

McKean
Hammond
Maddox

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Judiciary

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

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

A BILL FOR

1 An Act relating to the civil commitment of dangerously violent
2 persons.

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

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1 Section 1. Section 13B.4, subsection 1, Code Supplement
2 1999, is amended to read as follows:

3 1. The state public defender shall coordinate the
4 provision of legal representation of all indigents under
5 arrest or charged with a crime, seeking postconviction relief,
6 against whom a contempt action is pending, in proceedings
7 under chapter 229A or 229B, on appeal in criminal cases, on
8 appeal in proceedings to obtain postconviction relief when
9 ordered to do so by the district court in which the judgment
10 or order was issued, and on a reopening of a sentence
11 proceeding, and may provide for the representation of
12 indigents in proceedings instituted pursuant to chapter 908.
13 The state public defender shall not engage in the private
14 practice of law.

15 Sec. 2. NEW SECTION. 229B.1 LEGISLATIVE FINDINGS.

16 The general assembly finds that certain persons have become
17 increasingly violent in society and that a small but extremely
18 dangerous group of violent persons exists which is made up of
19 persons who do not have a type of mental disease or defect
20 that renders them appropriate for involuntary treatment
21 pursuant to the treatment provisions for mentally ill persons
22 under chapter 229, since that chapter is intended to provide
23 short-term treatment to persons with serious mental disorders
24 and then return them to the community. In contrast to persons
25 appropriate for civil commitment under chapter 229,
26 dangerously violent persons generally have antisocial
27 personality features that are unamenable to existing mental
28 illness treatment modalities and that render them likely to
29 engage in violent behavior. The general assembly finds that
30 dangerously violent persons' likelihood of engaging in repeat
31 acts of violence is high and that the existing involuntary
32 commitment procedure under chapter 229 is inadequate to
33 address the risk these dangerously violent persons pose to
34 society.

35 The general assembly further finds that the prognosis for

1 rehabilitating dangerously violent persons in a prison setting
 2 is poor, because the treatment needs of, and the treatment
 3 modalities for, this population are very different from the
 4 traditional treatment modalities available in a prison setting
 5 or for persons appropriate for commitment under chapter 229.
 6 Therefore, the general assembly finds that a civil commitment
 7 procedure for long-term care and treatment of dangerously
 8 violent persons is necessary.

9 Sec. 3. NEW SECTION. 229B.2 DEFINITIONS.

10 As used in this chapter:

11 1. "Agency with jurisdiction" means an agency which has
 12 custody of or releases a person serving a sentence or term of
 13 confinement or is otherwise in confinement based upon a lawful
 14 order or authority, and includes but is not limited to the
 15 department of corrections, the department of human services, a
 16 judicial district department of correctional services, and the
 17 Iowa board of parole.

18 2. "Appropriate secure facility" means a state facility
 19 that is designed to confine but not necessarily to treat a
 20 dangerously violent person.

21 3. "Likely to engage in violent acts" means that the
 22 person more likely than not will engage in acts which are
 23 violent offenses. If a person is not confined at the time
 24 that a petition is filed, a person is "likely to engage in
 25 violent acts" only if the person commits a recent overt act.

26 4. "Mental abnormality" means a congenital or acquired
 27 condition affecting the emotional or volitional capacity of a
 28 person and predisposing that person to commit violent offenses
 29 to a degree which would constitute a menace to the health and
 30 safety of others.

31 5. "Motivated by violence" means that one of the purposes
 32 for commission of a crime is the purpose of gratifying oneself
 33 through an act of violence.

34 6. "Recent overt act" means any act of a violent nature
 35 that has either caused harm or creates a reasonable

1 apprehension of such harm.

2 7. "Violent offense" means:

3 a. A forcible felony that is not a sexually violent
4 offense defined under chapter 229A.

5 b. An offense involving an attempt or conspiracy to commit
6 any offense referred to in this subsection.

7 c. An offense under prior law of this state or an offense
8 committed in another jurisdiction which would constitute an
9 equivalent offense under this section.

10 8. "Dangerously violent person" means a person who has
11 been convicted of or charged with a violent offense and who
12 suffers from a mental abnormality which makes the person
13 likely to engage in violent acts, if not confined in an
14 appropriate secure facility.

15 Sec. 4. NEW SECTION. 229B.3 NOTICE OF DISCHARGE OF A
16 DANGEROUSLY VIOLENT PERSON -- IMMUNITY FROM LIABILITY --
17 MULTIDISCIPLINARY TEAM -- PROSECUTOR'S REVIEW COMMITTEE --
18 ASSESSMENT OF PERSON.

19 1. When it appears that a person who is confined may meet
20 the definition of a dangerously violent person, the agency
21 with jurisdiction shall give written notice to the attorney
22 general and the multidisciplinary team established in
23 subsection 4, no later than ninety days prior to any of the
24 following events:

25 a. The anticipated discharge of a person who has been
26 convicted of a violent offense from total confinement, except
27 that in the case of a person who is returned to prison for no
28 more than ninety days as a result of revocation of parole,
29 written notice shall be given as soon as practicable following
30 the person's readmission to prison.

31 b. The discharge of a person who has been charged with a
32 violent offense and who has been determined to be incompetent
33 to stand trial pursuant to chapter 812.

34 c. The discharge of a person who has been found not guilty
35 by reason of insanity of a violent offense.

1 2. If notice is given under subsection 1, the agency with
2 jurisdiction shall inform the attorney general and the
3 multidisciplinary team established in subsection 4, of both of
4 the following:

5 a. The person's name, identifying factors, anticipated
6 future residence, and offense history.

7 b. Documentation of any institutional evaluation and any
8 treatment received.

9 3. The agency with jurisdiction, its employees, officials,
10 members of the multidisciplinary team established in
11 subsection 4, members of the prosecutor's review committee
12 appointed as provided in subsection 5, and individuals
13 contracting, appointed, or volunteering to perform services
14 under this section shall be immune from liability for any
15 good-faith conduct under this section.

16 4. The director of the department of corrections shall
17 establish a multidisciplinary team which may include
18 individuals from other state agencies to review available
19 records of each person referred to such team pursuant to
20 subsection 1. The team, within thirty days of receiving
21 notice, shall assess whether or not the person meets the
22 definition of a dangerously violent person. The team shall
23 notify the attorney general of its assessment.

24 5. The attorney general shall appoint a prosecutor's
25 review committee to review the records of each person referred
26 to the attorney general pursuant to subsection 1. The
27 prosecutor's review committee shall assist the attorney
28 general in the determination of whether or not the person
29 meets the definition of a dangerously violent person. The
30 assessment of the multidisciplinary team shall be made
31 available to the attorney general and the prosecutor's review
32 committee.

33 Sec. 5. NEW SECTION. 229B.4 PETITION -- TIME --
34 CONTENTS.

1 1. If it appears that a person presently confined may be a

1 dangerously violent person and the prosecutor's review
2 committee has determined that the person meets the definition
3 of a dangerously violent person, the attorney general may file
4 a petition alleging that the person is a dangerously violent
5 person and stating sufficient facts to support such an
6 allegation.

7 2. A prosecuting attorney of the county in which the
8 person was convicted or charged, or the attorney general if
9 requested by the prosecuting attorney, may file a petition
10 alleging that a person is a dangerously violent person and
11 stating sufficient facts to support such an allegation, if it
12 appears that a person who has committed a recent overt act
13 meets any of the following criteria:

14 a. The person was convicted of a violent offense and has
15 been discharged after the completion of the sentence imposed
16 for the offense.

17 b. The person was charged with, but was acquitted of, a
18 violent offense by reason of insanity and has been released
19 from confinement or any supervision.

20 c. The person was charged with, but was found to be
21 incompetent to stand trial for, a violent offense and has been
22 released from confinement or any supervision.

23 Sec. 6. NEW SECTION. 229B.5 PERSON TAKEN INTO CUSTODY --
24 DETERMINATION OF PROBABLE CAUSE -- HEARING -- EVALUATION.

25 1. Upon filing of a petition under section 229B.4, the
26 court shall make a preliminary determination as to whether
27 probable cause exists to believe that the person named in the
28 petition is a dangerously violent person. Upon a preliminary
29 finding of probable cause, the court shall direct that the
30 person named in the petition be taken into custody and that
31 the person be served with a copy of the petition and any
32 supporting documentation and notice of the procedures required
33 by this chapter. If the person is in custody at the time of
34 the filing of the petition, the court shall determine whether
35 a transfer of the person to an appropriate secure facility is

1 appropriate pending the outcome of the proceedings or whether
2 the custody order should be delayed until the date of release
3 of the person.

4 2. Within seventy-two hours after being taken into custody
5 or being transferred to an appropriate secure facility, a
6 hearing shall be held to determine whether probable cause
7 exists to believe the detained person is a dangerously violent
8 person. The hearing may be waived by the respondent. The
9 hearing may be continued upon the request of either party and
10 a showing of good cause, or by the court on its own motion in
11 the due administration of justice, and if the respondent is
12 not substantially prejudiced. At the probable cause hearing,
13 the detained person shall have the following rights:

14 a. To be provided with prior notice of date, time, and
15 location of the probable cause hearing.

16 b. To respond to the preliminary finding of probable
17 cause.

18 c. To appear in person at the hearing.

19 d. To be represented by counsel.

20 e. To present evidence on the respondent's own behalf.

21 f. To cross-examine witnesses who testify against the
22 respondent.

23 g. To view and copy all petitions and reports in the
24 possession of the court.

25 3. At the hearing, the state may rely upon the petition
26 filed under subsection 1, but may also supplement the petition
27 with additional documentary evidence or live testimony.

28 4. At the conclusion of the hearing, the court shall enter
29 an order which does both of the following:

30 a. Verifies the respondent's identity.

31 b. Determines whether probable cause exists to believe
32 that the respondent is a dangerously violent person.

33 5. If the court determines that probable cause does exist,
34 the court shall direct that the respondent be transferred to
35 an appropriate secure facility for an evaluation as to whether

1 the respondent is a dangerously violent person. The
2 evaluation shall be conducted by a person deemed to be
3 professionally qualified to conduct such an examination.

4 Sec. 7. NEW SECTION. 229B.6 POWERS OF INVESTIGATIVE
5 PERSONNEL BEFORE A PETITION IS FILED.

6 1. The prosecuting attorney or attorney general is
7 authorized upon the occurrence of a recent overt act, or upon
8 receiving written notice pursuant to section 229B.3, or before
9 the filing of a petition under this chapter, to subpoena and
10 compel the attendance of witnesses, examine the witnesses
11 under oath, and require the production of documentary evidence
12 for inspection, reproduction, or copying. Except as otherwise
13 provided by this section, the prosecuting attorney or attorney
14 general shall have the same powers and limitations, subject to
15 judicial oversight and enforcement, as provided by this
16 chapter and by the Iowa rules of civil procedure. Any person
17 compelled to appear under a demand for oral testimony under
18 this section may be accompanied, represented, and advised by
19 counsel at the person's own expense.

20 2. The examination of all witnesses under this section
21 shall be conducted by the prosecuting attorney or attorney
22 general before an officer authorized to administer oaths under
23 section 63A.1. The testimony shall be taken by a certified
24 shorthand reporter or by a sound recording device and shall be
25 transcribed or otherwise preserved in the same manner as
26 provided for the preservation of depositions under the Iowa
27 rules of civil procedure. The prosecuting attorney or
28 attorney general may exclude from the examination all persons
29 except the witness, witness's counsel, the officer before whom
30 the testimony is to be taken, law enforcement officials, and a
31 certified shorthand reporter. Prior to oral examination, the
32 person shall be advised by the prosecuting attorney or
33 attorney general of the person's right to refuse to answer any
34 questions on the basis of the privilege against self-
35 incrimination. The examination shall be conducted in a manner

1 consistent with the rules dealing with the taking of
2 depositions.

3 Sec. 8. NEW SECTION. 229B.7 COUNSEL AND EXPERTS --
4 INDIGENT PERSONS.

5 1. A respondent to a petition alleging the person to be a
6 dangerously violent person shall be entitled to the assistance
7 of counsel upon the filing of the petition under section
8 229A.4 and, if the respondent is indigent, the court shall
9 appoint counsel to assist the respondent at state expense.

10 2. If a respondent is subjected to an examination under
11 this chapter, the respondent may retain experts or
12 professional persons to perform an independent examination on
13 the respondent's behalf. If the respondent wishes to be
14 examined by a qualified expert or professional person of the
15 respondent's own choice, the examiner of the respondent's
16 choice shall be given reasonable access to the respondent for
17 the purpose of the examination, as well as access to all
18 relevant medical and psychological records and reports. If
19 the respondent is indigent, the court, upon the respondent's
20 request, shall determine whether the services are necessary
21 and the reasonable compensation for the services. If the
22 court determines that the services are necessary and the
23 requested compensation for the services is reasonable, the
24 court shall assist the respondent in obtaining an expert or
25 professional person to perform an examination or participate
26 in the trial on the respondent's behalf. The court shall
27 approve payment for such services upon the filing of a
28 certified claim for compensation supported by a written
29 statement specifying the time expended, services rendered,
30 expenses incurred on behalf of the respondent, and
31 compensation received in the same case or for the same
32 services from any other source.

33 Sec. 9. NEW SECTION. 229B.8 TRIAL -- DETERMINATION --
34 COMMITMENT PROCEDURE -- CHAPTER 28E AGREEMENTS -- MISTRIALS.

5 1. If the person charged with a violent offense has been

1 found incompetent to stand trial and the person is about to be
2 released pursuant to section 812.5, or the person has been
3 found not guilty of a violent offense by reason of insanity,
4 if a petition has been filed seeking the person's commitment
5 under this chapter, the court shall first hear evidence and
6 determine whether the person did commit the act or acts
7 charged. At the hearing on this issue, the rules of evidence
8 applicable in criminal cases shall apply, and all
9 constitutional rights available to defendants at criminal
10 trials, other than the right not to be tried while
11 incompetent, shall apply. After hearing evidence on this
12 issue, the court shall make specific findings on whether the
13 person did commit the act or acts charged, the extent to which
14 the person's incompetence or insanity affected the outcome of
15 the hearing, including its effect on the person's ability to
16 consult with and assist counsel and to testify on the person's
17 own behalf, the extent to which the evidence could be
18 reconstructed without the assistance of the person, and the
19 strength of the prosecution's case. If after the conclusion
20 of the hearing on this issue the court finds, beyond a
21 reasonable doubt, that the person did commit the act or acts
22 charged, the court shall enter a final order, appealable by
23 the person, on that issue, and may proceed to consider whether
24 the person should be committed pursuant to this chapter.

25 2. Within ninety days after either the entry of the order
26 waiving the probable cause hearing or completion of the
27 probable cause hearing held under section 229B.5, the court
28 shall conduct a trial to determine whether the respondent is a
29 dangerously violent person. The trial may be continued upon
30 the request of either party and a showing of good cause, or by
31 the court on its own motion in the due administration of
32 justice, and when the respondent will not be substantially
33 prejudiced. The respondent, the attorney general, or the
34 judge shall have the right to demand that the trial be before
35 a jury. Such demand for the trial to be before a jury shall

1 be filed, in writing, at least ten days prior to trial. The
2 number and selection of jurors shall be determined as provided
3 in chapter 607A. If no demand is made, the trial shall be
4 before the court.

5 3. At trial, the court or jury shall determine whether,
6 beyond a reasonable doubt, the respondent is a dangerously
7 violent person. If the determination that the respondent is a
8 dangerously violent person is made by a jury, the
9 determination shall be by unanimous verdict of such jury.

10 If the court or jury determines that the respondent is a
11 dangerously violent person, the respondent shall be committed
12 to the custody of the director of the department of human
13 services for control, care, and treatment until such time as
14 the person's mental abnormality has so changed that the person
15 is safe to be at large. The determination may be appealed.

16 4. The control, care, and treatment of a person determined
17 to be a dangerously violent person shall be provided at a
18 facility operated by the department of human services. At all
19 times, persons committed for control, care, and treatment by
20 the department of human services pursuant to this chapter
21 shall be kept in a secure facility and those patients shall be
22 segregated at all times from any other patient under the
23 supervision of the department of human services. A person
24 committed pursuant to this chapter to the custody of the
25 department of human services may be kept in a facility or
26 building separate from any other patient under the supervision
27 of the department of human services. The department of human
28 services may enter into a chapter 28E agreement with the
29 department of corrections or other appropriate agency in this
30 state or another state for the confinement of patients who
31 have been determined to be dangerously violent persons.

32 Patients who are in the confinement of the director of the
33 department of corrections pursuant to a chapter 28E agreement
34 shall be housed and managed separately from criminal offenders
35 in the custody of the director of the department of

1 corrections, and, except for occasional instances of
2 supervised incidental contact, shall be segregated from those
3 offenders.

