

MAR 16 1995
Place On Calendar

Reprinted

HOUSE FILE 471
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 170)

(p. 872)
Passed House, Date 3-21-95 Passed Senate, Date 4/11/95 P. 1134
Vote: Ayes 97 Nays 0 Vote: Ayes 49 Nays 1
~~Approved~~ Vetoed 6/1/95

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
3 changes in the mandatory minimum terms of sentences to be
4 served, by permitting the imposition of up to ninety days of
5 the total sentence in a county jail in addition to any terms
6 of probation, and providing for a reduction in the amount of
7 good and honor time that may be earned by forcible felons.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 471

H-3357

1

1 Amend House File 471 as follows:

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2 1. Page 2, line 6, by striking the word "A" and
3 inserting the following: "If the person is ordered to
4 serve up to ninety days in jail the costs of the
5 person's confinement shall be borne by the state.
6 However, a".

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7 2. Page 5, by striking lines 4 and 5.

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By HURLEY of Fayette

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H-3357 FILED MARCH 20, 1995

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Adopted (p. 872)
3-21-95

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HF 471

1 Section 1. Section 901.10, Code 1995, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

5 A court sentencing a person for an act prohibited under
6 section 124.406 or sections 124.401 and 124.413 may, at its
7 discretion, waive the mandatory minimum term of confinement if
8 the person was not in the possession or control of a firearm
9 and did not commit an assault as defined under section 708.1
10 while participating in the prohibited act, if mitigating
11 circumstances exist, and if the mitigating circumstances are
12 stated specifically in the record.

13 Sec. 2. Section 902.3, Code 1995, is amended to read as
14 follows:

15 902.3 INDETERMINATE-SENTENCE FELONY SENTENCING.

16 1. When Except as otherwise provided in subsection 2, when
17 a judgment of conviction of a felony other than a class "A"
18 felony is entered against a person, the court, in imposing a
19 sentence of confinement, shall commit the person into the
20 custody of the director of the Iowa department of corrections
21 for an indeterminate term, the maximum length of which shall
22 not exceed the limits as fixed by section 707.3 or section
23 902.9 nor shall the term be less than the minimum term imposed
24 by law, if a minimum sentence is provided.

25 2. However, the The court may sentence a person convicted
26 of a class-"D" felony for as follows:

27 a. For a conviction of a class "D" felony violation of
28 section 321J.2 to imprisonment for up to one year in a county
29 jail under section 902.9, subsection 4, and the person shall
30 not be under the custody of the director of the Iowa
31 department of corrections.

32 b. For a conviction of a felony other than a class "A"
33 felony, in lieu of ninety days of the total sentence of
34 imprisonment, to imprisonment for up to ninety days in a
35 county jail under section 902.9, subsection 4. If the court

1 sentences the person to up to ninety days in a county jail,
2 the court may require that all or a portion of the jail
3 sentence be served, or suspend the ninety days in jail along
4 with the remaining balance of the term of imprisonment in an
5 institution under the control of the department of
6 corrections. A person sentenced to up to ninety days in a
7 county jail shall not be under the custody of the director of
8 the Iowa department of corrections, unless the person's
9 probation is revoked and the person's entire sentence is
10 imposed.

11 Sec. 3. Section 902.11, unnumbered paragraph 1, Code 1995,
12 is amended to read as follows:

13 A person serving a sentence for conviction of a felony,
14 other than a forcible felony, who has a criminal record of one
15 or more prior convictions for a forcible felony or a crime of
16 a similar gravity in this or any other state, shall be denied
17 parole or work release unless the person has served at least
18 one-half of the maximum term of the defendant's sentence.
19 However, the mandatory sentence provided for by this section
20 does not apply if either of the following apply:

21 Sec. 4. Section 902.11, subsection 1, Code 1995, is
22 amended to read as follows:

23 1. ~~The sentence-being-served-is-for-a-felony-other-than-a~~
24 ~~forcible-felony-and-the~~ sentences for the prior forcible
25 felonies expired at least five years before the date of
26 conviction for the present felony.

27 Sec. 5. NEW SECTION. 902.12 MINIMUM SENTENCE --
28 ELIGIBILITY OF FORCIBLE FELONS FOR PAROLE OR WORK RELEASE.

29 1. A person serving a sentence for a conviction of a
30 forcible felony who has a criminal record of one prior
31 conviction for a forcible felony or a crime of similar gravity
32 in this or any other state shall be denied parole or work
33 release unless the person has served at least eighty-five
34 percent of the maximum term of the person's sentence.

35 2. A person serving a sentence for a conviction of a

1 forcible felony who has a criminal record of two or more prior
2 convictions for a forcible felony or a crime of similar
3 gravity in this or any other state shall serve one hundred
4 percent of the maximum term of the person's sentence and shall
5 not be released on parole or work release.

6 Sec. 6. NEW SECTION. 902.13 PROVIDING PLACE OF
7 CONFINEMENT.

8 A person convicted of a felony and sentenced to confinement
9 for a period of ninety days or less shall be confined in a
10 place to be furnished by the county where the conviction was
11 had.

12 Sec. 7. Section 903.1, subsection 2, Code 1995, is amended
13 to read as follows:

14 2. When a person is convicted of an aggravated
15 misdemeanor, and a specific penalty is not provided for, the
16 maximum penalty shall be imprisonment not to exceed two years.
17 There shall be a fine of at least five hundred dollars but not
18 to exceed five thousand dollars. When a judgment of
19 conviction of an aggravated misdemeanor is entered against any
20 person and the court imposes a sentence of confinement for a
21 period of more than one year the term shall be an
22 indeterminate term. However, the court may sentence the
23 defendant to serve up to ninety days of the sentence in the
24 county jail and suspend the balance of the term imposed. If
25 the person is ordered to serve up to ninety days in jail the
26 costs of the person's confinement shall be borne by the state.
27 However, a person sentenced to up to ninety days in a county
28 jail shall not be under the custody of the director of the
29 Iowa department of corrections, unless the person's probation
30 is revoked and the person's entire sentence is imposed.

