

SENATE FILE 349
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 264)

Passed Senate, ^(P. 826) Date 3/22/95 Passed House, Date _____
Vote: Ayes 50 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act to require that certain forcible felons serve at least
2 eighty-five percent of the sentence imposed.

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

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S.F. 349

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

3 902.7 MINIMUM SENTENCE -- USE OF A FIREARM.

4 ~~At~~ Except as otherwise provided in section 902.12, at the
5 trial of a person charged with participating in a forcible
6 felony, if the trier of fact finds beyond a reasonable doubt
7 that the person is guilty of a forcible felony and that the
8 person represented that the person was in the immediate
9 possession and control of a firearm, displayed a firearm in a
10 threatening manner, or was armed with a firearm while
11 participating in the forcible felony the convicted person
12 shall serve a minimum of five years of the sentence imposed by
13 law. A person sentenced pursuant to this section shall not be
14 eligible for parole until the person has served the minimum
15 sentence of confinement imposed by this section.

16 Sec. 2. Section 902.8, Code 1995, is amended to read as
17 follows:

18 902.8 MINIMUM SENTENCE -- HABITUAL OFFENDER.

19 ~~An~~ A habitual offender is any person convicted of a class
20 "C" or a class "D" felony, who has twice before been convicted
21 of any felony in a court of this or any other state, or of the
22 United States. An offense is a felony if, by the law under
23 which the person is convicted, it is so classified at the time
24 of the person's conviction. A Except as otherwise provided in
25 section 902.12, a person sentenced as an a habitual offender
26 shall not be eligible for parole until the person has served
27 the minimum sentence of confinement of three years.

28 Sec. 3. Section 902.11, Code 1995, is amended to read as
29 follows:

30 902.11 MINIMUM SENTENCE -- ELIGIBILITY OF PRIOR FORCIBLE
31 FELON FOR PAROLE OR WORK RELEASE.

32 A person serving a sentence for conviction of a felony who
33 has a criminal record of one or more prior convictions for a
34 forcible felony or a crime of a similar gravity in this or any
35 other state, shall be denied parole or work release unless the

1 person has served at least one-half of the maximum term of the
2 defendant's sentence. However, the mandatory sentence
3 provided for by this section does not apply if either any of
4 the following apply:

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

9 2. The sentence being served is on a conviction for
10 operating a motor vehicle while under the influence of alcohol
11 or a drug under chapter 321J.

12 3. The offense is a forcible felony enumerated under
13 section 902.12.

14 Sec. 4. NEW SECTION. 902.12 INELIGIBILITY FOR PAROLE OR
15 WORK RELEASE -- CERTAIN FORCIBLE FELONS.

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

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

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

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

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

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

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

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

16 Sec. 6. Section 906.15, unnumbered paragraph 1, Code 1995,
17 is amended to read as follows:

18 Unless sooner discharged, a person released on parole shall
19 be discharged when the person's term of parole equals the
20 period of imprisonment specified in the person's sentence,
21 less all time served in confinement. Discharge from parole
22 may be granted prior to such time, when an early discharge is
23 appropriate. The board shall periodically review all paroles,
24 and when the board determines that any person on parole is
25 able and willing to fulfill the obligations of a law-abiding
26 citizen without further supervision, the board shall discharge
27 the person from parole. A parole officer shall periodically
28 review all paroles assigned to the parole officer, and when
29 the parole officer determines that any person assigned to the
30 officer is able and willing to fulfill the obligations of a
31 law-abiding citizen without further supervision, the officer
32 may discharge the person from parole after notification and
33 approval of the district director and notification of the
34 board of parole. In any event, discharge from parole shall
35 terminate the person's sentence. However, a person convicted

1 of a violation of section 709.3, 709.4 or 709.8 committed on
2 or with a child or a person released on parole prior to the
3 effective date of this Act for a violation of section 709.3
4 committed on or with a child shall not be discharged from
5 parole until the person's term of parole equals the period of
6 imprisonment specified in the person's sentence, less all time
7 served in confinement.

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EXPLANATION

This bill prohibits persons convicted of the following forcible felonies from being released on parole or work release: murder in the second degree, sexual abuse in the second degree, kidnapping in the second degree, and robbery in either the first or second degree. An offender will still be eligible to earn good conduct time credits in an amount not to exceed 15 percent of the person's total sentence of confinement against the offender's sentence under the bill.

**SENATE FILE 349
FISCAL NOTE**

The estimate for Senate File 349 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.

Senate File 349 prohibits persons convicted of forcible felonies from being released on parole or work release. The inmate may earn good time credits not to exceed 15% of the total sentence.

Assumptions:

1. Charge, conviction, and sentencing patterns will remain stable.
2. Prisoner length of stay, revocation rates, and other corrections policies will remain unchanged.
3. The bill does not apply retroactively to current inmates.

Correctional Impact:

The short-term effects are minimal, but there are long-term effects.

1. This Bill will not increase prison admissions.
2. There will be no increase in the prison population for FY 1996 or FY 1997.
3. By FY 2000 there will be an additional 112 inmates in prison because of this change.
4. By FY 2005 another 448 inmates will be added to the prison population, for a total impact of 560 additional inmates.
5. By FY 2015 another 829 inmates will be added to the prison system, for a total impact of 1,389 more inmates.

With continued operation at 130.0% of design capacity, an additional 1,000-bed prison will be required by FY 2015 because of this change.

Fiscal Impact:

There would be no immediate cost to the correctional system because of this change.

If a 1,000-bed medium security prison were added to the correctional system, at current costs (real FY 1996 dollars), the prison would cost approximately \$45.0 million to construct and would have annual operating costs of approximately \$15.0 million.

Source: Criminal and Juvenile Justice Planning Division, Department of Human Rights (LSB 1598SV, MDF)

Hansen
Giannetto
V. Isack
McKean
Redfern

SSB-264
Judiciary

Succeeded By
SENATE FILE 349
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON GIANNETTO)

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