4 5. If the court or jury is not satisfied beyond a
5 reasonable doubt that the respondent is a dangerously violent
6 person, the court shall direct the respondent's release. Upon
7 a mistrial, the court shall direct that the respondent be held
8 at an appropriate secure facility until another trial is
9 conducted. Any subsequent trial following a mistrial shall be
10 held within ninety days of the previous trial, unless such
11 subsequent trial is continued as provided in subsection 2.

12 Sec. 10. NEW SECTION. 229B.9 ANNUAL EXAMINATIONS --
13 DISCHARGE PETITIONS BY PERSONS COMMITTED.

14 1. Each person committed under this chapter shall have a
15 current examination of the person's mental abnormality made
16 once every year. The person may retain, or if the person is
17 indigent and so requests, the court may appoint a qualified
18 expert or professional person to examine such person, and such
19 expert or professional person shall be given access to all
20 records concerning the person.

21 2. The report of the annual examination shall be provided
22 to the court that committed the person under this chapter.
23 The court shall conduct an annual review and probable cause
24 hearing on the status of the committed person.

25 3. Nothing contained in this chapter shall prohibit the
26 committed person from otherwise petitioning the court for
27 discharge at the annual probable cause hearing. The director
28 of human services shall provide the committed person with an
29 annual written notice of the person's right to petition the
30 court for discharge over the director's objection. The notice
31 shall contain a waiver of rights. The director shall forward
32 the notice and waiver form to the court with the annual
33 report.

34 4. The committed person shall have a right to have an
35 attorney represent the person at the probable cause hearing

1 but the person is not entitled to be present at the hearing.
 2 If the court at the hearing determines that probable cause
 3 exists to believe that the person's mental abnormality has so
 4 changed that the person is safe to be at large and is not
 5 likely to engage in violent acts if discharged, then the court
 6 shall set a final hearing on the issue.

7 5. At the final hearing, the committed person shall be
 8 entitled to be present and is entitled to the benefit of all
 9 constitutional protections that were afforded the person at
 10 the original commitment proceeding. The attorney general
 11 shall represent the state and shall have a right to a jury
 12 trial and to have the committed person evaluated by experts
 13 chosen by the state. The committed person shall also have the
 14 right to have experts evaluate the person on the person's
 15 behalf. The court shall appoint an expert if the person is
 16 indigent and requests an appointment. The burden of proof at
 17 the hearing shall be upon the state to prove beyond a
 18 reasonable doubt that the committed person's mental
 19 abnormality or personality disorder remains such that the
 20 person is not safe to be at large and if discharged is likely
 21 to engage in violent acts.

22 Sec. 11. NEW SECTION. 229B.10 DETENTION AND COMMITMENT
 23 TO CONFORM TO CONSTITUTIONAL REQUIREMENTS.

24 The involuntary detention or commitment of persons under
 25 this chapter shall conform to constitutional requirements for
 26 care and treatment.

27 Sec. 12. NEW SECTION. 229B.11 PETITION FOR DISCHARGE --
 28 PROCEDURE.

29 1. If the director of human services determines that the
 30 person's mental abnormality has so changed that the person is
 31 not likely to commit violent acts if discharged, the director
 32 shall authorize the person to petition the court for
 33 discharge. The petition shall be served upon the court and
 34 the attorney general. The court, upon receipt of the petition
 for discharge, shall order a hearing within thirty days. The

1 attorney general shall represent the state, and shall have the
2 right to have the petitioner examined by an expert or
3 professional person of the attorney general's choice. The
4 hearing shall be before a jury if demanded by either the
5 petitioner or the attorney general. The burden of proof shall
6 be upon the attorney general to show beyond a reasonable doubt
7 that the petitioner's mental abnormality remains such that the
8 petitioner is not safe to be at large and that if discharged
9 is likely to engage in violent acts.

10 2. Upon a finding that the state has failed to meet its
11 burden of proof under this section, or a stipulation by the
12 state, the court shall authorize the release of the committed
13 person. Release may be ordered with or without supervision.
14 If supervised release is ordered, the department of human
15 services shall prepare a plan addressing the person's needs
16 for counseling, medication, community support services,
17 residential services, vocational services, alcohol and other
18 drug abuse treatment, and any other treatment or supervision
19 necessary. If the court orders the release of the committed
20 person with supervision, the court shall order supervision by
21 an agency with jurisdiction that is familiar with the
22 placement of criminal offenders in the community.

23 Sec. 13. NEW SECTION. 229B.12 SUBSEQUENT DISCHARGE
24 PETITIONS -- LIMITATIONS.

25 Nothing in this chapter shall prohibit a person from filing
26 a petition for discharge at any time pursuant to this chapter.
27 However, if a person has previously filed a petition for
28 discharge without the authorization of the director of human
29 services, and the court determines either upon review of the
30 petition or following a hearing that the petition was
31 frivolous or that the petitioner's condition had not so
32 changed that the person was safe to be at large, then the
33 court shall summarily deny the subsequent petition unless the
34 petition contains facts upon which a court could find the
35 condition of the petitioner had so changed that a hearing was

1 warranted. Upon receipt of a first or subsequent petition
 2 from a committed person without the director's authorization,
 3 the court shall endeavor whenever possible to review the
 4 petition and determine if the petition is based upon frivolous
 5 grounds. If the court determines that a petition is
 6 frivolous, the court shall deny the petition without a
 7 hearing.

8 Sec. 14. NEW SECTION. 229B.13 DIRECTOR OF HUMAN SERVICES
 9 -- RESPONSIBILITY FOR COSTS -- REIMBURSEMENT.

10 The director of human services shall be responsible for all
 11 costs relating to the evaluation, treatment, and services
 12 provided to persons committed to the director's custody after
 13 the court or jury determines that the respondent is a
 14 dangerously violent person and pursuant to an order for
 15 commitment under any provision of this chapter. If
 16 supervision is ordered pursuant to section 229B.11, the
 17 director shall also be responsible for all costs related to
 18 the supervision of any person. Reimbursement may be obtained
 19 by the director from the patient and any person legally liable
 20 or bound by contract for the support of the patient for the
 21 cost of care and treatment provided. As used in this section,
 22 "any person legally liable" does not include a political
 23 subdivision.

24 Sec. 15. NEW SECTION. 229B.14 SEVERABILITY.

25 If any provision of this chapter or the application thereof
 26 to any person or circumstances is held invalid, the invalidity
 27 shall not affect other provisions or applications of the
 28 chapter which can be given effect without the invalid
 29 provisions or application and, to this end, the provisions of
 30 this chapter are severable.

31 Sec. 16. NEW SECTION. 229B.15 RELEASE OF CONFIDENTIAL OR
 32 PRIVILEGED INFORMATION AND RECORDS.

33 Notwithstanding anything in chapter 22 to the contrary,
 34 relevant information and records which would otherwise be
 confidential or privileged shall be released to the agency

1 with jurisdiction or the attorney general for the purpose of
2 meeting the notice requirement provided in section 229B.3 and
3 determining whether a person is or continues to be a
4 dangerously violent person.

5 Sec. 17. NEW SECTION. 229B.16 COURT RECORDS -- SEALED
6 AND OPENED BY COURT ORDER.

7 Any psychological reports, drug and alcohol reports,
8 treatment records, reports of any diagnostic center, medical
9 records, or victim impact statements which have been submitted
10 to the court or admitted into evidence under this chapter
11 shall be part of the record but shall be sealed and opened
12 only on order of the court.

13 Sec. 18. NEW SECTION. 229B.17 SHORT TITLE.

14 This chapter shall be known and may be cited as the
15 "Dangerously Violent Person Act".

16 Sec. 19. Section 235A.15, subsection 2, paragraph d,
17 subparagraph (6), Code Supplement 1999, is amended to read as
18 follows:

19 (6) To the department of justice for purposes of review by
20 the prosecutor's review committee or the commitment of
21 sexually violent predators as provided in chapter 229A or the
22 commitment of dangerously violent persons as provided in
23 chapter 229B.

24 Sec. 20. Section 235A.15, subsection 3, paragraph d, Code
25 Supplement 1999, is amended to read as follows:

26 d. The department of justice for purposes of review by the
27 prosecutor's review committee or the commitment of sexually
28 violent predators as provided in chapter 229A or the
29 commitment of dangerously violent persons as provided in
30 chapter 229B.