31 Sec. 8. 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 five days per year 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. 9. Section 907.3, subsection 3, Code 1995, is amended
20 to read as follows:

21 3. By record entry at the time of or after sentencing, the
22 court may suspend the sentence and place the defendant on
23 probation upon such terms and conditions as it may require
24 including commitment to an alternate jail facility or a
25 community correctional residential treatment facility for a
26 specific number of days to be followed by a term of probation
27 as specified in section 907.7. A person so committed ~~who has~~
28 whose probation is revoked shall be given credit for such time
29 served. By record entry at the time of or after sentencing
30 for a felony other than a class "A" felony, or an aggravated
31 misdemeanor, the court may sentence the defendant to serve up
32 to ninety days of the sentence in the county jail and suspend
33 the balance of the term imposed, as provided in section 902.3,
34 subsection 2, paragraph "b", or section 903.1, subsection 2.
35 However, the court shall not suspend the minimum term of two

1 days imposed pursuant to section 708.2A, and the court shall
2 not suspend a sentence imposed pursuant to section 236.8 or
3 236.14 for contempt.

4 Sec. 10. IMPLEMENTATION OF ACT. Section 25B.2, subsection
5 3, shall not apply to this Act.

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EXPLANATION

7 This bill permits a court, which is sentencing a person for
8 certain drug offenses, to waive imposition of the mandatory
9 minimum term of confinement if the person was not in the
10 possession or control of a firearm and did not commit an
11 assault while committing the drug offense.

12 This bill further permits a court to sentence a person
13 convicted of a crime which is classified as an aggravated
14 misdemeanor through a class "B" felony to up to ninety days in
15 a county jail as part of the person's sentence. All or a
16 portion of the year and any balance of the remaining term of
17 confinement imposed by the court may be suspended. If a
18 person is serving a sentence of confinement in a county jail,
19 the person is not in the custody of the director of the
20 department of corrections, unless the person's probation is
21 revoked and the person's entire sentence is imposed. The
22 costs of the person's confinement in the county jail shall be
23 borne by the state if the person is convicted of an aggravated
24 misdemeanor. Otherwise, the costs will be borne by the
25 county.

26 This bill provides that persons sentenced for a second
27 forcible felony are to serve 85 percent of their sentence
28 before they are eligible for parole or work release. Persons
29 sentenced for a third or subsequent forcible felony, under the
30 bill, are to serve their entire sentence but are eligible for
31 sentence reductions of up to five days per year for good
32 behavior. Persons confined in an institution under the
33 control of the department of corrections are currently
34 eligible for reductions of one day for each day of good
35 behavior and an additional five days a month for participation

1 in institutional employment, an employment program, or an
2 educational or treatment program.

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HOUSE FILE 471
FISCAL NOTE

The estimate for House File 471 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 471 permits waiving the imposition of a mandatory minimum sentence if the offender did not use a firearm, but it requires imposition of the mandatory minimum sentence if a firearm was used.

The Bill permits the Court to sentence offenders up to 90 days in a county jail if convicted of an aggravated misdemeanor through a Class B felony. If the offender has committed an aggravated misdemeanor, the State pays \$25 per day of the costs of confinement. Otherwise, the county bears the costs of confinement.

The Bill provides that persons with a prior forcible felony conviction who are convicted of a nonforcible felony will serve at least half of their maximum sentence. Persons sentenced for a second forcible felony will serve 85.0% of their sentence before being eligible for parole or work release. Persons convicted of a third or subsequent forcible felony are to serve their entire sentence with the possibility of earning five days good time per year.

Assumptions:

1. A 1992 survey by the Criminal and Juvenile Justice Planning Division, Department of Human Rights, showed the majority of judges would use the option of sentencing offenders to jail before probation if the option were available. It is not known how frequently this option would be applied or to which types of offenses it would be applied.
2. Mandatory minimum sentences will be waived more frequently for drug offenses not involving a firearm due to this Bill.
3. Mandatory minimum sentences will be applied to more offenses involving a firearm due to this Bill.
4. Class C and Class B felons typically serve longer sentences than the mandatory minimum sentence. Their length of stay would not be affected by this Bill.
5. Class D felons receiving mandatory minimum sentences would serve 14 months longer. Four inmates per year would be affected.
6. Twenty-four nonforcible felons with prior forcible felony convictions would be affected annually by this Bill.
7. Twenty-six offenders convicted of a forcible felony, with one prior conviction for a forcible felony would be affected by the requirement to serve 85.0% of their sentences.
8. No offenders have been identified who were convicted of a forcible felony and have two or more prior convictions for forcible felonies. No one would be required to serve 100.0% of their sentences due to this Bill.

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9. The average cost to the Department of Corrections for confining a parole or work release violator in jail is \$51 per day. It is assumed that this is the total cost for confining aggravated misdemeanants in jail.
10. The budgeted marginal cost for a prison inmate is \$10 per day.

Correctional Impact:

The changes to the mandatory minimum sentence requirements and the length of stay associated with forcible felonies will not affect the FY 1996 prison population. The prison population will increase by one inmate in FY 1997 and by 78 inmates in FY 2000.

There is insufficient information to estimate the number of offenders that will be sentenced to jail.

Fiscal Impact:

There will be no cost to the Department of Corrections in FY 1996 due to this Bill. The FY 1997 costs will increase by \$4,000. The FY 2000 costs will increase by \$285,000.

Each aggravated misdemeanor sentenced to jail as a result of this Bill will cost the State \$25 per day and will cost the counties \$26 per day. If the offender would have gone to prison for the same amount of time the net cost to the State would be \$15 per day and the cost to the counties would be \$26 per day.

The total costs to the counties cannot be estimated.

Sources:

Criminal and Juvenile Justice Planning Division, Department of Human Services
Department of Corrections. (LSB 1839hv.2, MDF)

FILED MARCH 28, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 471
FISCAL NOTE**

The estimate for House File 471 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 471 permits waiving the imposition of a mandatory minimum sentence if the offender did not use a firearm, but it requires imposition of the mandatory minimum sentence if a firearm was used.

The Bill permits the Court to sentence offenders to up to 90 days in a county jail if convicted of an aggravated misdemeanor through a Class B felony. If the offender has committed an aggravated misdemeanor, the State bears the costs of confinement. Otherwise, the county bears the costs of confinement.

The Bill provides that persons with a prior forcible felony conviction who are convicted of a nonforcible felony will serve at least half of their maximum sentence. Persons sentenced for a second forcible felony will serve 85.0% of their sentence before being eligible for parole or work release. Persons convicted of a third or subsequent forcible felony are to serve their entire sentence with possibility of earning five days of good time per year.

