this Briefing

- Overview
- Seventy Percent Sentence in Iowa
- Convictions and Effect on Prison Population

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.

Prepared by:

Joe McEniry  
Iowa Legislative Services Agency  
State Capitol  
Des Moines, Iowa 50319  
(515) 281-3189  
joseph.mceniry@legis.state.ia.us

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.<sup>1</sup> In Iowa, 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.<sup>2</sup> 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.<sup>3</sup>

Under the VOI/TIS Act, the United States Attorney General provided Violent Offender Incarceration grants to the states to build or expand prisons for violent criminal offenders.<sup>4</sup> To be eligible to receive a minimum grant, a state was required to submit an application to the United States Attorney General indicating that the state had 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.<sup>5</sup> A violent offense under the federal law means murder, nonnegligent manslaughter, forcible rape, robbery, and aggravated assault.<sup>6</sup> In 1996 Iowa enacted its version of violent offender truth-in-sentencing, commonly known as the 85 percent sentence law.<sup>7</sup>

As a result of the passage of 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).<sup>8</sup> However, funding for VOI/TIS Act grants ceased after 2001 when the goals of

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

References to the Code in this briefing are to the 2011 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:<sup>11</sup>

- 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
- Vehicular homicide (if defendant found to be intoxicated, driving recklessly, or eluding a peace officer and was also convicted of leaving the scene of the accident).<sup>12</sup>

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. The difficulty with calculating the actual length of a sentence for an inmate serving a 70 percent sentence rests upon the interplay between earned time and the limitations placed on the parole of such an inmate.

### Application of 70 Percent Sentence

**Limitation on earned time credit.** A 70 percent sentence refers to the amount of time that must be served before eligibility for parole but also 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.<sup>13</sup>

### Category "A" Sentences

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 (a maximum reduction of approximately 54.6 percent).<sup>14</sup> Thus an inmate serving a 25-year category "A" sentence will discharge the inmate's sentence (sentence expires) 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.<sup>15</sup> 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.

### Category "B" Sentences

If a sentence is not a category "A" sentence, then it is a category "B" sentence or a 70 percent sentence. Category "B" sentences are only eligible to earn fifteen eighty-fifths of a day of earned time for each day served, a reduction of approximately 17.6 percent for each day of good conduct up to a maximum of 15 percent of the maximum term of the sentence.<sup>16</sup> For example, in order to calculate the earned time for an inmate sentenced to robbery in the first degree, a 25-year, 70 percent category "B" sentence, the maximum term of the sentence of 25 years is multiplied by .176471 (fifteen eighty-fifths of a day for each day of good conduct).<sup>17</sup> However, the maximum amount of earned time a category "B" inmate can earn is capped at 15 percent of the maximum term of the sentence or 3.75 years (25 years multiplied by 15 percent).<sup>18</sup> Thus, an inmate serving a 25-year, 70 percent category "B" sentence will discharge the inmate's sentence (sentence expires) after serving 21.25 years (25 years minus 3.75 years of earned time) if the inmate has not forfeited any earned time credits.<sup>19</sup>

Earned time is important because it in effect shortens the maximum term of the sentence.<sup>20</sup> 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.<sup>21</sup>

**Limitation on parole.** A category “B” 70 percent sentence is also a limitation on parole in addition to affecting earned time. An inmate serving a 70 percent sentence is not eligible to be paroled from the prison until the inmate has served 70 percent of the sentence in prison.<sup>22</sup> An inmate serving a 70 percent sentence is also not eligible to be discharged early from parole, thus the sentence must expire in order for the sentence to be completed by the inmate.<sup>23</sup>

**Legislative History.** Prior to July 1, 2003, an inmate convicted of a 70 percent sentence was not eligible for parole.<sup>24</sup> 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).<sup>25</sup> The person’s sentence would be discharged after 21.25 years, if no earned time has been forfeited. 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.<sup>26</sup>

**Convictions and Effect on Prison Population**

As of June 30, 2010, a total of 1,215 offenders were serving a 70 percent sentence.<sup>27</sup> The total number of offenders excludes offenders serving 85 percent sentences for sexually predatory offenses under Code Chapter 901A.<sup>28</sup> The following table illustrates by criminal offense the

number of inmates serving a 70 percent sentence in Iowa correctional facilities as of July 1, 2010.<sup>29</sup>

Criminal Offense	Prison Population	Mandated Length of Stay in Months
Murder-2nd Degree	157	420
Attempted Murder	105	210
Homicide by Vehicle Class “B”	52	210
Homicide by Vehicle Class “C”	38	84
Sexual Abuse-2nd Degree	290	210
Kidnapping-2nd Degree	29	210
Robbery-1st Degree	195	210
Robbery-2nd Degree	327	84
Robbery-2nd Degree Habitual Offender <sup>30</sup>	22	126

**Endnotes**

<sup>1</sup> 42 U.S.C. §§ 13701 et seq.  
<sup>2</sup> See 2003 Iowa Acts ch. 156, §§ 11, 12 (S.F. 422).  
<sup>3</sup> See 2004 Iowa Acts ch. 1150, § 1 (S.F. 2275).  
<sup>4</sup> 42 U.S.C. § 13702.  
<sup>5</sup> 42 U.S.C. § 13703.  
<sup>6</sup> 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.  
<sup>7</sup> 1996 Iowa Acts ch. 1151, § 3 (S.F. 2114), codified at Iowa Code § 902.12.  
<sup>8</sup> E-mail from Beth Lenstra, Legislative Analyst, Legislative Services Agency, Fiscal Services Division (October 29, 2003) (on file with author).  
<sup>9</sup> Telephone conversation with Adam Spector, Public Affairs Specialist, Office of Justice Programs (November 18, 2003).  
<sup>10</sup> Id.  
<sup>11</sup> 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 70 percent sentences because conviction for those offenses mandates a life sentence.  
<sup>12</sup> 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).  
<sup>13</sup> Iowa Code § 903A.2(1).  
<sup>14</sup> Iowa Code § 903A.2(1)(a).

---

<sup>15</sup> See Iowa Code §§ 903A.5 and 906.15.

<sup>16</sup> Iowa Code § 903A.2(1)(b).

<sup>17</sup> See Iowa Code §§ 902.12 and 903A.2(1)(b).

<sup>18</sup> Iowa Code § 903A.2(1)(b).

<sup>19</sup> E-mail from Tamia Salviati, Public Service Executive, Iowa Department of Corrections (July 22, 2010) (on file with author).

<sup>20</sup> Iowa Code § 903A.5.

<sup>21</sup> Iowa Code § 903A.5.

<sup>22</sup> Iowa Code § 902.12.

<sup>23</sup> Iowa Code § 906.15.

<sup>24</sup> 2003 Iowa Code § 902.12.

<sup>25</sup> 2003 Iowa Code Supplement § 902.12.

<sup>26</sup> Iowa Code § 902.12.

<sup>27</sup> E-mail from Beth Lenstra, Legislative Analyst, Fiscal Services Division, Legislative Services Agency (July 29, 2010) (on file with author).

<sup>28</sup> Id. The law for persons serving an 85 percent sentence was changed during the 2003 and 2004 Legislative Sessions, but the General Assembly did not change 85 percent sentences ordered pursuant to Code Chapter 901A (sexually predatory offenses).

<sup>29</sup> Id.

<sup>30</sup> 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).

1010RR