

McKean  
Maddox  
Hammond

SSB 1204  
Judiciary  
Succeeded By  
SF/HF 413

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

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to a criminal sentence subject to the maximum  
2 accumulation of earned time credits of fifteen percent of the  
3 total sentence of confinement.

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

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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.

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 shall be the date of the  
29 original sentencing order. If the original sentence was  
30 subject to the maximum accumulation of earned time of fifteen  
31 percent of the total sentence of confinement under section  
32 902.12, the maximum accumulation of earned time on the new  
33 sentence of confinement shall be fifteen percent of the new  
34 total sentence of confinement imposed by the court upon  
35 reopening. Any earned time accumulated on the original

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1 sentence shall be credited to the new sentence upon reopening.

2 EXPLANATION

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

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

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H. 3/22/01 Judiciary

FILED MAR 12 '01

SENATE FILE 413  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1204)

Passed Senate, Date <sup>(p.754)</sup> 3-21-01 Passed House, Date \_\_\_\_\_  
Vote: Ayes 47 Nays 1 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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SS 413

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5 if the following apply:

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7 accumulation of earned time of fifteen percent of the total  
8 sentence of confinement under section 902.12.

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.

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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  
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28 been reopened under this section shall be the date of the  
29 original sentencing order. If the original sentence was  
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31 percent of the total sentence of confinement under section  
32 902.12, the maximum accumulation of earned time on the new  
33 sentence of confinement shall be fifteen percent of the new  
34 total sentence of confinement imposed by the court upon  
35 reopening. Any earned time accumulated on the original

1 sentence shall be credited to the new sentence upon reopening.

2 EXPLANATION

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

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

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**SENATE FILE 413  
FISCAL NOTE****REQUESTED BY:  
SENATOR MCKEAN**

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The estimate for **Senate File 413** is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 413 provides for the reopening of a judgment and sentence that requires an offender to serve 85% of the confinement term. The Bill provides that an 85% sentence may be reopened upon a motion by the Board of Parole and the Department of Corrections if the original sentencing court grants the motion. The county attorney from the county that prosecuted the offender may, after consulting with the victim, file an objection to the motion to reopen the 85% sentence. If the sentence is reopened, the court may resentence the offender and reduce the maximum sentence imposed in the original sentencing order. If a defendant is resented to a new maximum sentence, the maximum accumulation of earned time remains at 15% of the new sentence.

**ASSUMPTIONS**

1. As of December 31, 2000, 424 inmates were in prison serving a sentence that requires 85% of the confinement time to be served. Approximately 30% of these offenders with risk scores are assessed as low to moderate risk using the Board of Parole's risk assessment instrument.
2. It is likely that some inmates convicted of second degree robbery and serving 85% of their sentence, would have otherwise been released on parole, given past Board of Parole practices. There are approximately 40 inmates who may be released to parole or may have their sentence reduced under Senate File 413.
3. Inmates involved in reopening of sentences are eligible for court-appointed counsel. If the attorney is appointed for the hearing phase, the cost is approximately \$250. If the attorney is appointed for the negotiation phase, the cost is approximately \$750.
4. Court costs for an uncontested hearing are approximately \$200 for the costs of a District Court Judge, court reporter, court attendant, and Clerk of Court. Court costs for a contested hearing range from approximately \$600 to \$2,400.

**CORRECTIONAL IMPACT**

Senate File 413 is a new sentencing alternative for a limited number of inmates. It is not possible to estimate the number of inmates who may have their sentence reduced or who may be paroled under Senate File 413. There is no readily available information with which to estimate the likelihood of the Department of Corrections, Board of Parole, and a county attorney agreeing to reopen a case, and a judge granting the motion for a resentencing hearing.

**FISCAL IMPACT**

PAGE 2 , FISCAL NOTE, SENATE FILE 413

-2-

It is not possible to estimate the fiscal impact of Senate File 413. These sentence reopenings are new law. There is no information to estimate the cost. There may be some savings associated with the prison operating budgets, if certain inmates are resentenced to a shorter term of confinement or receive parole. It is not possible to estimate the number of inmates who would be impacted by the Bill. However, court costs and indigent defense costs range from \$500 to \$3,200 for each hearing associated with reopening a sentence.

**SOURCES**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
State Public Defender's Office  
Supreme Court  
Board of Parole  
Department of Corrections

(LSB 3186SV, BAL)

FILED MARCH 20, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR