

4/3/95 Referred to Judiciary

FILED MAR 20 1995

SENATE FILE 442
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 133)

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

A BILL FOR

1 An Act to prohibit the release of persons convicted of a class
2 "B" forcible felony on parole or work release.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 442

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

3 901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

4 A court sentencing a person for the person's first
5 conviction under section 124.406~~7~~ or 124.413~~7~~ ~~or~~ 902.7 may, at
6 its discretion, sentence the person to a term less than
7 provided by the statute if mitigating circumstances exist and
8 those circumstances are stated specifically in the record.
9 However, the state may appeal the discretionary decision on
10 the grounds that the stated mitigating circumstances do not
11 warrant a reduction of the sentence.

12 Sec. 2. Section 902.7, Code 1995, is amended to read as
13 follows:

14 902.7 MINIMUM SENTENCE -- USE OF A FIREARM.

15 At the trial of a person charged with participating in a
16 forcible felony, if the trier of fact finds beyond a
17 reasonable doubt that the person is guilty of a forcible
18 felony and that the person represented that the person was in
19 the immediate possession and control of a firearm, displayed a
20 firearm in a threatening manner, or was armed with a firearm
21 while participating in the forcible felony the convicted
22 person shall serve a minimum of five years of the sentence
23 imposed by law. However, if the forcible felony was
24 punishable as a class "B" felony, the mandatory minimum
25 penalty shall be as provided in section 902.7A. A person
26 sentenced pursuant to this section shall not be eligible for
27 parole until the person has served the minimum sentence of
28 confinement imposed by this section.

29 Sec. 3. NEW SECTION. 902.7A CLASS "B" FORCIBLE FELON --
30 INELIGIBILITY FOR PAROLE OR WORK RELEASE.

31 A person who is convicted of a forcible felony punishable
32 as a class "B" felony shall serve the sentence imposed by law
33 and shall not be eligible for parole or work release prior to
34 discharge of the sentence. This section shall not affect the
35 ability of the inmate to earn and accrue good conduct time

1 under chapter 903A.

2 Sec. 4. Section 902.11, unnumbered paragraph 1, Code 1995,
3 is amended to read as follows:

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

12 Sec. 5. Section 902.11, Code 1995, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 3. The sentence being served is for a
15 forcible felony which is punishable as a class "B" felony.

16 Sec. 6. Section 903A.5, unnumbered paragraph 1, Code 1995,
17 is amended to read as follows:

18 An inmate shall not be discharged from the custody of the
19 director of the Iowa department of corrections until the
20 inmate has served the full term for which the inmate was
21 sentenced, less good conduct time earned and not forfeited,
22 unless the inmate is pardoned or otherwise legally released.
23 Good conduct time earned and not forfeited shall apply to
24 reduce a mandatory minimum sentence being served pursuant to
25 section 124.406, 124.413, 902.7, 902.7A, 902.8, or 902.11. An
26 inmate shall be deemed to be serving the sentence from the day
27 on which the inmate is received into the institution.

28 However, if an inmate was confined to a county jail or other
29 correctional or mental facility at any time prior to
30 sentencing, or after sentencing but prior to the case having
31 been decided on appeal, because of failure to furnish bail or
32 because of being charged with a nonbailable offense, the
33 inmate shall be given credit for the days already served upon
34 the term of the sentence. The clerk of the district court of
35 the county from which the inmate was sentenced, shall certify

1 to the warden the number of days so served.

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EXPLANATION

3 This bill provides that persons convicted of a class "B"
4 forcible felony are to serve their entire sentence and are not
5 to be eligible for parole. The bill does not affect the
6 person's ability to earn good conduct time under chapter 903A.
7 Currently, inmates are eligible for a reduction of sentence of
8 one day for each day of good conduct while committed to one of
9 the department's institutions. The bill also repeals language
10 which permits the court to waive the mandatory minimum term
11 applicable to first time forcible felons who used a firearm in
12 the commission of the forcible felony. The term "forcible
13 felony" is defined under section 702.11 to mean any felonious
14 child endangerment, assault, murder, sexual abuse, kidnapping,
15 robbery, arson in the first degree, or burglary in the first
16 degree. The term does not include sexual abuse in the third
17 degree committed between spouses, sexual abuse in violation of
18 section 709.4, subsection 2, paragraph "c", subparagraph (4),
19 or sexual exploitation by a counselor or therapist in
20 violation of section 709.15.

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**SENATE FILE 442
FISCAL NOTE**

The estimate for Senate File 442 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 442 requires persons convicted of a Class B forcible felony to serve their entire sentence and not be eligible for parole. The offender will still earn good time credit. The option of waiving the mandatory minimum term for first-time forcible felons who use a firearm is eliminated.

Assumptions:

1. Charge, conviction, and sentencing patterns will remain stable.
2. Prisoner length of stay, other than Class B felons, revocation rates, and other correctional policies will remain unchanged.
3. Parole will be abolished for currently incarcerated Class B felons.
4. The average time served for a forcible Class C felony with the use of a firearm is greater than the mandatory minimum sentence.
5. Class D felons who used a firearm will be required to spend an additional 14 months in prison. An estimated four additional Class D felons would receive mandatory minimum sentences.
6. The budgeted cost for each additional inmate is \$10 per day.

Correctional Impact:

1. This Bill will not increase admissions.
2. The prison population will increase by the following:

FY 1996	59 additional inmates
FY 1997	135 additional inmates
FY 2000	214 additional inmates
FY 2005	640 additional inmates
FY 2015	1,033 additional inmates

With continued operation at 130.0% of design capacity, an additional 800-bed prison will be required by FY 2015 because of this change.

Fiscal Impact:

The annual costs of the increasing prison population will be \$215,000 in FY 1996, \$493,000 in FY 1997, and \$781,000 in FY 2000. After 25 years (FY 2015), the additional inmates will increase costs by \$3.8 million.

If an 800-bed medium security prison were added to the correctional system at

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current costs (real FY 1996 dollars), the prison would cost approximately \$36.0 million and would have annual operating costs of approximately \$12.0 million.

Sources:

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections (LSB 1421sv, MDF)

FILED MARCH 23, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR