

**Senate Study Bill 3146 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON HOGG)

**A BILL FOR**

1 An Act relating to the service of mandatory minimum sentences  
2 by juveniles.

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

1 Section 1. Section 124.413, subsection 1, Code 2014, is  
2 amended to read as follows:

3 1. A person, eighteen years of age or older at the time the  
4 offense was committed, sentenced pursuant to section 124.401,  
5 subsection 1, paragraph "a", "b", "c", "e", or "f", shall not  
6 be eligible for parole until the person has served a minimum  
7 period of confinement of one-third of the maximum indeterminate  
8 sentence prescribed by law.

9 Sec. 2. Section 902.1, subsection 2, Code 2014, is amended  
10 to read as follows:

11 2. a. Notwithstanding subsection 1, a person convicted of  
12 a class "A" felony, and who was under the age of eighteen at  
13 the time the offense was committed shall be eligible for parole  
14 ~~after serving a minimum term of confinement of twenty-five~~  
15 ~~years.~~

16 b. If a person is paroled pursuant to this subsection the  
17 person shall be subject to the same set of procedures set out  
18 in chapters 901B, 905, 906, and chapter 908, and rules adopted  
19 under those chapters for persons on parole.

20 ~~c. A person convicted of murder in the first degree in~~  
21 ~~violation of section 707.2 shall not be eligible for parole~~  
22 ~~pursuant to this subsection.~~

23 Sec. 3. Section 902.7, Code 2014, is amended to read as  
24 follows:

25 **902.7 Minimum sentence — use of a dangerous weapon.**

26 At the trial of a person, eighteen years of age or older at  
27 the time the offense was committed, charged with participating  
28 in a forcible felony, if the trier of fact finds beyond a  
29 reasonable doubt that the person is guilty of a forcible  
30 felony and that the person represented that the person was in  
31 the immediate possession and control of a dangerous weapon,  
32 displayed a dangerous weapon in a threatening manner, or was  
33 armed with a dangerous weapon while participating in the  
34 forcible felony the convicted person shall serve a minimum of  
35 five years of the sentence imposed by law. A person sentenced

1 pursuant to this section shall not be eligible for parole until  
2 the person has served the minimum sentence of confinement  
3 imposed by this section.

4 Sec. 4. Section 902.8, Code 2014, is amended to read as  
5 follows:

6 **902.8 Minimum sentence — habitual offender.**

7 An habitual offender is any person, eighteen years of age  
8 or older at the time the offense was committed, convicted of  
9 a class "C" or a class "D" felony, who has twice before been  
10 convicted of any felony in a court of this or any other state,  
11 or of the United States. An offense is a felony if, by the  
12 law under which the person is convicted, it is so classified  
13 at the time of the person's conviction. A conviction for an  
14 offense committed while the person was under eighteen years of  
15 age shall not be used in determining whether a person is an  
16 habitual offender under this section. A person sentenced as an  
17 habitual offender shall not be eligible for parole until the  
18 person has served the minimum sentence of confinement of three  
19 years.

20 Sec. 5. Section 902.8A, Code 2014, is amended to read as  
21 follows:

22 **902.8A Minimum sentence for conspiring to manufacture, or**  
23 **delivery of, amphetamine or methamphetamine to a minor.**

24 A person, eighteen years of age or older at the time the  
25 offense was committed, who has been convicted for a first  
26 violation under section 124.401D shall not be eligible  
27 for parole until the person has served a minimum term of  
28 confinement of ten years.

29 Sec. 6. Section 902.11, Code 2014, is amended to read as  
30 follows:

31 **902.11 Minimum sentence — eligibility of prior forcible**  
32 **felon for parole or work release.**

33 1. A person, eighteen years of age or older at the time  
34 the offense was committed, serving a sentence for conviction  
35 of a felony, who has a criminal record of one or more prior

1 convictions for a forcible felony or a crime of a similar  
2 gravity in this or any other state, shall be denied parole or  
3 work release unless the person has served at least one-half of  
4 the maximum term of the defendant's sentence. However, the  
5 mandatory sentence provided for by this section does not apply  
6 if either of the following apply:

7 ~~1.~~ a. The sentences for the prior forcible felonies expired  
8 at least five years before the date of conviction for the  
9 present felony.

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

13 2. A conviction for an offense committed while the  
14 person was under eighteen years of age shall not be used in  
15 determining whether the mandatory sentence in this section  
16 applies.

17 Sec. 7. Section 902.12, unnumbered paragraph 1, Code 2014,  
18 is amended to read as follows:

19 A person, eighteen years of age or older at the time the  
20 offense was committed, serving a sentence for conviction of  
21 the following felonies, including a person serving a sentence  
22 for conviction of the following felonies prior to July 1,  
23 2003, shall be denied parole or work release unless the person  
24 has served at least seven-tenths of the maximum term of the  
25 person's sentence:

26 Sec. 8. RETROACTIVE APPLICABILITY. This Act applies  
27 retroactively to make the sentencing provisions included in  
28 this Act inapplicable to a person convicted under prior law  
29 who was under eighteen years of age at the time the offense  
30 was committed. If necessary, a person shall be resentenced  
31 in accordance with the provisions of this Act or a person's  
32 release date from prison shall be recalculated in accordance  
33 with this Act.

34

#### EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1           the explanation's substance by the members of the general assembly.

2       This bill relates to the imposition of mandatory minimum  
3 sentences for certain criminal offenses committed by juveniles.

4       The bill specifies that the following mandatory minimum  
5 sentences are not applicable to the criminal sentencing and  
6 subsequent incarceration if the person was under 18 years of  
7 age at the time the underlying criminal offense was committed:  
8 Code sections 124.413 (mandatory minimum for drug offenses),  
9 902.7 (use of a dangerous weapon), 902.8 (habitual offender),  
10 902.8A (minimum sentence for conspiring to manufacture, or  
11 delivery of, amphetamine or methamphetamine to a minor), 902.11  
12 (prior forcible felon), and 902.12 (70 percent sentences).

13       The bill also specifies in Code section 902.1 that a person  
14 who commits a class "A" felony including murder in the first  
15 degree and who was under the age of 18 at the time the offense  
16 was committed shall be eligible for parole. Current law  
17 specifies if the person commits a class "A" felony other than  
18 murder in the first degree the person shall serve a mandatory  
19 minimum of 25 years in prison prior to being eligible for  
20 parole. Current law also specifies that if a person commits  
21 murder in the first degree and is under 18 years of age at the  
22 time the offense was committed the person is not eligible for  
23 parole. However, the United States Supreme Court in a recent  
24 ruling in Miller v. Alabama prohibited life sentences without  
25 the possibility of parole for a juvenile who commits murder.

26       The bill also applies retroactively to a person convicted  
27 under prior law who was under 18 years of age at the time  
28 the offense was committed. If necessary, a person shall be  
29 resentenced in accordance with the provisions of this bill or  
30 the release date from prison recalculated in accordance with  
31 this bill.