

# Senate Study Bill 1204

## Bill Text

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1 1 Section 1. Section [901.5A](#), Code 2001, is amended by adding  
1 2 the following new subsection:

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

1 6 a. The sentence of the defendant is subject to a maximum  
1 7 accumulation of earned time of fifteen percent of the total  
1 8 sentence of confinement under section 902.12.

1 9 b. The board of parole and the department of corrections  
1 10 file a motion in the sentencing court to reopen the sentence  
1 11 of the defendant.

1 12 c. The county attorney from the county which prosecuted  
1 13 the defendant is served a copy of the motion to reopen by  
1 14 certified mail. The motion shall specify that the county  
1 15 attorney has thirty days to consult with the victim, if  
1 16 possible, and to file a written objection.

1 17 d. The court, upon hearing, grants the motion.

1 18 Sec. 2. Section [901.5A](#), subsections 2 and 3, Code 2001,  
1 19 are amended to read as follows:

1 20 2. Upon a finding by the court that the defendant  
1 21 cooperated in the prosecution of other persons or upon the  
1 22 court granting a motion to reopen the sentence by the board of  
1 23 parole and the department of corrections, the court may reduce  
1 24 the maximum sentence imposed under the original sentencing  
1 25 order.

1 26 3. For purposes of calculating earned time under section  
1 27 903A.2, the sentencing date for a defendant whose sentence has  
1 28 been reopened under this section shall be the date of the  
1 29 original sentencing order. If the original sentence was  
1 30 subject to the maximum accumulation of earned time of fifteen  
1 31 percent of the total sentence of confinement under section  
1 32 902.12, the maximum accumulation of earned time on the new  
1 33 sentence of confinement shall be fifteen percent of the new  
1 34 total sentence of confinement imposed by the court upon  
1 35 reopening. Any earned time accumulated on the original  
2 1 sentence shall be credited to the new sentence upon reopening.

2 2 EXPLANATION

2 3 This bill provides for the reopening of a judgment and  
2 4 sentence that is subject to the maximum accumulation of earned  
2 5 time of 15 percent of the total sentence of confinement which  
2 6 is also commonly known as an 85 percent sentence.

2 7 Under the bill, an 85 percent sentence may be reopened upon  
2 8 a motion by the board of parole and the department of  
2 9 corrections if the original sentencing court grants the  
2 10 motion. The county attorney from the county which prosecuted  
2 11 the defendant may, after consulting with the victim, if the  
2 12 victim can be found, file an objection to the motion to  
2 13 reopen. If the sentence is reopened, the court may resentence  
2 14 the defendant and reduce the maximum sentence imposed in the  
2 15 original sentencing order. If a defendant is resentedenced to a  
2 16 new maximum sentence, the maximum accumulation of earned time  
2 17 remains at 15 percent of the new sentence.

2 18 LSB 3186XC 79

2 19 jm/cf/24

