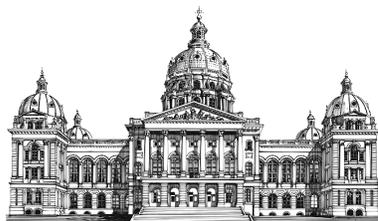

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November 13, 2003

Review of Iowa's 85.0% Sentencing Law

ISSUE

This *Issue Review* describes Iowa's 85.0% sentencing law, and the impact on the State's prison population and budget.

AFFECTED AGENCIES

Department of Corrections (DOC)
Community-Based Corrections (CBC)
Iowa Board of Parole
Judicial Branch

CODE AUTHORITY

Chapters 901A, 902, 903A, 904, 904A, 905, Code of Iowa

BACKGROUND

The U.S. Congress first enacted the Violent Offender Incarceration/Truth In Sentencing (VOI/TIS) Act in 1994. The Act provided the mechanism for the U.S. Department of Justice to provide grants for capital projects, contingent upon states amending certain criminal sentencing laws so at least 85.0% of a sentence is served in prison for offenses including murder, aggravated assault, forcible rape, and robbery.

In Iowa, First Degree Murder and First Degree Sexual Abuse are Class A felony offenses, and 100.0% of the sentence is served in prison. Iowa first amended sentencing laws to adopt the 85.0% standard in FY 1997 for offenses including Second Degree Murder, First and Second Degree Robbery, Second Degree Sexual Abuse, and Second Degree Kidnapping. Vehicular Homicide with Leaving the Scene of the Accident and Attempted Murder were added to the list of offenses beginning in FY 1999.

During the 2003 Legislative Session, Iowa's law was amended by SF 422 (FY 2004 Crimes, Sentencing and Procedure – Miscellaneous Provisions Act). If an offender was convicted before July 1, 2003, the county attorney can reopen the sentence, and if the sentence is reopened, the offender becomes eligible for parole after 70.0% of the maximum term has been served in prison. If an offender is convicted after July 1, 2003, the offender is eligible for

parole after 70.0% of the maximum term has been served in prison. The offender is not eligible to have the sentence reopened. If an offender receives parole on an 85.0% sentence, and the offense is greater than a Class C felony, the offender must reside in a Community-Based Corrections (CBC) residential facility for at least one year. All offenders who receive parole under the provisions of SF 422 must serve 15.0% of the sentence under CBC supervision.

Offenders convicted under Chapter 901A (Sexually Predatory Offenses), Code of Iowa, also serve 85.0% of the sentence imposed in prison. However, the Sexually Violent Predator Law was not enacted due to the federal VOI/TIS Act. These offenders are not eligible for parole under the provisions of SF 422.

CURRENT SITUATION

The U.S. Department of Justice, Office of Justice Programs, has provided over \$2.0 billion to the states since FY 1996. The majority of the funds were used for capital projects to renovate or build prisons and jails. This federal funding was eliminated two years ago.

Iowa received approximately \$22.2 million in federal VOI/TIS funds. The funds were used for construction costs at the Iowa State Penitentiary at Fort Madison, the Iowa Medical Classification Center at Oakdale, the Iowa Correctional Institution for Women at Mitchellville, and the Fifth CBC District Department. Other funding sources, such as the Rebuild Iowa Infrastructure Fund, were utilized to complete all four of these capital projects. A total of 602 prison beds and 101 prison-diversion beds were added to Iowa's correctional system using federal VOI/TIS funds.

There were 712 offenders in prison under Iowa's 85.0% law on June 30, 2003. This includes 28 offenders convicted under Iowa's Sexually Violent Predator Law. The Criminal and Juvenile Justice Planning Division (CJJPD), Department of Human Rights, issued the report "Iowa Prison Population Forecast FY 2003 – 2013" in October 2003. The forecast indicates that approximately 660 additional prisoners will be incarcerated in Iowa prisons due to Iowa's 85.0% law by June 30, 2013. The federal funding received by Iowa was not adequate to meet the need for prison beds created by the 85.0% law. The report also provides details regarding average length of stay for these offenses. An increase in the average length of stay for any group of prisoners is directly related to the increasing prison population. The following table provides the average length of stay of inmates in Iowa prisons based on the offense committed.

Inmate Average Length of Stay (in months)

	6/30/03 Population	Average Length of Stay -1996	Average Length of Stay - 2003	Increase (%)
Murder – Second Degree	36	190	510	320 (168.4%)
Attempted Murder	38	85	255	170 (200.0%)
Homicide by Vehicle – Class B	1	85	255	170 (200.0%)
Sex Abuse – Second Degree	99	85	255	170 (200.0%)
Kidnapping – Second Degree	16	85	255	170 (200.0%)
Robbery – First Degree	101	85	255	170 (200.0%)
Homicide by Vehicle – Class C	1	37	102	65 (175.6%)
Robbery – Second Degree	382	37	102	65 (175.6%)
Sexual Predators	28	26	144	118 (453.8%)
Habitual Class C	10	47	153	106 (225.5%)

Iowa's current prison population is 8,485 inmates or 121.7% of design capacity. The forecast assumes that if current offender behaviors and justice system trends, policies, and practices remain unchanged, the prison population will be 11,925 inmates by June 30, 2013, an increase of approximately 42.6% over the next 10 years.

Factors affecting the increase in the prison population include the following:

- An increase in new prison admissions.
- An increase in felony charges filed.
- An increase in admissions of drug offenders.
- An increase in CBC offender populations.
- Housing federal prisoners and detainees.
- The long-term effect of abolishing or restricting parole for certain crimes (85.0% rule).

ALTERNATIVES

There are no financial incentives to maintain the 85.0% sentencing law now that federal VOI/TIS funding has been eliminated. The General Assembly may wish to consider reducing the length of stay in prison for these offenses. Other states are in similar situations as Iowa, with increasing prison populations and decreasing General Fund receipts. Other states have recently taken steps to contain corrections spending by reducing demand for prison beds. These options include:

- Repeal or reduce mandatory minimum terms.
- Ease habitual offender laws.
- Expand early release or parole eligibility.
- Enhance judicial discretion in criminal sentencing.
- Expand drug treatment availability.
- Establish a Sentencing Commission.
- Increase alternatives to prison for technical violators.
- Create emergency release mechanisms.

BUDGET IMPACT

Iowa's General Fund prison budget has increased \$68.3 million (58.7%) since FY 1997. The prison population has increased by 1,759 inmates (26.5%) during the same time period. Assuming current offender behaviors and justice system trends, policies, and practices remain unchanged for the next 10 years, the prison system will be operating at 161.5% of design capacity by the end of FY 2013. According to the DOC, for every 1,000 increase in the inmate population, a new 800-bed prison will need to be constructed. This assumes each prison will operate at 125.0% of design capacity. If the prison population reaches 11,925 inmates, five new 800-bed prisons will need to be built at an estimated construction cost of \$50.0 million for each prison. Each prison will incur ongoing estimated annual operating costs of approximately \$28.0 million. If five new prisons are

constructed and the population reaches 11,925 inmates, the prison system will be operating at 104.8% of design capacity. All alternatives listed previously would require additional resources for the DOC and/or the CBC District Departments. The alternatives, however, provide methods for future cost avoidance. The future costs of Iowa's current criminal penalties are estimated to be approximately \$140.0 million if five additional prisons are built. The alternative listed previously may be substantially less than that amount.

SOURCES

This ***Issue Review*** is based on information from the CJJPD, the Iowa DOC, the U.S. Department of Justice, Office of Justice Programs and Bureau of Justice Statistics, plus the VERA Institute of Justice.

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