31 Sec. 21. Section 235A.15, subsection 4, paragraph d, Code
32 Supplement 1999, is amended to read as follows:

33 d. The department of justice for purposes of review by the
34 prosecutor's review committee or the commitment of sexually
35 violent predators as provided in chapter 229A or the

1 commitment of dangerously violent persons as provided in
2 chapter 229B.

3 Sec. 22. Section 235A.18, subsection 1, paragraphs a and
4 b, Code Supplement 1999, are amended to read as follows:

5 a. Report and disposition data relating to a particular
6 case of alleged child abuse shall be sealed ten years after
7 the initial placement of the data in the registry unless good
8 cause be shown why the data should remain open to authorized
9 access. If a subsequent report of an alleged case of child
10 abuse involving the child named in the initial data placed in
11 the registry as the victim of abuse or a person named in the
12 data as having abused a child is received by the department
13 within this ten-year period, the data shall be sealed ten
14 years after receipt of the subsequent report unless good cause
15 be shown why the data should remain open to authorized access.
16 However, such report and disposition data shall be made
17 available to the department of justice if the department
18 requests access to the alleged child abuse records for
19 purposes of review by the prosecutor's review committee or
20 commitment of sexually violent predators under chapter 229A or
21 the commitment of dangerously violent persons as provided in
22 chapter 229B.

23 b. Data sealed in accordance with this section shall be
24 expunged eight years after the date the data was sealed.
25 However, if the report data and the disposition data involve
26 child abuse as defined in section 232.68, subsection 2,
27 paragraphs "c" and "e", the data shall not be expunged for a
28 period of thirty years. Sealed data shall be made available
29 to the department of justice upon request if the prosecutor's
30 review committee is reviewing records or if a prosecuting
31 attorney has filed a petition to commit a sexually violent
32 predator under chapter 229A or the commitment of dangerously
33 violent persons as provided in chapter 229B.

34 Sec. 23. Section 815.7, Code Supplement 1999, is amended
5 to read as follows:

1 815.7 FEES TO ATTORNEYS.

2 An attorney who has not entered into a contract authorized
3 under section 13B.4 and who is appointed by the court to
4 represent any person charged with a crime in this state,
5 seeking postconviction relief, against whom a contempt action
6 is pending, appealing a criminal conviction, appealing a
7 denial of postconviction relief, or subject to a proceeding
8 under chapter 229A or 229B, or to serve as counsel for any
9 person or guardian ad litem for any child in juvenile court,
10 shall be entitled to reasonable compensation and expenses.
11 For appointments made on or after July 1, 1999, the reasonable
12 compensation shall be calculated on the basis of sixty dollars
13 per hour for class "A" felonies, fifty-five dollars per hour
14 for class "B" felonies, and fifty dollars per hour for all
15 other offenses. The expenses shall include any sums as are
16 necessary for investigations in the interest of justice, and
17 the cost of obtaining the transcript of the trial record and
18 briefs if an appeal is filed. The attorney need not follow
19 the case into another county or into the appellate court
20 unless so directed by the court. If the attorney follows the
21 case into another county or into the appellate court, the
22 attorney shall be entitled to compensation as provided in this
23 section. Only one attorney fee shall be so awarded in any one
24 case except that in class "A" felony cases, two may be
25 authorized.

26 Sec. 24. Section 815.9, subsection 1, unnumbered paragraph
27 1, Code Supplement 1999, is amended to read as follows:

28 For purposes of this chapter, chapter 13B, chapter 229A,
29 chapter 229B, chapter 232, chapter 665, chapter 814, chapter
30 822, and the rules of criminal procedure, a person is indigent
31 if the person is entitled to an attorney appointed by the
32 court as follows:

33 Sec. 25. Section 815.10, subsection 1, Code Supplement
34 1999, is amended to read as follows:

35 1. The court, for cause and upon its own motion or upon

1 application by an indigent person or a public defender, shall
 2 appoint the state public defender, the state public defender's
 3 designee pursuant to section 13B.4, or an attorney pursuant to
 4 section 13B.9 to represent an indigent person at any stage of
 5 the criminal, postconviction, contempt, commitment under
 6 chapter 229A or 229B, or juvenile proceedings or on appeal of
 7 any criminal, postconviction, contempt, commitment under
 8 chapter 229A or 229B, or juvenile action in which the indigent
 9 person is entitled to legal assistance at public expense.
 10 However, in juvenile cases, the court may directly appoint an
 11 existing nonprofit corporation established for and engaged in
 12 the provision of legal services for juveniles. An appointment
 13 shall not be made unless the person is determined to be
 14 indigent under section 815.9. Only one attorney shall be
 15 appointed in all cases, except that in class "A" felony cases
 16 the court may appoint two attorneys.

17 Sec. 26. Section 815.11, Code Supplement 1999, is amended
 18 to read as follows:

19 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

20 Costs incurred under chapter 229A, 229B, 665, or 822, or
 21 section 232.141, subsection 3, paragraph "c", or sections
 22 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10,
 23 or the rules of criminal procedure on behalf of an indigent
 24 shall be paid from funds appropriated by the general assembly
 25 to the department of inspections and appeals for those
 26 purposes.

27 Sec. 27. Section 915.45, Code 1999, is amended to read as
 28 follows:

29 915.45 NOTICE TO VICTIMS OF DISCHARGE OF PERSONS
 30 COMMITTED.

31 In addition to any other information required to be
 32 released under chapter 229A or 229B, prior to the discharge of
 33 a person committed under chapter 229A or 229B, the director of
 34 human services shall give written notice of the person's
 discharge to any living victim of the person's activities or

1 crime whose address is known to the director or, if the victim
2 is deceased, to the victim's family, if the family's address
3 is known. Failure to notify shall not be a reason for
4 postponement of discharge. Nothing in this section shall
5 create a cause of action against the state or an employee of
6 the state acting within the scope of the employee's employment
7 as a result of the failure to notify pursuant to this action.

8 EXPLANATION

9 This bill establishes a civil commitment procedure for
10 dangerously violent persons.

11 The bill generally parallels the procedure for the
12 commitment of sexually violent predators. The bill provides
13 that the attorney general or a county attorney may petition to
14 commence commitment proceedings against persons who have been
15 convicted of a violent offense or who have been acquitted of a
16 violent offense by reason of insanity or found incompetent to
17 stand trial for such an offense.

18 The bill provides for the establishment of a
19 multidisciplinary team which will assess whether a person
20 meets the definition of a dangerously violent person. The
21 bill also provides that the attorney general shall appoint a
22 prosecutor's review committee to review records of each person
23 referred to it by an agency with jurisdiction over the person
24 and records of the assessment performed by the
25 multidisciplinary team. The bill provides that the agency
26 with jurisdiction shall give written notice within 90 days of
27 the person's discharge from custody to the attorney general
28 and to the multidisciplinary team. The prosecutor's review
29 committee shall assist the attorney general in determining
30 whether the person referred to the committee meets the
31 definition of a dangerously violent person and whether the
32 person should be civilly committed.

33 A probable cause hearing must be conducted within 72 hours
34 of the filing of a petition. A probable cause hearing may be
35 continued upon a showing of good cause by either party or the

1 court. If the court finds there is probable cause to believe
2 that the person is a dangerously violent person, the court
3 must direct that the person be transferred to an appropriate
4 secure facility and that an evaluation of the person be
5 conducted.

6 Within 90 days of the filing of the petition, a trial must
7 be held on the question of whether the person is to be
8 committed as a dangerously violent person. At trial, the
9 person is entitled to counsel, and has the right to retain and
10 be evaluated by experts of the person's own choosing. Any
11 independent professional who is conducting an evaluation of
12 the person is to have access to all relevant medical and
13 psychological records and reports. At trial, the court or
14 jury if tried before a jury must determine whether there is
15 sufficient evidence to prove beyond a reasonable doubt that
16 the person is a dangerously violent person. If the court or
17 jury determines that there is sufficient evidence, the court
18 must order that the person be placed in an appropriate secure
19 facility under the supervision of the director of the
20 department of human services until the person's mental
21 abnormality has improved to the extent that it is safe to
22 release the person.

23 Under the bill a person committed as a dangerously violent
24 person is to be evaluated on an annual basis to determine the
25 person's mental condition. The court shall conduct an annual
26 review and probable cause hearing on the status of the
27 committed person. After the probable cause hearing, the
28 committed person is entitled to a final hearing about whether
29 there is still sufficient evidence to prove beyond a
30 reasonable doubt that the person is a dangerously violent
31 person and if discharged is likely to engage in violent acts.

