

Senate File 381 - Introduced

SENATE FILE 381

BY NUNN

A BILL FOR

1 An Act establishing a criminal penalty for violent repeat
2 offenders and providing for risk assessments.

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

1 Section 1. Section 901.2, subsection 2, paragraph d, Code
2 2019, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (4) A risk assessment when the offense
4 is a domestic abuse assault in violation of section 708.2A, or
5 harassment in violation of section 708.7.

6 Sec. 2. Section 901.3, Code 2019, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 1A. The performance of a risk assessment
9 shall be required as part of a presentence investigation under
10 subsection 1 for domestic abuse assault in violation of section
11 708.2A, harassment in violation of section 708.7, or stalking
12 in violation of section 708.11.

13 Sec. 3. Section 903A.2, subsection 1, paragraphs a and b,
14 Code 2019, are amended to read as follows:

15 a. (1) Category "A" sentences are ~~those~~ sentences which
16 are not subject to a maximum accumulation of earned time of
17 fifteen percent of the total sentence of confinement under
18 section 902.12 or 902.13, and sentences which are not violent
19 repeat offender sentences under section 903A.8, and are not
20 category "C" sentences. To the extent provided in subsection
21 5, category "A" sentences also include life sentences imposed
22 under section 902.1. An inmate of an institution under the
23 control of the department of corrections who is serving a
24 category "A" sentence is eligible for a reduction of sentence
25 equal to one and two-tenths days for each day the inmate
26 demonstrates good conduct and satisfactorily participates in
27 any program or placement status identified by the director to
28 earn the reduction. The programs include but are not limited
29 to the following:

- 30 (a) Employment in the institution.
31 (b) Iowa state industries.
32 (c) An employment program established by the director.
33 (d) A treatment program established by the director.
34 (e) An inmate educational program approved by the director.
35 (2) However, an inmate required to participate in a sex

1 offender treatment program shall not be eligible for any
2 reduction of sentence until the inmate participates in and
3 completes a sex offender treatment program established by the
4 director.

5 (3) An inmate serving a category "A" sentence is eligible
6 for an additional reduction of sentence of up to three hundred
7 sixty-five days of the full term of the sentence of the inmate
8 for exemplary acts. In accordance with [section 903A.4](#), the
9 director shall by policy identify what constitutes an exemplary
10 act that may warrant an additional reduction of sentence.

11 b. (1) Category "B" sentences are those sentences which
12 are subject to a maximum accumulation of earned time of fifteen
13 percent of the total sentence of confinement under section
14 [902.12](#) or [902.13](#), and sentences which are not violent repeat
15 offender sentences under section 903A.8, and are not category
16 "C" sentences. An inmate of an institution under the control
17 of the department of corrections who is serving a category
18 "B" sentence is eligible for a reduction of sentence equal to
19 fifteen eighty-fifths of a day for each day of good conduct by
20 the inmate.

21 (2) An inmate required to participate in a domestic abuse
22 treatment program shall not be eligible for any reduction of
23 sentence until the inmate participates in and completes a
24 domestic abuse treatment program established by the director.

25 Sec. 4. NEW SECTION. **903A.8 Violent repeat offender.**

26 1. A violent repeat offender is any person convicted of a
27 felony offense under chapter 707, 708, 709, 710, or sections
28 711.2, 711.3, 713.3, 713.4, 713.5(1)(a), or 713.6(1)(a), who
29 has previously been convicted of any two felony violations
30 under chapter 707, 708, 709, 710, or sections 711.2, 711.3,
31 713.3, 713.4, 713.5(1)(a), or 713.6(1)(a).

32 2. Notwithstanding subsection 1, a person shall not be
33 considered to be a violent repeat offender if the conviction
34 that would otherwise make the offender a violent repeat
35 offender is a conviction for murder in the second degree in

1 violation of section 707.3, attempted murder in violation of
2 section 707.11, sexual abuse in the second degree in violation
3 of section 709.3, kidnapping in the second degree in violation
4 of section 710.3, or robbery in the second degree in violation
5 of section 711.3. However, a prior conviction for murder in
6 the second degree in violation of section 707.3, attempted
7 murder in violation of section 707.11, sexual abuse in the
8 second degree in violation of section 709.3, kidnapping in the
9 second degree in violation of section 710.3, or robbery in the
10 second degree in violation of section 711.3 shall be counted
11 as a previous conviction in determining whether a person is a
12 violent repeat offender due to the most recent conviction.

13 3. An offense is a felony if, by the law under which the
14 person is convicted, it is so classified at the time of the
15 person's conviction.

16 4. For purposes of this section, felony conviction
17 includes any felony conviction in another jurisdiction that is
18 comparable to a felony listed in subsection 1 or any conviction
19 under the prior laws of this state or another jurisdiction,
20 that is comparable to a felony conviction listed in subsection
21 1.

22 EXPLANATION

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

25 This bill establishes a criminal penalty for a violent
26 repeat offender and provides for risk assessments.

27 If a presentence investigation is required prior
28 to sentencing, the bill requires that the presentence
29 investigation include a risk assessment of the offender, if the
30 offender was convicted of domestic abuse assault in violation
31 of Code section 708.2A, harassment in violation of Code section
32 708.7, or stalking in violation of Code section 708.11.

33 Under the bill, a violent repeat offender is any
34 person convicted of a felony offense under Code chapter
35 707 (homicide), 708 (assault), 709 (sexual abuse), 710

1 (kidnapping), or sections 711.2 (robbery in the first degree),
2 711.3 (robbery in the second degree), 713.3 (burglary in the
3 first degree), 713.4 (attempted burglary in the first degree),
4 713.5(1)(a) (burglary in the second degree), or 713.6(1)(a)
5 (attempted burglary in the second degree) who has twice
6 before been convicted of any felony violation under those Code
7 chapters or sections.

8 An offender who is serving a violent repeat offender
9 sentence under the bill is only eligible for a reduction of
10 sentence equal to fifteen eighty-fifths of a day for each
11 day of good conduct by the offender. Most other offenders
12 are eligible for a reduction of sentence equal to one and
13 two-tenths days for each day the inmate demonstrates good
14 conduct. The fifteen eighty-fifths of a day for each day of
15 good conduct by a repeat violent offender equals the same rate
16 of reduction of sentence for an offender who is serving a 70
17 percent sentence under Code section 902.12 or 902.13. However,
18 an offender serving a violent repeat offender sentence is not
19 required to serve seven-tenths of the maximum term of the
20 sentence prior to being eligible for parole or work release as
21 an offender serving a 70 percent sentence is required to serve.

22 In order to preserve the service of a 70 percent sentence by
23 an offender, a person shall not be a violent repeat offender
24 if the most recent conviction that would otherwise make the
25 offender a violent repeat offender is a conviction for murder
26 in the second degree in violation of Code section 707.3,
27 attempted murder in violation of Code section 707.11, sexual
28 abuse in the second degree in violation of Code section 709.3,
29 kidnapping in the second degree in violation of Code section
30 710.3, or robbery in the second degree in violation of Code
31 section 711.3. However, a prior conviction for murder in the
32 second degree, attempted murder, sexual abuse in the second
33 degree, kidnapping in the second degree, or robbery in the
34 second degree shall be counted as a previous conviction in
35 determining whether a person is a violent repeat offender.