Assumptions:

1. A 1992 survey showed the majority of judges would use the option of sentencing offenders to jail before probation if the option were available. It is not known how frequently this option would be applied or to which types of offenses it would be applied.
2. Mandatory minimum sentences will be waived more frequently for drug offenses not involving a firearm due to this Bill.
3. Mandatory minimum sentences will be applied to more offenses involving a firearm due to this Bill.
4. Class C and Class B felons typically serve longer sentences than the mandatory minimum sentence. Their length of stay would not be affected by this Bill.
5. Class D felons receiving mandatory minimum sentences would serve 14 months longer. Four inmates per year would be affected.
6. Twenty-four nonforcible felons with prior forcible felony convictions would be affected annually by this Bill.
7. Twenty-six offenders convicted of a forcible felony, with one prior conviction for a forcible felony would be affected by the requirement to serve 85.0% of their sentences.
8. No offenders have been identified who were convicted of a forcible felony and have two or more prior convictions for forcible felonies. No one would be required to serve 100.0% of their sentences due to this Bill.
9. The average cost to the Department of Corrections for confining a parole or work release violator in jail is \$51 per day. It is anticipated that

-2-

the State would pay the same rate for aggravated misdemeanants confined in jail.

10. The budgeted marginal cost for a prison inmate is \$10 per day.

Correctional Impact:

The changes to the mandatory minimum sentence requirements and the length of stay associated with forcible felonies will not affect the FY 1996 prison population. The prison population will increase by one inmate in FY 1997 and by 78 inmates in FY 2000.

There is insufficient information to estimate the number of offenders that will be sentenced to jail.

Fiscal Impact:

There will be no cost to the Department of Corrections in FY 1996 due to this Bill. The FY 1997 costs will increase by \$4,000. The FY 2000 costs will increase by \$285,000.

Each aggravated misdemeanor sentenced to jail as a result of this Bill will cost the State \$51 per day. If that offender otherwise would have gone to prison for the same amount of time, such as for shock probation, then the net cost to the State will be \$41 per day. The costs to the counties cannot be estimated.

Sources:

Criminal and Juvenile Justice Planning Division, Department of Human Services
Department of Corrections. (LSB 1839hv, MDF)

FILED MARCH 21, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 471

H-3366

1 Amend the amendment, H-3357, to House File 471 as
2 follows:

3 1. Page 1, line 4, by inserting after the word
4 "jail" the following: "twenty-five dollars per day
5 of".

6 2. Page 1, by inserting after line 6 the
7 following:

A. 8 "____". Page 3, line 25, by inserting after the
9 word "jail" the following: "twenty-five dollars per
10 day of".

11 3. Page 1, by striking line 7.

B. 12 4. By renumbering as necessary.

By HURLEY of Fayette

H-3366 FILED MARCH 21, 1995

DIV A - ADOPTED DIV B - WITHDRAWN

(P. 872)

HOUSE FILE 471

H-3367

1 Amend the amendment, H-3357, to House File 471, as
2 follows:

3 1. Page 1, line 7, by inserting after the figures
4 and word "4 and 5" the following: "and inserting the
5 following:

6 "Sec. ____ . APPLICABILITY OF WAIVER TO CURRENT
7 INMATES. An inmate currently serving time for an
8 offense under section 1 of this Act may be eligible
9 for a waiver of the mandatory minimum term of
10 confinement if the inmate files an application with
11 the court which sentenced the inmate to the term of
12 incarceration and the court determines that the
13 minimum term should be waived.""

14 2. By numbering and renumbering as necessary.

By MILLAGE of Scott

KREIMAN of Davis

H-3367 FILED MARCH 21, 1995

OUT OF ORDER (P. 872)

HOUSE FILE 471

H-3388

1 Amend the amendment, H-3357, to House File 471, as
2 follows:

3 1. Page 1, by striking line 7 and inserting the
4 following:

5 "____". Page 5, by striking lines 4 and 5 and
6 inserting the following:

7 "Sec. ____ . APPLICABILITY OF WAIVER TO CURRENT
8 INMATES. An inmate currently serving time for an
9 offense under section 1 of this Act may be eligible
10 for a waiver of the mandatory minimum term of
11 confinement if the inmate files an application with
12 the court which sentenced the inmate to the term of
13 incarceration and the court determines that the
14 minimum term should be waived.""

15 2. By numbering and renumbering as necessary.

By MILLAGE of Scott

H-3388 FILED MARCH 21, 1995

ADOPTED

(P. 872)

3/28/10 referred to judiciary
4/5/95 Do Pass

HOUSE FILE 471
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 170)

(As Amended and Passed by the House March 21, 1995)

Re Passed House, Date 4/25/95 (p. 1839) Passed Senate, Date 4/11/95 (p. 1134)
Vote: Ayes 98 Nays 0 Vote: Ayes 49 Nays 1
~~Approved 6/1/95~~ ~~Passed 4-26-95~~
~~49-0~~ (p. 1441)

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
3 changes in the mandatory minimum terms of sentences to be
4 served, by permitting the imposition of up to ninety days of
5 the total sentence in a county jail in addition to any terms
6 of probation, and providing for a reduction in the amount of
7 good and honor time that may be earned by forcible felons.

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

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House Amendments _____

1 Section 1. Section 901.10, Code 1995, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

5 A court sentencing a person for an act prohibited under
6 section 124.406 or sections 124.401 and 124.413 may, at its
7 discretion, waive the mandatory minimum term of confinement if
8 the person was not in the possession or control of a firearm
9 and did not commit an assault as defined under section 708.1
10 while participating in the prohibited act, if mitigating
11 circumstances exist, and if the mitigating circumstances are
12 stated specifically in the record.

13 Sec. 2. Section 902.3, Code 1995, is amended to read as
14 follows:

15 902.3 INDETERMINATE-SENTENCE FELONY SENTENCING.

16 1. When Except as otherwise provided in subsection 2, when
17 a judgment of conviction of a felony other than a class "A"
18 felony is entered against a person, the court, in imposing a
19 sentence of confinement, shall commit the person into the
20 custody of the director of the Iowa department of corrections
21 for an indeterminate term, the maximum length of which shall
22 not exceed the limits as fixed by section 707.3 or section
23 902.9 nor shall the term be less than the minimum term imposed
24 by law, if a minimum sentence is provided.

25 2. However,--the The court may sentence a person convicted
26 of a class-"D" felony for as follows:

27 a. For a conviction of a class "D" felony violation of
28 section 321J.2 to imprisonment for up to one year in a county
29 jail under section 902.9, subsection 4, and the person shall
30 not be under the custody of the director of the Iowa
31 department of corrections.