32 The bill provides that if the director of human services
33 determines the person's mental abnormality has so changed that
34 the person is not likely to engage in violent acts if
discharged, the director shall authorize the person to

1 petition the court for release. Upon receipt of the petition
2 the court shall order a hearing within 30 days and at such
3 hearing the burden of proof shall be on the state to show
4 beyond a reasonable doubt that the person's mental abnormality
5 remains such that the person if discharged is likely to engage
6 in violent acts. If the state has failed to meet its burden
7 of proof, the court may release the person with or without
8 community supervision.

9 Under the bill the person is entitled to petition the court
10 for release at any time. The director of human services must
11 also annually notify the person of the person's right to
12 petition for such release. Although a committed person may
13 petition for release at any time, if the committed person has
14 previously filed a petition for release, and the court has
15 determined that a previous petition was frivolous or that a
16 committed person's condition has not changed sufficiently to
17 warrant release, the court must deny the petition unless new
18 facts are alleged which could support a contrary finding.

19 The bill provides that the department of human services
20 shall be responsible for all costs related to the evaluation,
21 treatment, community supervision if ordered, and services
22 provided to a person committed as a dangerously violent
23 person.

24 The bill provides that a person is entitled to counsel
25 throughout any proceeding under this bill. The bill provides
26 that the state public defender shall coordinate the legal
27 representation of an indigent person during any proceedings.
28 The bill also provides that except for filing a petition and
29 the subsequent trial to commit a dangerously violent person,
30 the attorney general's office is responsible for representing
31 the state's interest. Under the bill a local county attorney
32 may file a petition to commit a person as a dangerously
33 violent person and represent the state's interest during the
34 subsequent trial.

35 The bill provides the attorney general with access to

1 certain child abuse records when determining whether to file a
 2 petition alleging a person is a dangerously violent person for
 3 purposes of committing such a person. In addition, the bill
 4 provides that all founded child abuse records that are sealed
 5 shall still be available to the attorney general for purposes
 6 of the prosecutor's review committee's review of records or
 7 for committing a dangerously violent person. Such sealed data
 8 is to be expunged in 30 years, rather than eight years, after
 9 sealing.

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3/3/00 Judiciary
3/20/00 Amend/Do Pass w/H 8421

FILED FEB 23 2000

SENATE FILE **2276**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3125)

Passed Senate, Date 3/2/00 (p. 509) Passed House, Date 4-26-00 (p. 1855)
Vote: Ayes 47 Nays 0 Vote: Ayes 79 Nays 19
Approved 5/9/00

A BILL FOR

1 An Act relating to the application of earned time credits against
2 a criminal sentence.

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

SENATE FILE 2276

S-5054

1 Amend Senate File 2276 as follows:

2 1. Page 1, line 15, by striking the words "by as
3 much as half of" and inserting the following: "by-as
4 much-as-half-of from".

5 2. Page 6, line 17, by striking the word and
6 figures "July 1, 2000" and inserting the following:
7 "January 1, 2001".

8 3. Page 6, line 20, by striking the word and
9 figures "August 1, 2000" and inserting the following:
10 "February 1, 2001".

11 4. Page 6, line 21, by striking the word and
12 figure "July 1" and inserting the following: "January
13 1".

14 5. Title page, line 2, by inserting after the
15 word "sentence" the following: "and providing an
16 effective date".

By ANDY MCKEAN

S-5054 FILED MARCH 1, 2000

adopted
3-2-00 (p. 509)

SF 2276

1 Section 1. Section 610A.3, subsection 1, paragraphs a and
2 b, Code 1999, are amended to read as follows:

3 a. The loss of some or all of the good-conduct earned time
4 credits acquired by the inmate or prisoner. Previous
5 dismissals under section 610A.2 may be considered in
6 determining the appropriate level of penalty.

7 b. If the inmate or prisoner has no good-conduct earned
8 time credits to deduct, the order of the court or the
9 disciplinary hearing may deduct up to fifty percent of the
10 average balance of the inmate account under section 904.702 or
11 of any prisoner account.

12 Sec. 2. Section 901.5, subsection 9, paragraph a, Code
13 1999, is amended to read as follows:

14 a. That the defendant's term of incarceration may be
15 reduced by as much as half of the maximum sentence because of
16 statutory good-conduct earned time, work credits, and program
17 credits.

18 Sec. 3. Section 901.5A, subsection 3, Code Supplement
19 1999, is amended to read as follows:

20 3. For purposes of calculating good-conduct earned time
21 under section 903A.2, the sentencing date for a defendant
22 whose sentence has been reopened under this section shall be
23 the date of the original sentencing order.

24 Sec. 4. Section 903A.2, Code 1999, is amended to read as
25 follows:

26 903A.2 ~~GOOD-CONDUCT-TIME~~ EARNED TIME.

27 1. Each inmate committed to the custody of the director of
28 the department of corrections is eligible for to earn a
29 reduction of sentence ~~for-good-behavior~~ in the manner provided
30 in this section. For purposes of calculating the amount of
31 time by which an inmate's sentence may be reduced, inmates
32 shall be grouped into the following two sentencing categories:

33 a. Category "A" sentences are those sentences which are
34 not subject to a maximum accumulation of good-conduct earned
35 time of fifteen percent of the total sentence of confinement

1 under section 902.12. To the extent provided in subsection 5,
2 category "A" sentences also include life sentences imposed
3 under section 902.1. An inmate of an institution under the
4 control of the department of corrections who is serving a
5 category "A" sentence is eligible for a reduction of sentence
6 ~~equal to one day for each day of good conduct while committed~~
7 ~~to one of the department's institutions. In addition, each~~
8 ~~inmate who is serving a category "A" sentence is eligible for~~
9 ~~an additional reduction of up to five days per month if the~~
10 ~~inmate participates satisfactorily in any of the following~~
11 activities equal to one and two-tenths days for each day the
12 inmate demonstrates good conduct and satisfactorily
13 participates in any program or placement status identified by
14 the director to earn the reduction. The programs include but
15 are not limited to the following:

- 16 (1) Employment in the institution.
- 17 (2) Iowa state industries.
- 18 (3) An employment program established by the director.
- 19 (4) A treatment program established by the director.
- 20 (5) An inmate educational program approved by the
21 director.

22 b. Category "B" sentences are those sentences which are
23 subject to a maximum accumulation of good-conduct earned time
24 of fifteen percent of the total sentence of confinement under
25 section 902.12. An inmate of an institution under the control
26 of the department of corrections who is serving a category "B"
27 sentence is eligible for a reduction of sentence equal to
28 fifteen eighty-fifths of a day for each day of good conduct by
29 the inmate.

30 2. Good-conduct Earned time earned accrued pursuant to
31 this section may be forfeited in the manner prescribed in
32 section 903A.3.

33 3. Time served in a jail or another facility prior to
34 actual placement in an institution under the control of the
35 department of corrections and credited against the sentence by

1 the court shall accrue for the purpose of reduction of
2 sentence under this section. Time which elapses during an
3 escape shall not accrue for purposes of reduction of sentence
4 under this section.

5 4. Time which elapses between the date on which a person
6 is incarcerated, based upon a determination of the board of
7 parole that a violation of parole has occurred, and the date
8 on which the violation of parole was committed shall not
9 accrue for purposes of reduction of sentence under this
10 section.

11 5. ~~Good-conduct~~ Earned time accrued by inmates serving
12 life sentences imposed under section 902.1 shall not reduce
13 the life sentence, but shall be credited against the inmate's
14 sentence if the life sentence is commuted to a term of years
15 under section 902.2.

16 Sec. 5. Section 903A.3, subsections 1 and 3, Code 1999,
17 are amended to read as follows:

18 1. Upon finding that an inmate has violated an
19 institutional rule, or has had an action or appeal dismissed
20 under section 610A.2, the independent administrative law judge
21 may order forfeiture of any or all ~~good-conduct~~ earned time
22 ~~earned~~ accrued and not forfeited up to the date of the
23 violation by the inmate and may order forfeiture of any or all
24 ~~good-conduct~~ earned time ~~earned~~ accrued and not forfeited up
25 to the date the action or appeal is dismissed, unless the
26 court entered such an order under section 610A.3. The
27 independent administrative law judge has discretion within the
28 guidelines established pursuant to section 903A.4, to
29 determine the amount of time that should be forfeited based
30 upon the severity of the violation. Prior violations by the
31 inmate may be considered by the administrative law judge in
32 the decision.

