

H- 3/24/95 Judiciary
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FILED MAR 9 1995

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SENATE FILE 293
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 42)

(P. 832)
Passed Senate, Date 3/22/95 Passed House, Date 4/20/95 (p. 1742)
Vote: Ayes 48 Nays 0 Vote: Ayes 93 Nays 0
Approved May 1, 1995

A BILL FOR

1 An Act relating to providing for a five-year minimum prison term
2 for a person who uses a dangerous weapon in the commission of
3 a forcible felony.

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

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SENATE FILE 293

S-3128

- 1 Amend Senate File 293 as follows:
- 2 1. Page 1, lines 3 and 4, by striking the words
- 3 "~~FIREARM DANGEROUS WEAPON~~" and inserting the
- 4 following: "FIREARM OR KNIFE".
- 5 2. Page 1, lines 9 and 10, by striking the words
- 6 "~~firearm dangerous weapon~~" and inserting the
- 7 following: "firearm or a knife".
- 8 3. Page 1, line 10, by striking the words
- 9 "~~firearm dangerous weapon~~" and inserting the
- 10 following: "firearm or a knife".
- 11 4. Page 1, line 11, by striking the words
- 12 "~~firearm dangerous weapon~~" and inserting the
- 13 following: "firearm or a knife".
- 14 5. Title page, line 2, by striking the words
- 15 "dangerous weapon" and inserting the following:
- 16 "knife".

Ant 3/22/95 (P. 832) By ROD HALVORSON
S-3128 FILED MARCH 15, 1995

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293

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

3 902.7 MINIMUM SENTENCE -- USE OF A FIREARM DANGEROUS
4 WEAPON.

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

17 EXPLANATION

18 This bill provides that a person who claims to have a
19 dangerous weapon, in the person's possession, displays a
20 dangerous weapon in a threatening manner, or actually has a
21 dangerous weapon in the person's possession during the
22 commission of a forcible felony, shall serve a minimum term in
23 prison of five years.

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**SENATE FILE 293
FISCAL NOTE**

The estimate for **Senate File 293** 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.

Section 902.7, Code of Iowa requires a person convicted of a felony with a firearm to serve a minimum sentence of five years. Senate File 293 amends this section to apply the penalty to all dangerous weapons.

Assumptions:

1. Charge, conviction, and sentencing patterns will remain stable.
2. Prisoner length of stay, revocation rates, and corrections policies will remain unchanged.
3. Courts have the discretion in imposing the mandatory minimum sentence for the use of a firearm. Discretion will be used in the same manner for other dangerous weapons.

Correctional Impact:

With earned good time, Class B and C felons would be eligible for parole at 30 months. The current average lengths of stay for Class B and C felons are 77 months and 36 months, respectively. Since these offenders are now normally paroled after surpassing the mandatory minimum length of stay, this bill would not significantly effect the length of time they spend in prison.

Class D felons spend an average of 16 months in prison. Under the proposed law, they would not be eligible for parole until 30 months, for a net increased stay of 14 months. With this bill, the prison population would not be affected in FY 1996. It is projected to increase by two inmates in FY 1997, and another four inmates by FY 2000.

Fiscal Impact:

There would be no increased costs in FY 1996. The costs to the Department of Corrections would increase \$7,300 in FY 1997 and an additional \$14,600 by FY 2000. By the fifth year, the annual costs will have increased a total of \$21,900.

Sources:

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections (LSB 1591sv, MDF)

FILED MARCH 16, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

Boettger
Giannetto
Vilsack
Neuhauser
Maddox

SSB-42
Judiciary

Succeeded By
SENATE/HOUSE FILE 293
BY (PROPOSED GOVERNOR'S BILL)

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

A BILL FOR

1 An Act relating to providing for a five-year minimum prison term
2 for a person who uses a knife in the commission of a forcible
3 felony.

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

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

3 902.7 MINIMUM SENTENCE -- USE OF A FIREARM OR KNIFE.

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 or a knife,
9 displayed a firearm or a knife in a threatening manner, or was
10 armed with a firearm or a knife while participating in the
11 forcible felony the convicted person shall serve a minimum of
12 five years of the sentence imposed by law. A person sentenced
13 pursuant to this section shall not be eligible for parole
14 until the person has served the minimum sentence of
15 confinement imposed by this section.

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EXPLANATION

17 This bill provides that a person who claims to have a
18 knife, in the person's possession, displays a knife in a
19 threatening manner, or actually has a knife in the person's
20 possession during the commission of a forcible felony, shall
21 serve a minimum term in prison of five years.

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shall serve a minimum of five years of the sentence imposed by law. A person sentenced pursuant to this section shall not be eligible for parole until the person has served the minimum sentence of confinement imposed by this section.

SENATE FILE 293

AN ACT
RELATING TO PROVIDING FOR A FIVE-YEAR MINIMUM PRISON TERM
FOR A PERSON WHO USES A DANGEROUS WEAPON IN THE COMMISSION
OF A FORCIBLE FELONY.

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

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

902.7 MINIMUM SENTENCE -- USE OF A FIREARM DANGEROUS WEAPON.

At the trial of a person charged with participating in a forcible felony, if the trier of fact finds beyond a reasonable doubt that the person is guilty of a forcible felony and that the person represented that the person was in the immediate possession and control of a firearm dangerous weapon, displayed a firearm dangerous weapon in a threatening manner, or was armed with a firearm dangerous weapon while participating in the forcible felony the convicted person

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 293, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved  , 1995

TERRY E. BRANSTAD
Governor