32 b. For a conviction of a felony other than a class "A"
33 felony, in lieu of ninety days of the total sentence of
34 imprisonment, to imprisonment for up to ninety days in a
35 county jail under section 902.9, subsection 4. If the court

1 sentences the person to up to ninety days in a county jail,
2 the court may require that all or a portion of the jail
3 sentence be served, or suspend the ninety days in jail along
4 with the remaining balance of the term of imprisonment in an
5 institution under the control of the department of
6 corrections. If the person is ordered to serve up to ninety
7 days in jail twenty-five dollars per day of the costs of the
8 person's confinement shall be borne by the state. However, a
9 person sentenced to up to ninety days in a county jail shall
10 not be under the custody of the director of the Iowa
11 department of corrections, unless the person's probation is
12 revoked and the person's entire sentence is imposed.

13 Sec. 3. Section 902.11, unnumbered paragraph 1, Code 1995,
14 is amended to read as follows:

15 A person serving a sentence for conviction of a felony,
16 other than a forcible felony, who has a criminal record of one
17 or more prior convictions for a forcible felony or a crime of
18 a similar gravity in this or any other state, shall be denied
19 parole or work release unless the person has served at least
20 one-half of the maximum term of the defendant's sentence.
21 However, the mandatory sentence provided for by this section
22 does not apply if either of the following apply:

23 Sec. 4. Section 902.11, subsection 1, Code 1995, is
24 amended to read as follows:

25 1. ~~The sentence-being-served-is-for-a-felony-other-than-a~~
26 ~~forcible-felony-and-the~~ sentences for the prior forcible
27 felonies expired at least five years before the date of
28 conviction for the present felony.

29 Sec. 5. NEW SECTION. 902.12 MINIMUM SENTENCE --
30 ELIGIBILITY OF FORCIBLE FELONS FOR PAROLE OR WORK RELEASE.

31 1. A person serving a sentence for a conviction of a
32 forcible felony who has a criminal record of one prior
33 conviction for a forcible felony or a crime of similar gravity
34 in this or any other state shall be denied parole or work
35 release unless the person has served at least eighty-five

1 percent of the maximum term of the person's sentence.

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

8 Sec. 6. NEW SECTION. 902.13 PROVIDING PLACE OF
9 CONFINEMENT.

10 A person convicted of a felony and sentenced to confinement
11 for a period of ninety days or less shall be confined in a
12 place to be furnished by the county where the conviction was
13 had.

14 Sec. 7. Section 903.1, subsection 2, Code 1995, is amended
15 to read as follows:

16 2. When a person is convicted of an aggravated
17 misdemeanor, and a specific penalty is not provided for, the
18 maximum penalty shall be imprisonment not to exceed two years.
19 There shall be a fine of at least five hundred dollars but not
20 to exceed five thousand dollars. When a judgment of
21 conviction of an aggravated misdemeanor is entered against any
22 person and the court imposes a sentence of confinement for a
23 period of more than one year the term shall be an
24 indeterminate term. However, the court may sentence the
25 defendant to serve up to ninety days of the sentence in the
26 county jail and suspend the balance of the term imposed. If
27 the person is ordered to serve up to ninety days in jail
28 twenty-five dollars per day of the costs of the person's
29 confinement shall be borne by the state. However, a person
30 sentenced to up to ninety days in a county jail shall not be
31 under the custody of the director of the Iowa department of
32 corrections, unless the person's probation is revoked and the
33 person's entire sentence is imposed.

34 Sec. 8. Section 903A.2, unnumbered paragraph 1, Code 1995,
35 is amended to read as follows:

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

22 Sec. 9. Section 907.3, subsection 3, Code 1995, is amended
23 to read as follows:

24 3. By record entry at the time of or after sentencing, the
25 court may suspend the sentence and place the defendant on
26 probation upon such terms and conditions as it may require
27 including commitment to an alternate jail facility or a
28 community correctional residential treatment facility for a
29 specific number of days to be followed by a term of probation
30 as specified in section 907.7. A person so committed ~~who has~~
31 whose probation is revoked shall be given credit for such time
32 served. By record entry at the time of or after sentencing
33 for a felony other than a class "A" felony, or an aggravated
34 misdemeanor, the court may sentence the defendant to serve up
35 to ninety days of the sentence in the county jail and suspend

1 the balance of the term imposed, as provided in section 902.3,
2 subsection 2, paragraph "b", or section 903.1, subsection 2.
3 However, the court shall not suspend the minimum term of two
4 days imposed pursuant to section 708.2A, and the court shall
5 not suspend a sentence imposed pursuant to section 236.8 or
6 236.14 for contempt.

7 Sec. 10. APPLICABILITY OF WAIVER TO CURRENT INMATES. An
8 inmate currently serving time for an offense under section 1
9 of this Act may be eligible for a waiver of the mandatory
10 minimum term of confinement if the inmate files an application
11 with the court which sentenced the inmate to the term of
12 incarceration and the court determines that the minimum term
13 should be waived.

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HOUSE FILE 471

S-3388

1 Amend House File 471, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 1, line 1, through page 2,
4 line 12, and inserting the following:

5 "Sec. ____ . Section 901.10, Code 1995, is amended
6 to read as follows:

7 901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

8 1. A court sentencing a person for an act
9 prohibited under section 124.406 or sections 124.401
10 and 124.413 may, at its discretion, waive the
11 mandatory minimum term of confinement if the person
12 was not in the possession or control of a firearm and
13 did not commit an assault as defined under section
14 708.1 while participating in the prohibited act, if
15 mitigating circumstances exist, and if the mitigating
16 circumstances are stated specifically in the record.
17 However, the state may appeal the discretionary
18 decision on the grounds that the stated mitigating
19 circumstances do not warrant a reduction of the
20 sentence.

21 2. A court sentencing a person for the person's
22 first conviction under section ~~124.406~~, ~~124.413~~, or
23 902.7 may, at its discretion, sentence the person to a
24 term less than provided by the statute if mitigating
25 circumstances exist and those circumstances are stated
26 specifically in the record. However, the state may
27 appeal the discretionary decision on the grounds that
28 the stated mitigating circumstances do not warrant a
29 reduction of the sentence."

30 2. Page 3, by striking lines 8 through 33.

31 3. Page 4, line 16, by striking the words "five
32 days per year" and inserting the following: "one day
33 per month".