33 3. The director of the Iowa department of corrections or
34 the director's designee, may restore all or any portion of
35 previously forfeited ~~good-conduct~~ earned time for acts of

1 heroism or for meritorious actions. The director shall
2 establish by rule the requirements as to which activities may
3 warrant the restoration of good-conduct earned time and the
4 amount of good-conduct earned time to be restored.

5 Sec. 6. Section 903A.4, Code 1999, is amended to read as
6 follows:

7 903A.4 POLICIES AND PROCEDURES.

8 The director of the Iowa department of corrections shall
9 develop policy and procedural rules to implement sections
10 903A.1 through 903A.3. The rules may specify disciplinary
11 offenses which may result in the loss of good-conduct earned
12 time, and the amount of good-conduct earned time which may be
13 lost as a result of each disciplinary offense. The director
14 shall establish rules as to what constitutes "satisfactory
15 participation" for purposes of ~~additional~~ a reduction of
16 ~~sentence-under-section-903A.3,-for-employment-in-the~~
17 ~~institution,-in-Iowa-state-industries,-in-an-inmate-employment~~
18 ~~program-established-by-the-director,-or-for-participation-in~~
19 ~~an-educational-program-approved-by-the-director,-when-such~~
20 ~~employment-or-programs-are-available~~ sentence under section
21 903A.2, for programs that are available or unavailable. The
22 rules shall specify that earned time shall be calculated on a
23 monthly basis as it accrues. The department shall generate an
24 earned time report for each inmate which shall include the
25 amount of actual time served, the number of earned time
26 credits which have not been lost or forfeited, and the amount
27 of time remaining on an inmate's sentence.

28 Sec. 7. Section 903A.5, unnumbered paragraph 1, Code
29 Supplement 1999, is amended to read as follows:

30 An inmate shall not be discharged from the custody of the
31 director of the Iowa department of corrections until the
32 inmate has served the full term for which the inmate was
33 sentenced, less good-conduct earned time and other credits
34 earned and not forfeited, unless the inmate is pardoned or
35 otherwise legally released. Good-conduct Earned time earned

1 accrued and not forfeited shall apply to reduce a mandatory
2 minimum sentence being served pursuant to section 124.406,
3 124.413, 902.7, 902.8, 902.8A, or 902.11. An inmate shall be
4 deemed to be serving the sentence from the day on which the
5 inmate is received into the institution. If an inmate was
6 confined to a county jail or other correctional or mental
7 facility at any time prior to sentencing, or after sentencing
8 but prior to the case having been decided on appeal, because
9 of failure to furnish bail or because of being charged with a
10 nonbailable offense, the inmate shall be given credit for the
11 days already served upon the term of the sentence. However,
12 if a person commits any offense while confined in a county
13 jail or other correctional or mental health facility, the
14 person shall not be granted jail credit for that offense.
15 Unless the inmate was confined in a correctional facility, the
16 sheriff of the county in which the inmate was confined shall
17 certify to the clerk of the district court from which the
18 inmate was sentenced and to the department of corrections'
19 records administrator at the Iowa medical and classification
20 center the number of days so served. The department of
21 corrections' records administrator, or the administrator's
22 designee, shall apply jail credit as ordered by the court of
23 proper jurisdiction or as authorized by this section and
24 section 907.3, subsection 3, and shall forward a copy of the
25 number of days served to the clerk of the district court from
26 which the inmate was sentenced.

27 Sec. 8. Section 903A.7, Code 1999, is amended to read as
28 follows:

29 903A.7 SEPARATE SENTENCES.

30 Consecutive multiple sentences that are within the same
31 category under section 903A.2 shall be construed as one
32 continuous sentence for purposes of calculating reductions of
33 sentence for good-conduct earned time. If a person is
34 sentenced to serve sentences of both categories, category "B"
35 sentences shall be served before category "A" sentences are

1 satisfactorily participates in institutional programming.
2 Time earned against the person's sentence may be forfeited at
3 any time prior to discharge if the inmate breaks institutional
4 rules.

5 Additionally, the bill requires that earned time shall be
6 calculated on a monthly basis as it accrues and the department
7 is to generate a report for each inmate indicating the amount
8 of earned time the inmate has accrued, the amount of actual
9 time served, and the amount of time remaining on the inmate's
10 sentence.

11 The bill provides that the department of corrections shall
12 convert existing good time credits and other reductions in an
13 inmate's sentence to earned time on the effective date of the
14 bill. The earned time credited to an inmate's sentence on the
15 effective date of this bill shall equal the good time credits
16 and other reductions accumulated prior to July 1, 2000.

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SENATE FILE 2276
FISCAL NOTE

The estimate for Senate File 2276 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 2276 changes "good conduct time" to "earned time" and provides that inmates will accumulate earned time with the demonstration of good conduct and satisfactory participation in treatment programming. Earned time is to be awarded on a monthly basis. Under current practice, the maximum good conduct time is calculated upon entry into the prison and deductions are made for misconduct.

Under current law, an inmate, who is not serving an 85% sentence, receives one day of good time for each day served plus five days per month for participating in treatment programming. Under the proposed law, the inmate would receive 1.2 days of good time for each day of good conduct and satisfactory participation in treatment programming.

ASSUMPTIONS

1. The calculation of earned time will be automated and will have a minimal administrative cost impact on the prisons.
2. Under the current calculation, an inmate earns a maximum of 365 days for good conduct plus 60 days for satisfactory treatment programming each year, yielding a total maximum good time of 425 days per year.
3. Under the proposed law, an inmate earns a maximum of 1.2 days of earned time for 365 days per year for a total of 438 earned time days. The new formula yields up to 13 more days of earned time per year.
4. The Parole Board reacts to anticipated release dates and will move back paroles and work releases accordingly to accommodate the increased earned time.
5. The marginal cost for a day in prison for one inmate is \$12.
6. There were 4,656 prison releases in FY 1999.
7. The maximum reduction in average length of stay will be 13 days per year.
8. Inmates serving 85.0% sentences are not yet being released from prison.
9. The estimates below represent the maximum savings from the changes in the good conduct time calculation.

CORRECTIONAL IMPACT

The maximum reduction for earned time is 60,528 inmate days. This annualizes to 166 fewer inmates.

FISCAL IMPACT

The maximum cost savings to the General Fund for the prisons if each inmate

-2-

received the maximum earned time would be approximately \$726,000 per year.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections

(LSB 5779SV, MDF)

FILED FEBRUARY 29, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR

1 Section 1. Section 610A.3, subsection 1, paragraphs a and
2 b, Code 1999, are amended to read as follows:

3 a. The loss of some or all of the ~~good-conduct~~ earned time
4 credits acquired by the inmate or prisoner. Previous
5 dismissals under section 610A.2 may be considered in
6 determining the appropriate level of penalty.

7 b. If the inmate or prisoner has no ~~good-conduct~~ earned
8 time credits to deduct, the order of the court or the
9 disciplinary hearing may deduct up to fifty percent of the
10 average balance of the inmate account under section 904.702 or
11 of any prisoner account.

12 Sec. 2. Section 901.5, subsection 9, paragraph a, Code
13 1999, is amended to read as follows:

14 a. That the defendant's term of incarceration may be
15 reduced ~~by-as-much-as-half-of~~ from the maximum sentence
16 because of statutory ~~good-conduct~~ earned time, work credits,
17 and program credits.

18 Sec. 3. Section 901.5A, subsection 3, Code Supplement
19 1999, is amended to read as follows:

20 3. For purposes of calculating ~~good-conduct~~ earned time
21 under section 903A.2, the sentencing date for a defendant
22 whose sentence has been reopened under this section shall be
23 the date of the original sentencing order.

24 Sec. 4. Section 903A.2, Code 1999, is amended to read as
25 follows:

26 903A.2 ~~GOOD-CONDUCT-TIME~~ EARNED TIME.

27 1. Each inmate committed to the custody of the director of
28 the department of corrections is eligible ~~for~~ to earn a
29 reduction of sentence ~~for-good-behavior~~ in the manner provided
30 in this section. For purposes of calculating the amount of
31 time by which an inmate's sentence may be reduced, inmates
32 shall be grouped into the following two sentencing categories:

33 a. Category "A" sentences are those sentences which are
34 not subject to a maximum accumulation of ~~good-conduct~~ earned
35 time of fifteen percent of the total sentence of confinement

1 under section 902.12. To the extent provided in subsection 5,
2 category "A" sentences also include life sentences imposed
3 under section 902.1. An inmate of an institution under the
4 control of the department of corrections who is serving a
5 category "A" sentence is eligible for a reduction of sentence
6 ~~equal to one day for each day of good conduct while committed~~
7 ~~to one of the department's institutions. In addition, each~~
8 ~~inmate who is serving a category "A" sentence is eligible for~~
9 ~~an additional reduction of up to five days per month if the~~
10 ~~inmate participates satisfactorily in any of the following~~
11 ~~activities~~ equal to one and two-tenths days for each day the
12 inmate demonstrates good conduct and satisfactorily
13 participates in any program or placement status identified by
14 the director to earn the reduction. The programs include but
15 are not limited to the following:

- 16 (1) Employment in the institution.
- 17 (2) Iowa state industries.
- 18 (3) An employment program established by the director.
- 19 (4) A treatment program established by the director.
- 20 (5) An inmate educational program approved by the
21 director.

