

MAR 2 1995

JUDICIARY

HOUSE FILE 248
BY VAN FOSSEN

(COMPANION TO SF 153 BY McKEAN)

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

A BILL FOR

1 An Act to provide for life imprisonment for persons convicted of
2 certain offenses.

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

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

HF 248

1 Section 1. NEW SECTION. 902.8A LIFE IMPRISONMENT --
2 HABITUAL VIOLENT OFFENDER.

3 1. A habitual violent offender is any person convicted of
4 a dangerous offense, who has, before the commission of the
5 dangerous offense, been previously convicted of any dangerous
6 offense in a court of this or any other state, or of the
7 United States. An offense committed in another jurisdiction
8 is a dangerous offense for purposes of this section if, by the
9 law under which the person is convicted, the court finds that
10 the elements of the offense, at the time of the person's
11 conviction, are the same as or are substantially similar to
12 the elements of any offense that constitutes a dangerous
13 offense if committed in this state. A person sentenced as a
14 habitual violent offender shall be imprisoned for the rest of
15 the person's life and shall not be eligible for parole. A
16 habitual violent offender's sentence shall not be commuted to
17 a term of years. Nothing in the Iowa corrections code
18 pertaining to deferred judgment, deferred sentence, suspended
19 sentence, or reconsideration of sentence applies to a sentence
20 as a habitual violent offender.

21 2. For purposes of this section, a "dangerous offense"
22 means any of the following offenses:

- 23 a. An offense which is a class "A" felony.
- 24 b. An offense which is a forcible felony as defined under
25 section 702.11.
- 26 c. Any other felony offense which includes the causing of,
27 or the intent to cause, death or serious injury as an element
28 of the offense.

29 Sec. 2. Section 48A.11, subsection 2, paragraph b, Code
30 1995, is amended to read as follows:

31 b. The penalty provided by law for submission of a false
32 voter registration form, which shall be the penalty for
33 perjury as provided by section 902.9, subsection 4 5.

34 Sec. 3. Section 124.401, subsection 1, paragraph a,
35 unnumbered paragraph 1, Code 1995, is amended to read as

1 follows:

2 Violation of this subsection, with respect to the following
3 controlled substances, counterfeit substances, or simulated
4 controlled substances is a class "B" felony, and
5 notwithstanding section 902.9, subsection ~~±~~ 2, shall be
6 punished by confinement for no more than fifty years and a
7 fine of not more than one million dollars:

8 Sec. 4. Section 124.401, subsection 1, paragraph b,
9 unnumbered paragraph 1, Code 1995, is amended to read as
10 follows:

11 Violation of this subsection with respect to the following
12 controlled substances, counterfeit substances, or simulated
13 controlled substances is a class "B" felony, and in addition
14 to the provisions of section 902.9, subsection ~~±~~ 2, shall be
15 punished by a fine of not less than five thousand dollars nor
16 more than one hundred thousand dollars:

17 Sec. 5. Section 124.401, subsection 1, paragraph c,
18 unnumbered paragraph 1, Code 1995, is amended to read as
19 follows:

20 Violation of this subsection with respect to the following
21 controlled substances, counterfeit substances, or simulated
22 controlled substances is a class "C" felony, and in addition
23 to the provisions of section 902.9, subsection 3 ~~4~~, shall be
24 punished by a fine of not less than one thousand dollars nor
25 more than fifty thousand dollars:

26 Sec. 6. Section 124.401, subsection 1, paragraph d, Code
27 1995, is amended to read as follows:

28 d. Violation of this subsection, with respect to any other
29 controlled substances, counterfeit substances, or simulated
30 controlled substances classified in schedule IV or V is an
31 aggravated misdemeanor. However, violation of this subsection
32 involving fifty kilograms or less of marijuana, is a class "D"
33 felony, and in addition to the provisions of section 902.9,
34 subsection ~~4~~ 5, shall be punished by a fine of not less than
35 one thousand dollars nor more than five thousand dollars.

1 Sec. 7. Section 707.3, unnumbered paragraph 2, Code 1995,
2 is amended to read as follows:

3 Murder in the second degree is a class "B" felony.
4 However, notwithstanding section 902.9, subsection ± 2, the
5 maximum sentence for a person convicted under this section
6 shall be a period of confinement of not more than fifty years.

7 Sec. 8. Section 726.6A, Code 1995, is amended to read as
8 follows:

9 726.6A MULTIPLE ACTS OF CHILD ENDANGERMENT -- PENALTY.

10 A person who engages in a course of conduct including three
11 or more acts of child endangerment as defined in section 726.6
12 within a period of twelve months involving the same child or a
13 mentally or physically handicapped minor, where one or more of
14 the acts results in serious injury to the child or minor or
15 results in a skeletal injury to a child under the age of four
16 years, is guilty of a class "B" felony. Notwithstanding
17 section 902.9, subsection ± 2, a person convicted of a
18 violation of this section shall be confined for no more than
19 fifty years.

