

FEB 5 2002
JUDICIARY

HOUSE FILE 2207
BY GREIMANN, MASCHER, LENSING,
BUKTA, OSTERHAUS, FALLON,
SHOULTZ, SCHERRMAN, PETERSEN,
JOCHUM, SENG, FORD, HATCH,
WINCKLER, FOEGE, FREVERT,
D. TAYLOR, and DOTZLER

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

A BILL FOR

1 An Act repealing a provision mandating criminal sentences that
2 require a maximum accumulation of earned time credits of
3 fifteen percent of the total sentence of confinement, and
4 making eligible for parole persons serving such a sentence.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

HF 2207

1 Section 1. Section 901.5A, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 1A. A defendant may have a judgment and
4 sentence entered under section 901.5 reopened for resentencing
5 if the following apply:

6 a. The sentence of the defendant is subject to a maximum
7 accumulation of earned time of fifteen percent of the total
8 sentence of confinement under section 902.12, Code 2001.

9 b. The board of parole and the department of corrections
10 file a motion in the sentencing court to reopen the sentence
11 of the defendant.

12 c. The county attorney from the county which prosecuted
13 the defendant is served a copy of the motion to reopen by
14 certified mail. The motion shall specify that the county
15 attorney has thirty days to consult with the victim, if
16 possible, and to file a written objection.

17 d. The court, upon hearing, grants the motion.

18 Sec. 2. Section 901.5A, subsections 2 and 3, Code 2001,
19 are amended to read as follows:

20 2. Upon a finding by the court that the defendant
21 cooperated in the prosecution of other persons or upon the
22 court granting a motion to reopen the sentence by the board of
23 parole and the department of corrections, the court may reduce
24 the maximum sentence imposed under the original sentencing
25 order.

26 3. For purposes of calculating earned time under section
27 903A.2, the sentencing date for a defendant whose sentence has
28 been reopened under this-section subsection 1 shall be the
29 date of the original sentencing order. If the original
30 sentence was subject to the maximum accumulation of earned
31 time of fifteen percent of the total sentence of confinement
32 under section 902.12, Code 2001, the maximum accumulation of
33 earned time on the new sentence of confinement shall not be
34 fifteen percent of the new total sentence of confinement
35 imposed by the court upon reopening but shall accumulate as

1 provided in section 903A.2. Any earned time accumulated on
2 the original sentence shall be credited to the new sentence
3 upon reopening.

4 Sec. 3. Section 901.5A, Code 2001, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 3A. A person serving a sentence that was
7 subject to the maximum accumulation of earned time of fifteen
8 percent of the total sentence of confinement under section
9 902.12, Code 2001, is eligible for parole if the sentence is
10 reopened.

11 Sec. 4. Section 901.8, Code 2001, is amended to read as
12 follows:

13 901.8 CONSECUTIVE SENTENCES.

14 If a person is sentenced for two or more separate offenses,
15 the sentencing judge may order the second or further sentence
16 to begin at the expiration of the first or succeeding
17 sentence. If a person is sentenced for escape under section
18 719.4 or for a crime committed while confined in a detention
19 facility or penal institution, the sentencing judge shall
20 order the sentence to begin at the expiration of any existing
21 sentence. If the person is presently in the custody of the
22 director of the Iowa department of corrections, the sentence
23 shall be served at the facility or institution in which the
24 person is already confined unless the person is transferred by
25 the director. ~~Except-as-otherwise-provided-in-section-903A:77~~
26 ~~if~~ If consecutive sentences are specified in the order of
27 commitment, the several terms shall be construed as one
28 continuous term of imprisonment.

29 Sec. 5. Section 902.3A, subsection 1, paragraph e, Code
30 Supplement 2001, is amended to read as follows:

31 e. This section does not apply to an offense classified as
32 a forcible felony, a felony under section 321J.2, felonies in
33 chapters 707, 708, and 709, a person sentenced as a habitual
34 offender, felonies listed in section 901A.1, ~~felonies-listed~~
35 ~~in-section-902:12,~~ or a felony committed by a person on parole

1 or work release, or while in the custody of the director of
2 the department of corrections.