22 b. Category "B" sentences are those sentences which are
23 subject to a maximum accumulation of ~~good-conduct~~ earned time
24 of fifteen percent of the total sentence of confinement under
25 section 902.12. An inmate of an institution under the control
26 of the department of corrections who is serving a category "B"
27 sentence is eligible for a reduction of sentence equal to
28 fifteen eighty-fifths of a day for each day of good conduct by
29 the inmate.

30 2. ~~Good-conduct~~ Earned time ~~earned~~ accrued pursuant to
31 this section may be forfeited in the manner prescribed in
32 section 903A.3.

33 3. Time served in a jail or another facility prior to
34 actual placement in an institution under the control of the
35 department of corrections and credited against the sentence by

1 the court shall accrue for the purpose of reduction of
2 sentence under this section. Time which elapses during an
3 escape shall not accrue for purposes of reduction of sentence
4 under this section.

5 4. Time which elapses between the date on which a person
6 is incarcerated, based upon a determination of the board of
7 parole that a violation of parole has occurred, and the date
8 on which the violation of parole was committed shall not
9 accrue for purposes of reduction of sentence under this
10 section.

11 5. ~~Good-conduct~~ Earned time accrued by inmates serving
12 life sentences imposed under section 902.1 shall not reduce
13 the life sentence, but shall be credited against the inmate's
14 sentence if the life sentence is commuted to a term of years
15 under section 902.2.

16 Sec. 5. Section 903A.3, subsections 1 and 3, Code 1999,
17 are amended to read as follows:

18 1. Upon finding that an inmate has violated an
19 institutional rule, or has had an action or appeal dismissed
20 under section 610A.2, the independent administrative law judge
21 may order forfeiture of any or all ~~good-conduct~~ earned time
22 ~~earned~~ accrued and not forfeited up to the date of the
23 violation by the inmate and may order forfeiture of any or all
24 ~~good-conduct~~ earned time ~~earned~~ accrued and not forfeited up
25 to the date the action or appeal is dismissed, unless the
26 court entered such an order under section 610A.3. The
27 independent administrative law judge has discretion within the
28 guidelines established pursuant to section 903A.4, to
29 determine the amount of time that should be forfeited based
30 upon the severity of the violation. Prior violations by the
31 inmate may be considered by the administrative law judge in
32 the decision.

33 3. The director of the Iowa department of corrections or
34 the director's designee, may restore all or any portion of
35 previously forfeited ~~good-conduct~~ earned time for acts of

1 heroism or for meritorious actions. The director shall
2 establish by rule the requirements as to which activities may
3 warrant the restoration of good-conduct earned time and the
4 amount of good-conduct earned time to be restored.

5 Sec. 6. Section 903A.4, Code 1999, is amended to read as
6 follows:

7 903A.4 POLICIES AND PROCEDURES.

8 The director of the Iowa department of corrections shall
9 develop policy and procedural rules to implement sections
10 903A.1 through 903A.3. The rules may specify disciplinary
11 offenses which may result in the loss of good-conduct earned
12 time, and the amount of good-conduct earned time which may be
13 lost as a result of each disciplinary offense. The director
14 shall establish rules as to what constitutes "satisfactory
15 participation" for purposes of ~~additional~~ a reduction of
16 ~~sentence-under-section-903A.3,-for-employment-in-the~~
17 ~~institution,-in-Iowa-state-industries,-in-an-inmate-employment~~
18 ~~program-established-by-the-director,-or-for-participation-in~~
19 ~~an-educational-program-approved-by-the-director,-when-such~~
20 ~~employment-or-programs-are-available~~ sentence under section
21 903A.2, for programs that are available or unavailable. The
22 rules shall specify that earned time shall be calculated on a
23 monthly basis as it accrues. The department shall generate an
24 earned time report for each inmate which shall include the
25 amount of actual time served, the number of earned time
26 credits which have not been lost or forfeited, and the amount
27 of time remaining on an inmate's sentence.

28 Sec. 7. Section 903A.5, unnumbered paragraph 1, Code
29 Supplement 1999, is amended to read as follows:

30 An inmate shall not be discharged from the custody of the
31 director of the Iowa department of corrections until the
32 inmate has served the full term for which the inmate was
33 sentenced, less good-conduct earned time and other credits
34 earned and not forfeited, unless the inmate is pardoned or
35 otherwise legally released. Good-conduct Earned time earned

1 accrued and not forfeited shall apply to reduce a mandatory
2 minimum sentence being served pursuant to section 124.406,
3 124.413, 902.7, 902.8, 902.8A, or 902.11. An inmate shall be
4 deemed to be serving the sentence from the day on which the
5 inmate is received into the institution. If an inmate was
6 confined to a county jail or other correctional or mental
7 facility at any time prior to sentencing, or after sentencing
8 but prior to the case having been decided on appeal, because
9 of failure to furnish bail or because of being charged with a
10 nonbailable offense, the inmate shall be given credit for the
11 days already served upon the term of the sentence. However,
12 if a person commits any offense while confined in a county
13 jail or other correctional or mental health facility, the
14 person shall not be granted jail credit for that offense.
15 Unless the inmate was confined in a correctional facility, the
16 sheriff of the county in which the inmate was confined shall
17 certify to the clerk of the district court from which the
18 inmate was sentenced and to the department of corrections'
19 records administrator at the Iowa medical and classification
20 center the number of days so served. The department of
21 corrections' records administrator, or the administrator's
22 designee, shall apply jail credit as ordered by the court of
23 proper jurisdiction or as authorized by this section and
24 section 907.3, subsection 3, and shall forward a copy of the
25 number of days served to the clerk of the district court from
26 which the inmate was sentenced.

27 Sec. 8. Section 903A.7, Code 1999, is amended to read as
28 follows:

29 903A.7 SEPARATE SENTENCES.

30 Consecutive multiple sentences that are within the same
31 category under section 903A.2 shall be construed as one
32 continuous sentence for purposes of calculating reductions of
33 sentence for good-conduct earned time. If a person is
34 sentenced to serve sentences of both categories, category "B"
35 sentences shall be served before category "A" sentences are

1 served, and good-conduct earned time earned accrued against
2 the category "B" sentences shall not be used to reduce the
3 category "A" sentences. If an inmate serving a category "A"
4 sentence is sentenced to serve a category "B" sentence, the
5 category "A" sentence shall be interrupted, and no further
6 good-conduct earned time shall accrue against that sentence
7 until the category "B" sentence is completed.

8 Sec. 9. CONVERSION OF GOOD CONDUCT TIME. On the effective
9 date of this Act, the department shall convert the existing
10 accrued good conduct time and other accrued reductions on each
11 inmate's sentence to earned time. An inmate's sentence shall
12 be credited with one day of earned time for every one day of
13 reduction credited under section 903A.2 and not lost or
14 forfeited under section 903A.3. The earned time credited to
15 an inmate's sentence shall equal the amount of good conduct
16 time or other reductions credited which have not been lost or
17 forfeited prior to January 1, 2001. The department shall
18 provide an inmate with the number of earned time credits which
19 have been applied to the inmate's sentence as a result of the
20 conversion by February 1, 2001.

21 Sec. 10. EFFECTIVE DATE. This Act takes effect on January
22 1, 2001.

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SENATE FILE 2276

H-8421

1 Amend Senate File 2276, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 4, by striking lines 28 and 29 and
4 inserting the following:

5 "Sec. ____ Section 903A.5, Code Supplement 1999,
6 is amended to read as follows:

7 903A.5 TIME TO BE SERVED -- CREDIT."