34 4. By striking page 4, line 22, through page 5,
35 line 13, and inserting the following:

36 "Sec. ____ . APPLICABILITY OF WAIVER TO CURRENT
37 INMATES. The board of parole shall identify inmates
38 currently serving mandatory minimum sentences for an
39 offense under section 1 of this Act that would have
40 been eligible for waiver of the mandatory minimum term
41 if the inmates had been sentenced on or after the
42 effective date of this Act. For each inmate
43 identified, the board of parole shall review the
44 inmate's record and the circumstances surrounding the
45 inmate's conviction and make a determination as to
46 whether the inmate's mandatory minimum term should be
47 waived. If the parole board determines that the
48 inmate's mandatory minimum term of confinement should
49 be waived, the inmate shall be immediately eligible
50 for parole.

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Page 2

1 Sec. ____ . INTERIM STUDY COMMITTEE. The
2 legislative council is requested to establish an
3 interim committee to study currently available
4 sentencing and incarceration options. The study may
5 include but shall not be limited to a review of
6 available jail, community corrections, and prison
7 beds; the potential impact of the use of split
8 sentencing on jail, community corrections, and prison
9 bed space; security needs and costs associated with
10 the implementation of hard labor requirements for
11 persons incarcerated in corrections institutions; and
12 the nature and costs associated with other sentencing
13 options. In addition to legislative members, the
14 membership of the interim committee shall include the
15 following public members:

16 1. A representative from the board of parole.

17 2. A representative from the division of criminal
18 and juvenile justice planning of the department of
19 human rights.

20 3. A representative from an association of
21 sheriffs and deputy sheriffs.

22 4. A representative from the department of
23 corrections.

24 The committee shall submit findings and any
25 recommendations in a report to the general assembly by
26 January 1, 1996.

27 Sec. ____ . RISK ASSESSMENT STUDY. The department
28 of corrections, in consultation with the board of
29 parole and the division of criminal and juvenile
30 justice planning of the department of human rights,
31 shall conduct a study of the various risk assessment
32 tools currently used in the Iowa corrections system to
33 determine the relative risk posed by a criminal
34 offender and the prospects for the offender's
35 rehabilitation and make findings and recommendations
36 regarding the implementation and use of a risk
37 assessment tool during or as part of the presentence
38 investigation process. The recommendations and any
39 corresponding findings shall be submitted in a report
40 to the general assembly by January 1, 1996."

41 5. Title page, by striking lines 4 through 6 and
42 inserting the following: "served, providing for a
43 reduction in the amount of".

44 6. Title page, line 7, by inserting after the
45 word "felons" the following: ", by requesting an
46 interim and a departmental study, and making other
47 related changes".

48 7. By designating, redesignating, and changing
49 internal references as necessary.

By RANDAL J. GIANNETTO
PATRICK J. DELUHERY
MAGGIE TINSMAN

S-3388 FILED APRIL 11, 1995

ADOPTED (p. 1134)

SENATE AMENDMENT TO HOUSE FILE 471

H-3928

1 Amend House File 471, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 1, line 1, through page 2,
4 line 12, and inserting the following:

5 "Sec. ____ . Section 901.10, Code 1995, is amended
6 to read as follows:

7 901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

8 1. A court sentencing a person for an act
9 prohibited under section 124.406 or sections 124.401
10 and 124.413 may, at its discretion, waive the
11 mandatory minimum term of confinement if the person
12 was not in the possession or control of a firearm and
13 did not commit an assault as defined under section
14 708.1 while participating in the prohibited act, if
15 mitigating circumstances exist, and if the mitigating
16 circumstances are stated specifically in the record.
17 However, the state may appeal the discretionary
18 decision on the grounds that the stated mitigating
19 circumstances do not warrant a reduction of the
20 sentence.

21 2. A court sentencing a person for the person's
22 first conviction under section ~~124.406~~, ~~124.413~~, or
23 902.7 may, at its discretion, sentence the person to a
24 term less than provided by the statute if mitigating
25 circumstances exist and those circumstances are stated
26 specifically in the record. However, the state may
27 appeal the discretionary decision on the grounds that
28 the stated mitigating circumstances do not warrant a
29 reduction of the sentence."

30 2. Page 3, by striking lines 8 through 33.

31 3. Page 4, line 16, by striking the words "five
32 days per year" and inserting the following: "one day
33 per month".

34 4. By striking page 4, line 22, through page 5,
35 line 13, and inserting the following:

36 "Sec. ____ . APPLICABILITY OF WAIVER TO CURRENT
37 INMATES. The board of parole shall identify inmates
38 currently serving mandatory minimum sentences for an
39 offense under section 1 of this Act that would have
40 been eligible for waiver of the mandatory minimum term
41 if the inmates had been sentenced on or after the
42 effective date of this Act. For each inmate
43 identified, the board of parole shall review the
44 inmate's record and the circumstances surrounding the
45 inmate's conviction and make a determination as to
46 whether the inmate's mandatory minimum term should be
47 waived. If the parole board determines that the
48 inmate's mandatory minimum term of confinement should
49 be waived, the inmate shall be immediately eligible
50 for parole.

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Page 2

1 Sec. ____ INTERIM STUDY COMMITTEE. The
2 legislative council is requested to establish an
3 interim committee to study currently available
4 sentencing and incarceration options. The study may
5 include but shall not be limited to a review of
6 available jail, community corrections, and prison
7 beds; the potential impact of the use of split
8 sentencing on jail, community corrections, and prison
9 bed space; security needs and costs associated with
10 the implementation of hard labor requirements for
11 persons incarcerated in corrections institutions; and
12 the nature and costs associated with other sentencing
13 options. In addition to legislative members, the
14 membership of the interim committee shall include the
15 following public members:

- 16 1. A representative from the board of parole.
- 17 2. A representative from the division of criminal
18 and juvenile justice planning of the department of
19 human rights.
- 20 3. A representative from an association of
21 sheriffs and deputy sheriffs.
- 22 4. A representative from the department of
23 corrections.

24 The committee shall submit findings and any
25 recommendations in a report to the general assembly by
26 January 1, 1996.

27 Sec. ____ RISK ASSESSMENT STUDY. The department
28 of corrections, in consultation with the board of
29 parole and the division of criminal and juvenile
30 justice planning of the department of human rights,
31 shall conduct a study of the various risk assessment
32 tools currently used in the Iowa corrections system to
33 determine the relative risk posed by a criminal
34 offender and the prospects for the offender's
35 rehabilitation and make findings and recommendations
36 regarding the implementation and use of a risk
37 assessment tool during or as part of the presentence
38 investigation process. The recommendations and any
39 corresponding findings shall be submitted in a report
40 to the general assembly by January 1, 1996."

41 5. Title page, by striking lines 4 through 6 and
42 inserting the following: "served, providing for a
43 reduction in the amount of".

44 6. Title page, line 7, by inserting after the
45 word "felons" the following: ", by requesting an
46 interim and a departmental study, and making other
47 related changes".

48 7. By designating, redesignating, and changing
49 internal references as necessary.

RECEIVED FROM THE SENATE

H-3928 FILED APRIL 13, 1995

*House Concurred (as amended)**4/24/95**(p. 1239)*

HOUSE FILE 471

H-3947

1 Amend the Senate amendment, H-3928, to House File
2 471, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 2, by striking lines 28 through 31 and
5 inserting the following: "of corrections shall issue
6 a request for proposals for the conducting of a study
7 of the various risk assessment".

A

8 2. Page 2, line 35, by striking the words
9 "rehabilitation and make" and inserting the following:
10 "rehabilitation. The person or persons conducting the
11 study shall consult with faculty members with
12 expertise in risk assessment who are from Iowa
13 institutions of higher education which offer degree
14 programs in criminology. The study shall include
15 any".

B

By WITT of Black Hawk

H-3947 FILED APRIL 17, 1995

A - lost B - withdrawn

HOUSE FILE 471

H-3949

1 Amend the Senate amendment, H-3928, to House File
2 471, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 2, by inserting after line 23 the
5 following:

6 "____. A faculty member with expertise in
7 sentencing and incarceration options who is from an
8 Iowa institution of higher education which offers a
9 degree program in criminology."

10 2. By numbering and renumbering as necessary.

By WITT of Black Hawk

H-3949 FILED APRIL 17, 1995

Lost 4/25/95 (p. 1838)

HOUSE FILE 471

H-3950

1 Amend the Senate amendment, H-3928, to House File
2 471, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 2, line 38, by inserting after the word
5 "process." the following: "In conducting the study,
6 the department shall also consult with faculty members
7 with expertise in risk assessment who are from Iowa
8 institutions of higher education which offer degree
9 programs in criminology."

By WITT of Black Hawk

H-3950 FILED APRIL 17, 1995

Adopted 4/25/95 (p. 1838)

HOUSE FILE 471

H-3959

1 Amend the Senate amendment, H-3928, to House File
2 471, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, line 12, by striking the words "in the
5 possession or" and inserting the following: "using or
6 in".

By BODDICKER of Cedar

H-3959 FILED APRIL 17, 1995

Adopted 4/25/95 (p. 1834)

HOUSE FILE 471

H-3999

1 Amend the Senate amendment, H-3928, to House File
2 471, as amended, passed, and reprinted by the House as
3 follows:

4 1. Page 1, by striking lines 3 and 4 and
5 inserting the following:

6 "____. Page 1, by striking lines 1 through 12 and
7 inserting the following:"

8 2. Page 1, line 24, by striking the words "term
9 less than" and inserting the following: "mandatory
10 minimum term which is less than the mandatory minimum
11 term which is".

12 3. Page 1, by striking line 30.

13 4. Page 1, by striking lines 34 and 35 and
14 inserting the following:

15 "____. Page 5, by inserting after line 13 the
16 following:"

17 5. Page 2, line 35, by striking the word
18 "rehabilitation" and inserting the following:
19 "rehabilitation,".

20 6. By numbering and renumbering as necessary.

By HURLEY of Fayette

H-3999 FILED APRIL 20, 1995

WITHDRAWN 4/24/95 (p.1833)

HOUSE FILE 471

H-4050

1 Amend the Senate amendment, H-3928, to House File
2 471, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, line 24, by striking the words "term
5 less than" and inserting the following: "mandatory
6 minimum term which is less than the mandatory minimum
7 term which is".

8 2. Page 2, by inserting after line 23, the
9 following:

10 "____. A representative from a county board of
11 supervisors."

12 3. Page 2, line 35, by striking the word
13 "rehabilitation" and inserting the following:
14 "rehabilitation,".

15 4. Page 2, by inserting after line 40, the
16 following:

17 "Sec. ____ . SPLIT-SENTENCING PILOT PROJECT.

18 1. The general assembly finds that the
19 implementation of a split-sentencing pilot project
20 within this state could serve as a test for a fair and
21 flexible method of dispensing criminal justice which
22 provides for an incremental approach to the imposition
23 of aggravated misdemeanor and felony criminal
24 sentences and may help to reduce the current prison
25 overcrowding problems while protecting the public
26 safety. A split-sentencing pilot project is therefore
27 established in a judicial district to be determined by
28 the supreme court. The judicial district shall be
29 selected based on the availability of jail space
30 within the judicial district, and whether the judicial
31 district in consultation with the county board or
32 boards of supervisors and the sheriff or sheriffs
33 desires to participate in the project.
34 Notwithstanding any other contrary provision of law,
35 subsection 2 of this section shall apply within and
36 only within the judicial district which is selected to
37 participate in this pilot project from the date of the
38 enactment of this Act through June 30, 1996.

39 2. By record entry at the time of or after
40 sentencing for an aggravated misdemeanor or a felony,
41 other than a class "A" felony, the court may sentence
42 the defendant to serve up to ninety days of the
43 sentence in the county jail and suspend the balance of
44 the term imposed. If the person is ordered to serve
45 up to ninety days in jail, the costs of the person's
46 confinement shall be paid by the state at the rate
47 negotiated by the department of corrections with the
48 judicial district under section 904.908. Payment
49 shall be made by the department of revenue and finance
50 upon submission of a voucher executed by the sheriff.

H-4050

H-4050

Page 2

1 Persons serving time in a county jail under this
2 subsection shall be committed to the custody of the
3 director of the department of corrections and the
4 department shall be responsible for all prisoner
5 medical costs."

6 5. Page 2, line 46, by inserting after the word
7 "study," the following: "providing for a pilot
8 project,".

9 6. By numbering and renumbering as necessary.