20 Sec. 9. Section 902.3, Code 1995, is amended to read as
21 follows:

22 902.3 INDETERMINATE SENTENCE.

23 When a judgment of conviction of a felony other than a
24 class "A" felony is entered against a person, the court, in
25 imposing a sentence of confinement, shall commit the person
26 into the custody of the director of the Iowa department of
27 corrections for an indeterminate term, the maximum length of
28 which shall not exceed the limits as fixed by section 707.3 or
29 section 902.9 nor shall the term be less than the minimum term
30 imposed by law, if a minimum sentence is provided. However,
31 the court may sentence a person convicted of a class "D"
32 felony for a violation of section 321J.2 to imprisonment for
33 up to one year in a county jail under section 902.9,
34 subsection 4 5, and the person shall not be under the custody
35 of the director of the Iowa department of corrections.

1 Sec. 10. Section 902.7, Code 1995, is amended to read as
2 follows:

3 902.7 MINIMUM SENTENCE -- USE OF A FIREARM.

4 At the trial of a person charged with participating in a
5 forcible felony, if the trier of fact finds beyond a
6 reasonable doubt that the person is guilty of a forcible
7 felony and that the person represented that the person was in
8 the immediate possession and control of a firearm, displayed a
9 firearm in a threatening manner, or was armed with a firearm
10 while participating in the forcible felony the convicted
11 person shall serve a minimum of five years of the sentence
12 imposed by law. A person sentenced pursuant to this section
13 shall not be eligible for parole until the person has served
14 the minimum sentence of confinement imposed by this section.
15 This section shall not apply if the person is a habitual
16 violent offender under section 902.8A.

17 Sec. 11. Section 902.8, Code 1995, is amended to read as
18 follows:

19 902.8 MINIMUM SENTENCE -- HABITUAL OFFENDER.

20 An A habitual offender is any person convicted of a class
21 "C" or a class "D" felony, who has twice before been convicted
22 of any felony in a court of this or any other state, or of the
23 United States. An offense is a felony if, by the law under
24 which the person is convicted, it is so classified at the time
25 of the person's conviction. A person sentenced as an a
26 habitual offender shall not be eligible for parole until the
27 person has served the minimum sentence of confinement of three
28 years. This section shall not apply if the felony convictions
29 meet the criteria specified in section 902.8A.

30 Sec. 12. Section 902.9, Code 1995, is amended to read as
31 follows:

32 902.9 MAXIMUM SENTENCE FOR FELONS.

33 The maximum sentence for any person convicted of a felony
34 shall be that prescribed by statute or, if not prescribed by
35 statute, if other than a class "A" felony shall be determined

1 as follows:

2 1. A habitual violent offender shall be confined for the
3 rest of the person's life.

4 2. A class "B" felon, not a habitual violent offender,
5 shall be confined for no more than twenty-five years.

6 3. An A habitual offender shall be confined for no more
7 than fifteen years.

8 4. A class "C" felon, not an a habitual offender or a
9 habitual violent offender, shall be confined for no more than
10 ten years, and in addition may be sentenced to a fine of at
11 least five hundred dollars but not more than ten thousand
12 dollars.

13 5. A class "D" felon, not an a habitual offender or a
14 habitual violent offender, shall be confined for no more than
15 five years, and in addition may be sentenced to a fine of at
16 least five hundred dollars but not more than seven thousand
17 five hundred dollars. A class "D" felon, such felony being
18 for a violation of section 321J.2, may be sentenced to
19 imprisonment for up to one year in the county jail.

20 The criminal penalty surcharge required by section 911.2
21 shall be added to a fine imposed on a class "C" or class "D"
22 felon, as provided by that section, and is not a part of or
23 subject to the maximums set in this section.

24 EXPLANATION

25 This bill provides that a person who is convicted two times
26 of a crime that is classified as a dangerous offense is to be
27 imprisoned for the rest of the person's life. The term
28 "dangerous offense" is defined to include offenses that are
29 class "A" felonies, forcible felonies, and any other felony
30 which includes the causing of, or the intent to cause, death
31 or serious injury as an element of the offense. The offenses
32 which are class "A" felonies are first degree murder, first
33 degree sexual abuse, and first degree kidnapping. The term
34 "forcible felony" is defined under section 702.11. The term
35 "felony" is defined in section 701.7 and the term "serious

1 injury" is defined in section 702.18. Persons sentenced as
2 habitual violent offenders are not eligible for parole, a
3 suspended or deferred sentence, or deferred judgment. The
4 bill also makes several technical changes to conform various
5 Code references to changes made in the bill.

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35