

FILED FEB 21 1989

SENATE FILE 253

House Jud + Law
DO PASS 4-10-89 (p.144)

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 62)

Passed Senate, Date 2-28-89 (SSB) Passed House, Date 4-13-89 (HJR)
Vote: Ayes 49 Nays 0 Vote: Ayes 93 Nays 0
Approved 5-2-89 (p.150)

A BILL FOR

1 An Act relating to the time within which a postconviction relief
2 action may be brought which arises out of a prison
3 disciplinary proceeding and providing an effective date and an
4 applicability provision.

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

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SF 253

1 Section 1. Section 663A.3, Code 1989, is amended to read
2 as follows:

3 663A.3 HOW TO COMMENCE PROCEEDING --LIMITATION.

4 A proceeding is commenced by filing an application verified
5 by the applicant with the clerk of the district court in which
6 the conviction or sentence took place. However, if the
7 applicant is seeking relief under section 663A.2, subsection
8 6, the application shall be filed with the clerk of the
9 district court of the county in which the applicant is being
10 confined within ninety days from the date the disciplinary
11 decision is final. ~~An application~~ All other applications must
12 be filed within three years from the date the conviction or
13 decision is final or, in the event of an appeal, from the date
14 the writ of procedendo is issued. However, this limitation
15 does not apply to a ground of fact or law that could not have
16 been raised within the applicable time period. Facts within
17 the personal knowledge of the applicant and the authenticity
18 of all documents and exhibits included in or attached to the
19 application must be sworn to affirmatively as true and
20 correct. The supreme court may prescribe the form of the
21 application and verification. The clerk shall docket the
22 application upon its receipt and promptly bring it to the
23 attention of the court and deliver a copy to the county
24 attorney and the attorney general.

25 Sec. 2. This Act takes effect July 1, 1989, and applies to
26 all final disciplinary decisions entered under section 903A.3
27 on or after that date. For all final disciplinary decisions
28 entered under section 903A.3 before July 1, 1989, an
29 application seeking relief under section 663A.2, subsection 6,
30 must be filed no later than January 1, 1990.

31 EXPLANATION

32 This bill provides that a postconviction relief action
33 which arises out of a prison disciplinary proceeding must be
34 filed within 90 days from the date the disciplinary decision
35 is final. Current law provides that such action must be filed

1 within three years from the date the conviction or decision is
2 final. An effective date is provided to allow a six-month
3 period for actions to be brought with respect to final
4 decisions entered prior to July 1, 1989.

5 Similar to proposed judicial department bill.

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VARN, CH.
DOYLE
DRAKE

SSB 62
JUDICIARY

SENATE FILE 253
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

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

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10 confined within ninety days from the date the disciplinary
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24 attorney and the attorney general.

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26 all final disciplinary decisions entered under section 903A.3
27 on or after that date. For all final disciplinary decisions
28 entered under section 903A.3 before July 1, 1989, an
29 application seeking relief under section 663A.2, subsection 6,
30 must be filed no later than January 1, 1990.

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EXPLANATION 4

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SENATE FILE 253

AN ACT
RELATING TO THE TIME WITHIN WHICH A POSTCONVICTION RELIEF
ACTION MAY BE BROUGHT WHICH ARISES OUT OF A PRISON
DISCIPLINARY PROCEEDING AND PROVIDING AN EFFECTIVE DATE
AND AN APPLICABILITY PROVISION.

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

Section 1. Section 663A.3, Code 1989, is amended to read
as follows:

663A.3 HOW TO COMMENCE PROCEEDING -- LIMITATION.

A proceeding is commenced by filing an application verified
by the applicant with the clerk of the district court in which
the conviction or sentence took place. However, if the
applicant is seeking relief under section 663A.2, subsection
6, the application shall be filed with the clerk of the
district court of the county in which the applicant is being
confined within ninety days from the date the disciplinary
decision is final. An-applicatton All other applications must
be filed within three years from the date the conviction or
decision is final or, in the event of an appeal, from the date
the writ of procedendo is issued. However, this limitation
does not apply to a ground of fact or law that could not have
been raised within the applicable time period. Facts within
the personal knowledge of the applicant and the authenticity
of all documents and exhibits included in or attached to the
application must be sworn to affirmatively as true and
correct. The supreme court may prescribe the form of the
application and verification. The clerk shall docket the
application upon its receipt and promptly bring it to the
attention of the court and deliver a copy to the county
attorney and the attorney general.

Sec. 2. This Act takes effect July 1, 1989, and applies to
all final disciplinary decisions entered under section 903A.3
on or after that date. For all final disciplinary decisions
entered under section 903A.3 before July 1, 1989, an
application seeking relief under section 663A.2, subsection 6,
must be filed no later than January 1, 1990.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and
is known as Senate File 253, Seventy-third General Assembly.

JOHN P. DWYER
Secretary of the Senate

Approved 5-2, 1989

TERRY E. BRANSTAD
Governor