

(P.238) 2/15/96 Amend/Do Pass
W/H- 5048
S. 2/15/96 Note Res to Judiciary

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JAN 25 1996
JUDICIARY

HOUSE FILE 2104
BY HURLEY

(p. 310)
Passed House, Date 2/13/96 Passed Senate, Date _____
Vote: Ayes 91 Nays 6 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to prison time served by persons convicted of an
2 aggravated misdemeanor or greater offense, by providing for a
3 reduction in the amount of good and honor time that may be
4 earned by forcible felons, providing for a pilot project, and
5 making other related changes.

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

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HF 2104

1 Section 1. Section 902.11, unnumbered paragraph 1, Code
2 1995, is amended to read as follows:

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

11 Sec. 2. Section 902.11, subsection 1, Code 1995, is
12 amended to read as follows:

13 1. ~~The sentence-being-served-is-for-a-felony-other-than-a~~
14 ~~forcible-felony-and-the~~ sentences for the prior forcible
15 felonies expired at least five years before the date of
16 conviction for the present felony.

17 Sec. 3. NEW SECTION. 902.12 MINIMUM SENTENCE -- ELIGI-
18 BILITY OF FORCIBLE FELONS FOR PAROLE OR WORK RELEASE.

19 1. A person serving a sentence for a conviction of a
20 forcible felony who has a criminal record of one prior
21 conviction for a forcible felony or a crime of similar gravity
22 in this or any other state shall be denied parole or work
23 release unless the person has served at least eighty-five
24 percent of the maximum term of the person's sentence.

25 2. A person serving a sentence for a conviction of a
26 forcible felony who has a criminal record of two or more prior
27 convictions for a forcible felony or a crime of similar
28 gravity in this or any other state shall serve one hundred
29 percent of the maximum term of the person's sentence and shall
30 not be released on parole or work release.

31 Sec. 4. Section 903A.2, unnumbered paragraph 1, Code 1995,
32 is amended to read as follows:

33 Each Unless an inmate is sentenced pursuant to section
34 902.12, subsection 2, an inmate of an institution under the
35 Iowa department of corrections, is eligible for a reduction of

1 sentence of one day for each day of good conduct of the inmate
2 while committed to one of the department's institutions. In
3 Unless an inmate is sentenced pursuant to section 902.12,
4 subsection 2, in addition to the sentence reduction of one day
5 for each day of good conduct, each inmate is eligible for an
6 additional reduction of sentence of up to five days a month if
7 the inmate participates satisfactorily in employment in the
8 institution, in Iowa state industries, in an inmate employment
9 program established by the director, in a treatment program
10 established by the director, or in an inmate educational
11 program approved by the director. Inmates who are sentenced
12 pursuant to section 902.12, subsection 2, are eligible for a
13 reduction of sentence of up to one day per month for good
14 conduct while committed to one of the department's
15 institutions. Reduction of sentence pursuant to this section
16 may be subject to forfeiture pursuant to section 903A.3.
17 Computation of good conduct time is subject to the following
18 conditions:

19 Sec. 5. SPLIT-SENTENCING PILOT PROJECT.

20 1. The general assembly finds that the implementation of a
21 split-sentencing pilot project within this state could serve
22 as a test for a fair and flexible method of dispensing
23 criminal justice which provides for an incremental approach to
24 the imposition of aggravated misdemeanor and felony criminal
25 sentences and may help to reduce the current prison
26 overcrowding problems while protecting the public safety. A
27 split-sentencing pilot project is therefore established in a
28 judicial district to be determined by the supreme court. The
29 judicial district shall be selected based on the availability
30 of jail space within the judicial district, and whether the
31 judicial district in consultation with the county board or
32 boards of supervisors and the sheriff or sheriffs desires to
33 participate in the project. Notwithstanding any other
34 contrary provision of law, subsection 2 of this section shall
35 apply within and only within the judicial district which is

1 selected to participate in this pilot project from the date of
2 the enactment of this Act through June 30, 1997.

3 2. By record entry at the time of or after sentencing for
4 an aggravated misdemeanor or a felony, other than a class "A"
5 felony, the court may sentence the defendant to serve up to
6 ninety days of the sentence in the county jail and suspend the
7 balance of the term imposed. If the person is ordered to
8 serve up to ninety days in jail, the costs of the person's
9 confinement shall be paid by the state at the rate negotiated
10 by the department of corrections with the judicial district
11 under section 904.908. Payment shall be made by the
12 department of revenue and finance upon submission of a voucher
13 executed by the sheriff. Persons serving time in a county
14 jail under this subsection shall be committed to the custody
15 of the director of the department of corrections and the
16 department shall be responsible for all prisoner medical
17 costs.

18 EXPLANATION

19 This bill provides that persons sentenced for a second
20 forcible felony are to serve 85 percent of their sentence
21 before they are eligible for parole or work release. Persons
22 sentenced for a third or subsequent forcible felony, under the
23 bill, are to serve their entire sentence but are eligible for
24 sentence reductions of up to 12 days per year for good
25 behavior. Persons confined in an institution under the
26 control of the department of corrections are currently
27 eligible for reductions of one day for each day of good
28 behavior and an additional five days a month for participation
29 in institutional employment, an employment program, or an
30 educational or treatment program.

31 The bill establishes a split-sentencing pilot project under
32 which a court in the judicial district selected for the pilot
33 project would be permitted to sentence a person convicted of a
34 crime which is classified as an aggravated misdemeanor through
35 a class "B" felony to up to 90 days in a county jail as part

1 of the person's sentence and suspend the remaining term of
2 confinement. If a person is serving a sentence of confinement
3 in a county jail, the person is committed to the custody of
4 the director of the department of corrections and the costs of
5 confinement in the jail and medical care will be paid by the
6 state.

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**HOUSE FILE 2104
FISCAL NOTE**

The estimate for House File 2104 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement 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.

House File 2104 provides that persons sentenced for a second forcible felony will serve 85.0% of their sentences before being eligible for work release or parole. Persons sentenced for a third forcible felony will serve their entire sentence, earning a maximum of one day of good time per month. Currently inmates earn one day for each day of good behavior and an additional five days for participation in institutional employment, or in an employment, education, or treatment program.

House File 2104 establishes a split-sentencing pilot project within one judicial district chosen by the Judicial Department. Jail confinement costs are to be paid by the Department of Corrections.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns will remain stable over the projection period, except for those changed by this Bill.
2. Prisoner length of stay, revocation rates, and other policies will remain the same, except for those changed by this Bill.
3. The marginal cost for a prison inmate is \$12 per day.
4. The daily cost per offender sentenced in the split-sentencing pilot project will equal the daily cost of housing a parole or work release violator in jail until his or her return to prison.

CORRECTIONAL IMPACT

The prison population is projected to have the following increases:

FY 1997	No additional inmates
FY 1998	An increase of 4 inmates
FY 2001	An increase of 49 inmates
FY 2022	An increase of 145 inmates

FISCAL IMPACT

The estimated fiscal impact of House File 2104 is as follows (inflationary adjustment not included):

FY 1997	No additional cost
FY 1998	\$18,000
FY 2001	\$215,000
FY 2022	\$635,000

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There is no estimate for the number of offenders that will be sentenced in the split-sentence pilot project. Therefore, the total cost of the pilot project cannot be determined. The cost to the Department of Corrections for confining an offender in jail is estimated to be \$50 per day. Each offender sentenced to 90 days in jail will cost the Department \$4,500.

SOURCES

Criminal and Juvenile Justice Planning Division,
Department of Human Rights
Department of Corrections

(LSB 3272hh, MDF)

FILED FEBRUARY 8, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2104
FISCAL NOTE

The estimate for Amendment H-5048 to House File 2104 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement 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.

Amendment H-5048 to House File 2104 changes the offenses for which offenders must serve 85.0% of their sentences. The requirement that offenders committing a third forcible felony serve the entire sentence is eliminated.

The amendment would require persons convicted of second degree murder, second degree sexual abuse, second degree kidnapping, and first or second degree robbery to serve their entire sentences and would permit them to earn good time of no more than 15.0% of their sentences.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns will remain stable over the projection period, except for those changed by the Bill as amended.
2. Prisoner length of stay, revocation rates, and other policies will remain the same, except for those changed by the Bill as amended.
3. The marginal cost for a prison inmate is \$12 per day and is used to estimate operations costs in the short term.
4. The Department of Corrections has indicated a 750-bed medium security prison is the optimum size for cost and operating efficiencies. It is assumed the Department will continue to recommend adding 750-bed prisons to the correctional system.
5. The new 750-bed medium security prison at Newton has a construction cost of approximately \$34.5 million and an estimated annual operating cost of \$13.5 million. It is assumed similar prisons will have similar costs.