3 Sec. 6. Section 902.11, unnumbered paragraph 1, Code 2001,
4 is amended to read as follows:

5 A person serving a sentence for conviction of a felony
6 ~~other than a forcible felony under section 902.12~~, who has a
7 criminal record of one or more prior convictions for a
8 forcible felony or a crime of a similar gravity in this or any
9 other state, shall be denied parole or work release unless the
10 person has served at least one-half of the maximum term of the
11 defendant's sentence. However, the mandatory sentence
12 provided for by this section does not apply if either of the
13 following apply:

14 Sec. 7. Section 903A.2, subsection 1, unnumbered paragraph
15 1, Code 2001, is amended to read as follows:

16 Each inmate committed to the custody of the director of the
17 department of corrections is eligible to earn a reduction of
18 sentence in the manner provided in this section. ~~For purposes~~
19 ~~of calculating the amount of time by which an inmate's~~
20 ~~sentence may be reduced, inmates shall be grouped into the~~
21 ~~following two sentencing categories:~~

22 Sec. 8. Section 903A.2, subsection 1, paragraph a,
23 unnumbered paragraph 1, Code 2001, is amended to read as
24 follows:

25 ~~Category "A" sentences are those sentences which are not~~
26 ~~subject to a maximum accumulation of earned time of fifteen~~
27 ~~percent of the total sentence of confinement under section~~
28 ~~902.12. To the extent provided in subsection 5, category "A"~~
29 ~~sentences also include life sentences imposed under section~~

30 ~~902.1.~~ An inmate of an institution under the control of the
31 department of corrections ~~who is serving a category "A"~~
32 sentence is eligible for a reduction of sentence equal to one
33 and two-tenths days for each day the inmate demonstrates good
34 conduct and satisfactorily participates in any program or
35 placement status identified by the director to earn the

1 reduction. The programs include but are not limited to the
2 following:

3 Sec. 9. Section 903A.2, subsection 1, paragraph b, Code
4 2001, is amended by striking the paragraph.

5 Sec. 10. Section 902.12, Code 2001, is repealed.

6 Sec. 11. Section 903A.7, Code 2001, is repealed.

7 EXPLANATION

8 This bill repeals Code section 902.12, which provides for
9 criminal sentences that require a maximum accumulation of
10 earned time credits of 15 percent of the total sentence of
11 confinement, and makes eligible for parole persons currently
12 serving such a criminal sentence. A sentence that requires a
13 maximum accumulation of earned time credits of 15 percent of
14 the total sentence is commonly referred to as an 85 percent
15 sentence.

16 Currently, Code section 902.12 applies an 85 percent
17 sentence for conviction of the following felonies: murder in
18 the second degree, attempted murder, sexual abuse in the
19 second degree, kidnapping in the second degree, robbery in the
20 first or second degree, and certain homicide-by-vehicle
21 offenses. Upon repeal of the applicability of an 85 percent
22 sentence, a person charged with a criminal offense which would
23 have required confinement for 85 percent of the total sentence
24 would now serve a sentence that can be reduced by earned time
25 credits pursuant to Code chapter 903A.

26 The bill also provides for the reopening of a judgment and
27 sentence for a person currently serving an 85 percent
28 sentence.

29 Under the bill, an 85 percent sentence may be reopened upon
30 a motion by the board of parole and the department of
31 corrections if the original sentencing court grants the
32 motion. The county attorney from the county which prosecuted
33 the defendant may, after consulting with the victim, if the
34 victim can be found, file an objection to the motion to
35 reopen. If the sentence is reopened, the court may resentence

1 the defendant and reduce the maximum sentence imposed in the
2 original sentencing order and the new sentence shall no longer
3 be subject to the maximum accumulation of earned time of 15
4 percent of the total sentence of confinement. If a defendant
5 is resentenced to a new maximum sentence, the maximum
6 accumulation of earned time shall be calculated in the same
7 manner as other offenses in Code chapter 903A, which is one
8 and two-tenths days for each day the inmate demonstrates good
9 conduct or satisfactorily participates in prison programs.
10 Any earned time accumulated on the original sentence shall be
11 credited to the new sentence upon reopening. If a sentence is
12 reopened, the defendant is eligible for parole.

13 The bill does not affect other mandatory sentences
14 prescribed by law.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35