8 2. Page 5, by inserting after line 26 the
9 following:

10 "An inmate shall not receive credit upon the
11 inmate's sentence for time spent in custody in another
12 state resisting return to Iowa following an escape, ~~or~~
13 ~~for time served~~. However, an inmate may receive
14 credit upon the inmate's sentence while incarcerated
15 in an institution or jail of another jurisdiction
16 during any period of time the person is receiving
17 credit upon a sentence of that other jurisdiction, if
18 ordered by the court at the time of the inmate's
19 sentence."

20 3. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
LARSON of Linn, Chairperson

H-8421 FILED MARCH 20, 2000

w/d 4/26/00 (P 1855)

SENATE FILE 2276

H-9070

1 Amend the House amendment, H-8421, to Senate File
2 2276, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, lines 17 through 19, by striking the
5 words ", if ordered by the court at the time of the
6 inmate's sentence".

7 2. By renumbering as necessary.

By LARSON of Linn
KREIMAN of Davis
PARMENTER of Story

H-9070 FILED APRIL 24, 2000

*w/d 4/26/00
(P 1855)*

SENATE FILE 2276

AN ACT

RELATING TO THE APPLICATION OF EARNED TIME CREDITS AGAINST A
CRIMINAL SENTENCE AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 610A.3, subsection 1, paragraphs a and b, Code 1999, are amended to read as follows:

a. The loss of some or all of the good-conduct earned time credits acquired by the inmate or prisoner. Previous dismissals under section 610A.2 may be considered in determining the appropriate level of penalty.

b. If the inmate or prisoner has no good-conduct earned time credits to deduct, the order of the court or the disciplinary hearing may deduct up to fifty percent of the average balance of the inmate account under section 904.702 or of any prisoner account.

Sec. 2. Section 901.5, subsection 9, paragraph a, Code 1999, is amended to read as follows:

a. That the defendant's term of incarceration may be reduced by ~~as much as half of~~ from the maximum sentence because of statutory good-conduct earned time, work credits, and program credits.

Sec. 3. Section 901.5A, subsection 3, Code Supplement 1999, is amended to read as follows:

3. For purposes of calculating good-conduct earned time under section 903A.2, the sentencing date for a defendant whose sentence has been reopened under this section shall be the date of the original sentencing order.

Sec. 4. Section 903A.2, Code 1999, is amended to read as follows:

903A.2 ~~GOOD-CONDUCT-TIME~~ EARNED TIME.

1. Each inmate committed to the custody of the director of the department of corrections is eligible for to earn a reduction of sentence for good-behavior in the manner provided in this section. For purposes of calculating the amount of time by which an inmate's sentence may be reduced, inmates shall be grouped into the following two sentencing categories:

a. Category "A" sentences are those sentences which are not subject to a maximum accumulation of good-conduct earned time of fifteen percent of the total sentence of confinement under section 902.12. To the extent provided in subsection 5, category "A" sentences also include life sentences imposed under section 902.1. An inmate of an institution under the control of the department of corrections who is serving a category "A" sentence is eligible for a reduction of sentence ~~equal to one day for each day of good-conduct while committed to one of the department's institutions;--in addition, each inmate who is serving a category "A" sentence is eligible for an additional reduction of up to five days per month if the inmate participates satisfactorily in any of the following activities equal to one and two-tenths days for each day the inmate demonstrates good conduct and satisfactorily participates in any program or placement status identified by the director to earn the reduction. The programs include but are not limited to the following:~~

- (1) Employment in the institution.
- (2) Iowa state industries.
- (3) An employment program established by the director.
- (4) A treatment program established by the director.

(5) An inmate educational program approved by the director.

b. Category "B" sentences are those sentences which are subject to a maximum accumulation of good-conduct earned time of fifteen percent of the total sentence of confinement under section 902.12. An inmate of an institution under the control of the department of corrections who is serving a category "B" sentence is eligible for a reduction of sentence equal to fifteen eighty-fifths of a day for each day of good conduct by the inmate.

2. Good-conduct Earned time earned accrued pursuant to this section may be forfeited in the manner prescribed in section 903A.3.

3. Time served in a jail or another facility prior to actual placement in an institution under the control of the department of corrections and credited against the sentence by the court shall accrue for the purpose of reduction of sentence under this section. Time which elapses during an escape shall not accrue for purposes of reduction of sentence under this section.

4. Time which elapses between the date on which a person is incarcerated, based upon a determination of the board of parole that a violation of parole has occurred, and the date on which the violation of parole was committed shall not accrue for purposes of reduction of sentence under this section.

5. Good-conduct Earned time accrued by inmates serving life sentences imposed under section 902.1 shall not reduce the life sentence, but shall be credited against the inmate's sentence if the life sentence is commuted to a term of years under section 902.2.

Sec. 5. Section 903A.3, subsections 1 and 3, Code 1999, are amended to read as follows:

1. Upon finding that an inmate has violated an institutional rule, or has had an action or appeal dismissed

under section 610A.2, the independent administrative law judge may order forfeiture of any or all good-conduct earned time earned accrued and not forfeited up to the date of the violation by the inmate and may order forfeiture of any or all good-conduct earned time earned accrued and not forfeited up to the date the action or appeal is dismissed, unless the court entered such an order under section 610A.3. The independent administrative law judge has discretion within the guidelines established pursuant to section 903A.4, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the administrative law judge in the decision.

3. The director of the Iowa department of corrections or the director's designee, may restore all or any portion of previously forfeited good-conduct earned time for acts of heroism or for meritorious actions. The director shall establish by rule the requirements as to which activities may warrant the restoration of good-conduct earned time and the amount of good-conduct earned time to be restored.

Sec. 6. Section 903A.4, Code 1999, is amended to read as follows:

903A.4 POLICIES AND PROCEDURES.

The director of the Iowa department of corrections shall develop policy and procedural rules to implement sections 903A.1 through 903A.3. The rules may specify disciplinary offenses which may result in the loss of good-conduct earned time, and the amount of good-conduct earned time which may be lost as a result of each disciplinary offense. The director shall establish rules as to what constitutes "satisfactory participation" for purposes of ~~additional a~~ reduction of sentence under section 903A.3, for employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or for participation in an educational program approved by the director, when such

employment-or-programs-are-available sentence under section 903A.2, for programs that are available or unavailable. The rules shall specify that earned time shall be calculated on a monthly basis as it accrues. The department shall generate an earned time report for each inmate which shall include the amount of actual time served, the number of earned time credits which have not been lost or forfeited, and the amount of time remaining on an inmate's sentence.

Sec. 7. Section 903A.5, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less good-conduct earned time and other credits earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Good-conduct Earned time earned accrued and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, 902.7, 902.8, 902.8A, or 902.11. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. If an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. However, if a person commits any offense while confined in a county jail or other correctional or mental health facility, the person shall not be granted jail credit for that offense. Unless the inmate was confined in a correctional facility, the sheriff of the county in which the inmate was confined shall certify to the clerk of the district court from which the inmate was sentenced and to the department of corrections' records administrator at the Iowa medical and classification

center the number of days so served. The department of corrections' records administrator, or the administrator's designee, shall apply jail credit as ordered by the court of proper jurisdiction or as authorized by this section and section 907.3, subsection 3, and shall forward a copy of the number of days served to the clerk of the district court from which the inmate was sentenced.

Sec. 8. Section 903A.7, Code 1999, is amended to read as follows:

903A.7 SEPARATE SENTENCES.

Consecutive multiple sentences that are within the same category under section 903A.2 shall be construed as one continuous sentence for purposes of calculating reductions of sentence for good-conduct earned time. If a person is sentenced to serve sentences of both categories, category "B" sentences shall be served before category "A" sentences are served, and good-conduct earned time earned accrued against the category "B" sentences shall not be used to reduce the category "A" sentences. If an inmate serving a category "A" sentence is sentenced to serve a category "B" sentence, the category "A" sentence shall be interrupted, and no further good-conduct earned time shall accrue against that sentence until the category "B" sentence is completed.

Sec. 9. CONVERSION OF GOOD CONDUCT TIME. On the effective date of this Act, the department shall convert the existing accrued good conduct time and other accrued reductions on each inmate's sentence to earned time. An inmate's sentence shall be credited with one day of earned time for every one day of reduction credited under section 903A.2 and not lost or forfeited under section 903A.3. The earned time credited to an inmate's sentence shall equal the amount of good conduct time or other reductions credited which have not been lost or forfeited prior to January 1, 2001. The department shall provide an inmate with the number of earned time credits which have been applied to the inmate's sentence as a result of the conversion by February 1, 2001.

Sec. 10. EFFECTIVE DATE. This Act takes effect on January 1, 2001.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2276, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 5/9, 2000

THOMAS J. VILSACK
Governor