CORRECTIONAL IMPACT

The prison population is projected to have the following increases.

FY 1997	No change
FY 1998	No change
FY 2001	An increase of 120 inmates
FY 2007	An increase of 760 inmates
FY 2017	An increase of 1,590 inmates

The growth rate will slow by 2017, adding approximately 200 inmates during the third decade after implementation of this amended Bill. Two prisons similar to the one under construction at Newton will be needed to house the inmates added by this Bill as amended.

FISCAL IMPACT

-2-

The long-range costs to the General Fund to add two prisons to the correctional system will be \$69.0 million in construction costs (\$34.5 million each) and \$27.0 million annually for prison operations (\$13.5 million each). The costs are stated in real dollars and are not adjusted for inflation. Funding from the use of Prison Infrastructure Revenue Bonds will add interest costs which can not be estimated.

Prison operations costs are projected to change in the following manner as a result of this amended Bill.

FY 1997	No additional cost
FY 1998	No additional cost
FY 2001	An increase of \$526,000
FY 2007	An increase of \$13.5 million for one new prison
FY 2017	An increase of \$27.0 million for two new prisons

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections

(LSB 3272hh.2, MDF)

FILED FEBRUARY 13, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

H-5048

- 1 Amend House File 2104 as follows:
- 2 1. Page 1, lines 3 and 4, by striking the words
- 3 "other than a forcible felony".
- 4 2. Page 1, line 10, by striking the word "either"
- 5 and inserting the following: "either any".
- 6 3. Page 1, by striking lines 11 through 16, and
- 7 inserting the following:
- 8 "Sec. ____ . Section 902.11, Code 1995, is amended
- 9 by adding the following new subsection:
- 10 NEW SUBSECTION. 3. The offense is a forcible
- 11 felony enumerated under section 902.12."
- 12 4. Page 1, lines 17 and 18, by striking the words
- 13 "ELIGIBILITY OF" and inserting the following:
- 14 "INELIGIBILITY OF CERTAIN".
- 15 5. Page 1, by striking lines 19 through 30 and
- 16 inserting the following:
- 17 "Except as otherwise provided in chapter 903A, a
- 18 person who has been convicted of the following
- 19 forcible felonies shall serve the entire term of the
- 20 person's maximum sentence and shall not be eligible
- 21 for parole or work release:
- 22 1. Murder in the second degree in violation of
- 23 section 707.3.
- 24 2. Sexual abuse in the second degree in violation
- 25 of section 709.3.
- 26 3. Kidnapping in the second degree in violation of
- 27 section 710.3.
- 28 4. Robbery in the first or second degree in
- 29 violation of section 711.2 or 711.3."
- 30 6. Page 1, line 34, by striking the word and
- 31 figure "subsection 2,".
- 32 7. Page 2, line 2, by inserting after the word
- 33 "institutions." the following: "However, if an inmate
- 34 is sentenced under section 902.12, the total number of
- 35 days which may be accumulated by the inmate to reduce
- 36 the inmate's sentence shall not exceed fifteen percent
- 37 of the inmate's total sentence of confinement."
- 38 8. Page 2, line 4, by striking the word and
- 39 figure "subsection 2,".
- 40 9. Page 2, line 12, by striking the word and
- 41 figure "subsection 2,".
- 42 10. Title page, by striking lines 1 through 4 and
- 43 inserting the following: "An Act prohibiting the
- 44 release of certain forcible felons on parole or work
- 45 release, limiting the reduction of sentence for
- 46 certain forcible felons, providing for a pilot
- 47 project, and".

By COMMITTEE ON JUDICIARY
HURLEY of Fayette, Chairperson

H-5048 FILED FEBRUARY 5, 1996

Adopted 2/13/96
(p. 309)

HOUSE FILE 2104

H-5060

- 1 Amend the amendment, H-5048, to House File 2104 as
- 2 follows:
- 3 1. Page 1, by striking lines 40 and 41 and
- 4 inserting the following:
- 5 "____. Page 2, by striking lines 11 through 15 and
- 6 inserting the following: "program approved by the
- 7 director. Reduction of sentence pursuant to this
- 8 section".
- 9 2. By renumbering as necessary.