By HURLEY of Fayette

H-4050 FILED APRIL 24, 1995

Adopted (p. 1835)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 471

S-3568

- 1 Amend the Senate amendment, H-3928, to House File
2 471, as amended, passed, and reprinted by the House,
3 as follows:
- 4 1. Page 1, line 12, by striking the words "in the
5 possession or" and inserting the following: "using or
6 in".
- 7 2. Page 1, line 24, by striking the words "term
8 less than" and inserting the following: "mandatory
9 minimum term which is less than the mandatory minimum
10 term which is".
- 11 3. Page 2, by inserting after line 23, the
12 following:
13 "____. A representative from a county board of
14 supervisors."
- 15 4. Page 2, line 35, by striking the word
16 "rehabilitation" and inserting the following:
17 "rehabilitation,".
- 18 5. Page 2, line 38, by inserting after the word
19 "process." the following: "In conducting the study,
20 the department shall also consult with faculty members
21 with expertise in risk assessment who are from Iowa
22 institutions of higher education which offer degree
23 programs in criminology."
- 24 6. Page 2, by inserting after line 40, the
25 following:
26 "Sec. ____ . SPLIT-SENTENCING PILOT PROJECT.
- 27 1. The general assembly finds that the
28 implementation of a split-sentencing pilot project
29 within this state could serve as a test for a fair and
30 flexible method of dispensing criminal justice which
31 provides for an incremental approach to the imposition
32 of aggravated misdemeanor and felony criminal
33 sentences and may help to reduce the current prison
34 overcrowding problems while protecting the public
35 safety. A split-sentencing pilot project is therefore
36 established in a judicial district to be determined by
37 the supreme court. The judicial district shall be
38 selected based on the availability of jail space
39 within the judicial district, and whether the judicial
40 district in consultation with the county board or
41 boards of supervisors and the sheriff or sheriffs
42 desires to participate in the project.
43 Notwithstanding any other contrary provision of law,
44 subsection 2 of this section shall apply within and
45 only within the judicial district which is selected to
46 participate in this pilot project from the date of the
47 enactment of this Act through June 30, 1996.
- 48 2. By record entry at the time of or after
49 sentencing for an aggravated misdemeanor or a felony,
50 other than a class "A" felony, the court may sentence

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Page 2

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

15 7. Page 2, line 46, by inserting after the word
 16 "study," the following: "providing for a pilot
 17 project,".

18 8. By renumbering, relettering, or redesignating
 19 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3568 FILED APRIL 24, 1995

Senate Concurred

4-26-95

(P. 1440)

HSB 170

JUDICIARY

Hurley, Chair
Lamberti
Shoultz

Succeeded By
SF/HE 47/
HOUSE FILE

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON HURLEY)

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

A BILL FOR

1 An Act relating to prison time served by persons convicted of a
2 second or subsequent forcible felony, by providing for
3 increases in the mandatory minimum terms of sentences to be
4 served, and providing for a reduction in the amount of good
5 and honor time that may be earned.

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

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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 --
18 ELIGIBILITY 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 five days per year 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:

EXPLANATION

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

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OFFICE OF THE GOVERNOR

STATE CAPITOL

DES MOINES, IOWA 50319

515 281-5211

TERRY E. BRANSTAD
GOVERNOR

June 1, 1995

RECEIVED
JUN 02 1995
LEGISLATIVE SERVICE
BUREAU

The Honorable Paul Pate
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

House File 471, an act relating to prison time served by persons convicted of an aggravated misdemeanor or greater offense, by providing for changes in the mandatory minimum terms of sentences to be served, providing for a reduction in the amount of good and honor time that may be earned by forcible felons, by requesting an interim and a departmental study, providing for a pilot project, and making other related changes, is hereby disapproved and transmitted to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

Although it started out as a bill that would establish tougher sentences and abolish parole for violent offenders, in its final form House File 471 does neither. Not only does the bill fail to eliminate parole for the most violent and dangerous criminals, it actually softens the current penalties for persons who manufacture and sell illegal drugs. Although, Iowa is one of the safest places in the nation to live, we should do all that we can to make it even safer. I regret that this bill does little to strengthen our ability to protect Iowans from those who threaten their security and who commit violent acts against them.

House File 471 purports to abolish parole by lengthening the amount of time persons convicted of certain crimes would remain in prison. Unfortunately the longer sentences would apply only to repeat offenders. The bill provides that a person convicted of a second forcible felony would serve 85 percent of their sentence, while a third time forcible felon would serve 100 percent of their sentence.

I agree that persons who commit forcible felonies again and again deserve to be punished more severely. However, the bill does not do enough to protect Iowans from the perpetrators of violent crimes. Criminals who commit acts of murder, rape, kidnapping and armed robbery should not get a second chance to inflict serious harm before a strict penalty applies. The public is demanding that we

The Honorable Paul Pate
June 1, 1995
Page 2

do more to protect them from these dangerous and violent offenders. Forcible felonies are the most violent and dangerous crimes. We should see to it that all forcible felons serve at least 85 percent of their time without parole.

The bill also gives new discretion to judges to waive the mandatory minimum sentences that apply to persons convicted of certain drug offenses. It goes even further by requiring the Board of Parole to review the cases of those currently in prison and to release them if the provisions of the bill would have applied had it been in effect at the time they were convicted.

The crimes that the waiver provisions apply to have been characterized by some as "nonviolent" drug offenses. The reality is these crimes include the manufacture and sale of hard drugs like heroin and cocaine, the sale of drugs to minors and the sale of drugs on school grounds. Leniency to persons involved in serious drug crimes sends the wrong message. We should not become more tolerant of crimes involving the sale and use of illegal drugs.

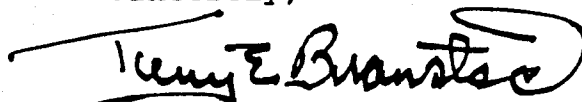
The reason most often offered for waiving the mandatory minimum sentence for drug offenders is that too many of them are being imprisoned and taking up space that could be better used to incarcerate persons convicted of more violent crimes. On first blush, the argument has some appeal. However, it ignores the fact there is a strong and proven correlation between drug use and crimes of all types. Nearly 80 percent of all crimes involve some form of drug use.

We should not be responding to the lack of prison space by reducing sentences and releasing criminals before they have served their time. Rather we should continue to send a strong and clear message: if you commit the crime, you will do the timeand we will find the space to keep you behind bars.

In summary, House File 471 does not respond adequately to the violence we are experiencing in our society today. It misses the mark. It sends the wrong messages. It does not make our streets and homes safer. We can do better.

For the above reasons, I hereby respectfully disapprove House File 471.

