

Senate File 23 - Introduced

SENATE FILE 23

BY McCOY

A BILL FOR

1 An Act establishing a criminal penalty for a violent habitual
2 offender.

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

1 Section 1. NEW SECTION. 902.8B Minimum sentence — violent
2 habitual offender.

3 1. A violent habitual offender is any person convicted of
4 a class "C" or a class "D" felony, who has twice before been
5 convicted of any felony violation under chapter 707, 708, 709,
6 710, 711, or 713, except for violations of sections 713.6A,
7 716.6B, and 713.7. An offense is a felony if, by the law under
8 which the person is convicted, it is so classified at the time
9 of the person's conviction. A person sentenced as a violent
10 habitual offender shall not be eligible for parole until the
11 person has served the minimum sentence of confinement of five
12 years.

13 2. For purposes of this section, felony conviction
14 includes any felony conviction in another jurisdiction that is
15 comparable to a felony listed in subsection 1 or any conviction
16 under the prior laws of this state or another jurisdiction,
17 that is comparable to a felony conviction listed in subsection
18 1.

19 Sec. 2. Section 902.9, subsection 1, paragraphs c through e,
20 Code 2015, are amended to read as follows:

21 c. ~~An~~ A habitual offender under section 902.8 shall be
22 confined for no more than fifteen years.

23 d. A class "C" felon, not ~~an~~ a habitual offender, shall be
24 confined for no more than ten years, and in addition shall be
25 sentenced to a fine of at least one thousand dollars but not
26 more than ten thousand dollars.

27 e. A class "D" felon, not ~~an~~ a habitual offender, shall be
28 confined for no more than five years, and in addition shall be
29 sentenced to a fine of at least seven hundred fifty dollars but
30 not more than seven thousand five hundred dollars.

31 Sec. 3. Section 902.9, subsection 1, Code 2015, is amended
32 by adding the following new paragraph:

33 NEW PARAGRAPH. *od.* A violent habitual offender under
34 section 902.8B shall be confined for no more than twenty-five
35 years.

1 Sec. 4. Section 906.4, subsection 1, Code 2015, is amended
2 to read as follows:

3 1. A parole or work release shall be ordered only for the
4 best interest of society and the offender or as otherwise
5 required by law, and not as an award of clemency. The board
6 shall release on parole or work release any person whom it
7 has the power to so release, when in its opinion there is
8 reasonable probability that the person can be released without
9 detriment to the community or to the person. A person's
10 release is not a detriment to the community or the person if
11 the person is able and willing to fulfill the obligations of a
12 law-abiding citizen, in the board's determination.

13 Sec. 5. Section 906.4, subsection 2, Code 2015, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. c. A person serving a sentence under section
16 902.8B shall be placed on parole or work release at least
17 one year prior to the discharge of the person's sentence.
18 Parole or work release for a person serving a sentence under
19 section 902.8B, shall begin in a residential treatment facility
20 operated by a judicial district department of correctional
21 services.

22 Sec. 6. Section 907.3, subsection 1, paragraph a, Code 2015,
23 is amended by adding the following new subparagraph:

24 NEW SUBPARAGRAPH. (14) The defendant is classified as a
25 violent habitual offender under section 902.8B.

26 Sec. 7. Section 907.3, subsection 2, paragraph a, Code 2015,
27 is amended by adding the following new subparagraph:

28 NEW SUBPARAGRAPH. (8) Section 902.8B classifying the
29 defendant as a violent habitual offender.

30 Sec. 8. Section 907.3, subsection 3, Code 2015, is amended
31 by adding the following new paragraph:

32 NEW PARAGRAPH. g. A sentence imposed under section 902.8B.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill establishes a criminal penalty for a violent
2 habitual offender.

3 Under the bill, a person convicted of a class "C" or a
4 class "D" felony, who has twice before been convicted of any
5 felony violation under Code chapter 707 (homicide and related
6 crimes), 708 (assault and related offenses), 709 (sexual abuse
7 and related offenses), 710 (kidnapping and related offenses),
8 711 (robbery and extortion), 713 (burglary), or any similar
9 offense in another jurisdiction shall be classified as a
10 violent habitual offender. However, previous violations of
11 Code sections 713.6A (burglary third degree), 713.6B (attempted
12 burglary in the third degree), and 713.7 (possession of
13 burglary tools) are not used to classify a person as a violent
14 habitual offender. A person classified as a violent habitual
15 offender shall be confined for no more than 25 years. A person
16 sentenced as a violent habitual offender shall not be eligible
17 for parole until the person has served the minimum sentence of
18 confinement of five years.

19 The bill requires a violent habitual offender to be placed
20 on parole or work release prior to the expiration of the
21 sentence. The bill prohibits a violent habitual offender
22 from being discharged early from parole or work release
23 unless the offender has served at least one year on parole
24 or work release. The bill also requires a violent habitual
25 offender's parole or work release to begin in a residential
26 treatment facility operated by a judicial district department
27 of correctional services.

28 The bill also prohibits a person classified as a violent
29 habitual offender from receiving a deferred judgment, or a
30 deferred or suspended sentence.