By GRUBBS of Scott

H-5060 FILED FEBRUARY 8, 1996

p.309) adopted 2/13/96

(As Amended and Passed by the House, February 13, 1996)

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

A BILL FOR

1 An Act prohibiting the release of certain forcible felons on
2 parole or work release, limiting the reduction of sentence for
3 certain forcible felons, providing for a pilot project, and
4 making other related changes.

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

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House Amendments _____

Deleted Language *

1 Section 1. Section 902.11, unnumbered paragraph 1, Code
2 1995, is amended to read as follows:

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

11 Sec. 2. Section 902.11, Code 1995, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 3. The offense is a forcible felony
14 enumerated under section 902.12.

15 Sec. 3. NEW SECTION. 902.12 MINIMUM SENTENCE -- INELIGI-
16 BILITY OF CERTAIN FORCIBLE FELONS FOR PAROLE OR WORK RELEASE.

17 Except as otherwise provided in chapter 903A, a person who
18 has been convicted of the following forcible felonies shall
19 serve the entire term of the person's maximum sentence and
20 shall not be eligible for parole or work release:

21 1. Murder in the second degree in violation of section
22 707.3.

23 2. Sexual abuse in the second degree in violation of
24 section 709.3.

25 3. Kidnapping in the second degree in violation of section
26 710.3.

27 4. Robbery in the first or second degree in violation of
28 section 711.2 or 711.3.

29 Sec. 4. Section 903A.2, unnumbered paragraph 1, Code 1995,
30 is amended to read as follows:

31 Each Unless an inmate is sentenced pursuant to section
* 32 902.12, an inmate of an institution under the Iowa department
33 of corrections, is eligible for a reduction of sentence of one
34 day for each day of good conduct of the inmate while committed
35 to one of the department's institutions. However, if an

1 inmate is sentenced under section 902.12, the total number of
2 days which may be accumulated by the inmate to reduce the
3 inmate's sentence shall not exceed fifteen percent of the
4 inmate's total sentence of confinement. ~~In~~ Unless an inmate
* 5 is sentenced pursuant to section 902.12, in addition to the
6 sentence reduction of one day for each day of good conduct,
7 each inmate is eligible for an additional reduction of
8 sentence of up to five days a month if the inmate participates
9 satisfactorily in employment in the institution, in Iowa state
10 industries, in an inmate employment program established by the
11 director, in a treatment program established by the director,
12 or in an inmate educational program approved by the director.
13 Reduction of sentence pursuant to this section may be subject
14 to forfeiture pursuant to section 903A.3. Computation of good
15 conduct time is subject to the following conditions:

16 Sec. 5. SPLIT-SENTENCING PILOT PROJECT.

17 1. The general assembly finds that the implementation of a
18 split-sentencing pilot project within this state could serve
19 as a test for a fair and flexible method of dispensing
20 criminal justice which provides for an incremental approach to
21 the imposition of aggravated misdemeanor and felony criminal
22 sentences and may help to reduce the current prison
23 overcrowding problems while protecting the public safety. A
24 split-sentencing pilot project is therefore established in a
25 judicial district to be determined by the supreme court. The
26 judicial district shall be selected based on the availability
27 of jail space within the judicial district, and whether the
28 judicial district in consultation with the county board or
29 boards of supervisors and the sheriff or sheriffs desires to
30 participate in the project. Notwithstanding any other
31 contrary provision of law, subsection 2 of this section shall
32 apply within and only within the judicial district which is
33 selected to participate in this pilot project from the date of
34 the enactment of this Act through June 30, 1997.

35 2. By record entry at the time of or after sentencing for

1 an aggravated misdemeanor or a felony, other than a class "A"
2 felony, the court may sentence the defendant to serve up to
3 ninety days of the sentence in the county jail and suspend the
4 balance of the term imposed. If the person is ordered to
5 serve up to ninety days in jail, the costs of the person's
6 confinement shall be paid by the state at the rate negotiated
7 by the department of corrections with the judicial district
8 under section 904.908. Payment shall be made by the
9 department of revenue and finance upon submission of a voucher
10 executed by the sheriff. Persons serving time in a county
11 jail under this subsection shall be committed to the custody
12 of the director of the department of corrections and the
13 department shall be responsible for all prisoner medical
14 costs.

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