Sincerely,



Terry E. Branstad
Governor

TEB/ps

cc: Secretary of the Senate
Chief Clerk of the House

vetred

HOUSE FILE 471

AN ACT

RELATING TO PRISON TIME SERVED BY PERSONS CONVICTED OF AN AGGRAVATED MISDEMEANOR OR GREATER OFFENSE, BY PROVIDING FOR CHANGES IN THE MANDATORY MINIMUM TERMS OF SENTENCES TO BE SERVED, PROVIDING FOR A REDUCTION IN THE AMOUNT OF GOOD AND HONOR TIME THAT MAY BE EARNED BY FORCIBLE FELONS, BY REQUESTING AN INTERIM AND A DEPARTMENTAL STUDY, PROVIDING FOR A PILOT PROJECT, AND MAKING OTHER RELATED CHANGES.

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

Section 1. Section 901.10, Code 1995, is amended to read as follows:

901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

1. A court sentencing a person for an act prohibited under section 124.406 or sections 124.401 and 124.413 may, at its discretion, waive the mandatory minimum term of confinement if the person was not using or in control of a firearm and did not commit an assault as defined under section 708.1 while participating in the prohibited act, if mitigating circumstances exist, and if the mitigating circumstances are stated specifically in the record. However, the state may appeal the discretionary decision on the grounds that the stated mitigating circumstances do not warrant a reduction of the sentence.

2. A court sentencing a person for the person's first conviction under ~~section 124.406, 124.413, or~~ 902.7 may, at

its discretion, sentence the person to a mandatory minimum term which is less than the mandatory minimum term which is provided by the statute if mitigating circumstances exist and those circumstances are stated specifically in the record. However, the state may appeal the discretionary decision on the grounds that the stated mitigating circumstances do not warrant a reduction of the sentence.

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

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

Sec. 3. Section 902.11, subsection 1, Code 1995, is amended to read as follows:

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

Sec. 4. NEW SECTION. 902.12 MINIMUM SENTENCE -- ELIGIBILITY OF FORCIBLE FELONS FOR PAROLE OR WORK RELEASE.

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

2. A person serving a sentence for a conviction of a forcible felony who has a criminal record of two or more prior convictions for a forcible felony or a crime of similar gravity in this or any other state shall serve one hundred

percent of the maximum term of the person's sentence and shall not be released on parole or work release.

Sec. 5. Section 903A.2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Each Unless an inmate is sentenced pursuant to section 902.12, subsection 2, an inmate of an institution under the Iowa department of corrections, is eligible for a reduction of sentence of one day for each day of good conduct of the inmate while committed to one of the department's institutions. In Unless an inmate is sentenced pursuant to section 902.12, subsection 2, in addition to the sentence reduction of one day for each day of good conduct, each inmate is eligible for an additional reduction of sentence of up to five days a month if the inmate participates satisfactorily in employment in the institution, in Iowa state industries, in an inmate employment program established by the director, in a treatment program established by the director, or in an inmate educational program approved by the director. Inmates who are sentenced pursuant to section 902.12, subsection 2, are eligible for a reduction of sentence of up to one day per month for good conduct while committed to one of the department's institutions. Reduction of sentence pursuant to this section may be subject to forfeiture pursuant to section 903A.3. Computation of good conduct time is subject to the following conditions:

Sec. 6. **APPLICABILITY OF WAIVER TO CURRENT INMATES.** The board of parole shall identify inmates currently serving mandatory minimum sentences for an offense under section 1 of this Act that would have been eligible for waiver of the mandatory minimum term if the inmates had been sentenced on or after the effective date of this Act. For each inmate identified, the board of parole shall review the inmate's record and the circumstances surrounding the inmate's conviction and make a determination as to whether the inmate's mandatory minimum term should be waived. If the parole board

determines that the inmate's mandatory minimum term of confinement should be waived, the inmate shall be immediately eligible for parole.

Sec. 7. **INTERIM STUDY COMMITTEE.** The legislative council is requested to establish an interim committee to study currently available sentencing and incarceration options. The study may include but shall not be limited to a review of available jail, community corrections, and prison beds; the potential impact of the use of split sentencing on jail, community corrections, and prison bed space; security needs and costs associated with the implementation of hard labor requirements for persons incarcerated in corrections institutions; and the nature and costs associated with other sentencing options. In addition to legislative members, the membership of the interim committee shall include the following public members:

1. A representative from the board of parole.
2. A representative from the division of criminal and juvenile justice planning of the department of human rights.
3. A representative from an association of sheriffs and deputy sheriffs.
4. A representative from the department of corrections.
5. A representative from a county board of supervisors.

The committee shall submit findings and any recommendations in a report to the general assembly by January 1, 1996.

Sec. 8. **RISK ASSESSMENT STUDY.** The department of corrections, in consultation with the board of parole and the division of criminal and juvenile justice planning of the department of human rights, shall conduct a study of the various risk assessment tools currently used in the Iowa corrections system to determine the relative risk posed by a criminal offender and the prospects for the offender's rehabilitation, and make findings and recommendations regarding the implementation and use of a risk assessment tool during or as part of the presentence investigation process.

In conducting the study, the department shall also consult with faculty members with expertise in risk assessment who are from Iowa institutions of higher education which offer degree programs in criminology. The recommendations and any corresponding findings shall be submitted in a report to the general assembly by January 1, 1996.

Sec. 9. SPLIT-SENTENCING PILOT PROJECT.

1. The general assembly finds that the implementation of a split-sentencing pilot project within this state could serve as a test for a fair and flexible method of dispensing criminal justice which provides for an incremental approach to the imposition of aggravated misdemeanor and felony criminal sentences and may help to reduce the current prison overcrowding problems while protecting the public safety. A split-sentencing pilot project is therefore established in a judicial district to be determined by the supreme court. The judicial district shall be selected based on the availability of jail space within the judicial district, and whether the judicial district in consultation with the county board or boards of supervisors and the sheriff or sheriffs desires to participate in the project. Notwithstanding any other contrary provision of law, subsection 2 of this section shall apply within and only within the judicial district which is selected to participate in this pilot project from the date of the enactment of this Act through June 30, 1996.

2. By record entry at the time of or after sentencing for an aggravated misdemeanor or a felony, other than a class "A" felony, the court may sentence the defendant to serve up to ninety days of the sentence in the county jail and suspend the balance of the term imposed. If the person is ordered to serve up to ninety days in jail, the costs of the person's confinement shall be paid by the state at the rate negotiated by the department of corrections with the judicial district under section 904.908. Payment shall be made by the department of revenue and finance upon submission of a voucher

executed by the sheriff. Persons serving time in a county jail under this subsection shall be committed to the custody of the director of the department of corrections and the department shall be responsible for all prisoner medical costs.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 471, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Verified
Approved *June 1*, 1995

TERRY E. BRANSTAD
Governor