

House File 43

HOUSE FILE
BY WESSEL=KROESCHELL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved

A BILL FOR

1 An Act establishing a parole procedure for certain class "A"
2 felons.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1100YH 83
5 jm/rj/14

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1 1 Section 1. Section 902.1, Code 2009, is amended to read as
1 2 follows:
1 3 902.1 CLASS "A" FELONY.
1 4 1. Upon a plea of guilty, a verdict of guilty, or a
1 5 special verdict upon which a judgment of conviction of a class
1 6 "A" felony may be rendered, the court shall enter a judgment
1 7 of conviction and shall commit the defendant into the custody
1 8 of the director of the Iowa department of corrections for the
1 9 rest of the defendant's life. Nothing in the Iowa corrections
1 10 code pertaining to deferred judgment, deferred sentence,
1 11 suspended sentence, or reconsideration of sentence applies to
1 12 a class "A" felony, and a person convicted of a class "A"
1 13 felony shall not be released on parole unless the governor
1 14 commutes the sentence to a term of years.
1 15 2. Notwithstanding subsection 1, a person may be released
1 16 on parole or work release pursuant to the procedures in
1 17 section 902.1A if the person was under the age of eighteen at
1 18 the time the class "A" felony offense was committed.
1 19 Sec. 2. NEW SECTION. 902.1A CLASS A FELONY ==
1 20 APPLICATION FOR REVIEW OF SENTENCE.
1 21 1. As used in this section:
1 22 a. "Board" means the board of parole.
1 23 b. "Director" means the director of the department of
1 24 corrections.
1 25 2. After serving a period of incarceration of fifteen
1 26 years of a class "A" felony sentence, a person who was under
1 27 the age of eighteen at the time the offense was committed may
1 28 submit an application for review of sentence with the person's

1 29 counselor who shall then file the application with the
1 30 director or the director's designee within thirty days of
1 31 receiving the application.

1 32 3. Earned time accrued pursuant to chapter 903A shall not
1 33 be used to reduce the fifteen-year period of incarceration
1 34 requirement pursuant to subsection 2.

1 35 4. The applicant may use the assistance of an attorney in
2 1 preparing the application, at the applicant's expense.

2 2 5. The counselor may attach comments to the application
2 3 and shall ensure that the application filed with the director
2 4 or the director's designee contains the following information:

2 5 a. Criminal history.
2 6 b. Disciplinary history.
2 7 c. Supplementary treatment program record.
2 8 d. Mental health evaluations.
2 9 e. Social evaluations.
2 10 f. Evidence of physical or drug abuse prior to the
2 11 offense.
2 12 g. Any other information considered relevant to the
2 13 application.

2 14 6. The applicant shall have access to all information
2 15 contained in the application.

2 16 7. The director or the director's designee shall conduct a
2 17 review of the application within sixty days of receiving the
2 18 application. The director or the director's designee shall
2 19 make written findings and recommendations based upon the
2 20 application. The findings and recommendations shall be
2 21 clearly stated and supported by evidence in the application.
2 22 The applicant shall be provided a copy of the findings and
2 23 recommendations of the director or the director's designee.

2 24 8. The board shall review the application and the written
2 25 findings and recommendations of the director or the director's
2 26 designee.

2 27 9. When making a determination to grant or deny parole or
2 28 work release the board shall consider the following factors:

2 29 a. The age and level of maturity of the applicant at the
2 30 time the offense was committed.
2 31 b. The applicant's susceptibility to outside pressures at
2 32 the time the offense was committed.
2 33 c. The potential for rehabilitation at the time of the
2 34 application.
2 35 d. The nature and severity of the offense.
3 1 e. Prior juvenile and criminal history.
3 2 f. Overall behavioral record while incarcerated including
3 3 participation in prison programming and cooperation with
3 4 prison staff.
3 5 g. The likelihood that the applicant will commit other
3 6 offenses if released.

3 7 10. If a majority of the members of the board consider the
3 8 applicant parole or work release eligible, the board shall set
3 9 a hearing on the application. The board shall provide at
3 10 least fifteen days' notice of the hearing to the attorney
3 11 general and to any victim of the class "A" felony offense.

3 12 11. At the hearing and after review of any information
3 13 provided by the attorney general and any victim, the board may
3 14 grant parole or work release to an applicant pursuant to the
3 15 procedures under chapter 906. The board shall establish the

3 16 parole or work release time term at the time of granting
3 17 parole.

3 18 12. The decision to grant or deny parole or work release
3 19 shall be in writing and shall be supported by findings and
3 20 reasons for granting or denying parole or work release based
3 21 upon the factors enumerated in subsection 9.

3 22 13. A decision of the board granting or denying parole or
3 23 work release pursuant to this section constitutes a contested
3 24 case subject to judicial review pursuant to chapter 17A.

3 25 14. A person is eligible to submit a new application every
3 26 two years to the person's counselor pursuant to subsection 2.

3 27 15. An application filed pursuant to this section shall
3 28 not affect any other proceedings or procedures available to
3 29 the applicant.

3 30 16. The board shall prescribe the application form to be
3 31 used pursuant to this section, and shall prescribe the form
3 32 for counselor comments and for the findings and
3 33 recommendations of the director or director's designee.

3 34 EXPLANATION

3 35 This bill establishes a parole procedure for certain class
4 1 "A" felons.

4 2 The bill provides that a person serving a class "A" felony
4 3 sentence who committed the offense when under 18 years of age
4 4 may file an application for review of the sentence after
4 5 serving 15 years of the sentence. Earned time accrued
4 6 pursuant to Code chapter 903A shall not be used to reduce the
4 7 15-year period of incarceration requirement under the bill.

4 8 The bill provides that the person shall submit the
4 9 application to the person's counselor, who then is required to
4 10 file the application with the director of the department of
4 11 corrections or the director's designee within 30 days.

4 12 Under the bill, the counselor may attach comments to the
4 13 application and is required to ensure the application contains
4 14 all the relevant histories of the applicant and any other
4 15 information considered relevant.

4 16 The bill requires the director of the department of
4 17 corrections or the director's designee to make written
4 18 findings and recommendations based upon the application within
4 19 60 days of receiving the application. The findings and
4 20 recommendations shall be clearly stated and supported by
4 21 evidence in the application. The applicant shall be provided
4 22 a copy of the written findings and recommendations.

4 23 Under the bill, the board of parole shall review the
4 24 application and written findings and recommendations of the
4 25 director or the director's designee. The bill requires that
4 26 the board of parole consider the following factors when
4 27 determining whether to grant or deny parole or work release to
4 28 the applicant: the age and maturity level of the applicant at
4 29 the time the offense was committed; the applicant's
4 30 susceptibility to outside pressures at the time the offense
4 31 was committed; the potential for rehabilitation; the nature
4 32 and severity of the offense; prior juvenile and criminal
4 33 history; the overall behavioral record while incarcerated; and
4 34 the likelihood to commit other offenses if released.

4 35 The bill provides that if a majority of board of parole
5 1 members consider the applicant parole or work release
5 2 eligible, the board shall set a parole hearing on the

5 3 application. The bill requires the board to provide a minimum
5 4 of 15 days' notice of any hearing to the attorney general and
5 5 any victim of the offense.

5 6 The bill provides that at the parole hearing and after
5 7 review of any information provided by the attorney general and
5 8 any victim, the board may grant parole or work release to an
5 9 applicant pursuant to the procedures under Code chapter 906.
5 10 The bill also provides that the board of parole establish the
5 11 parole or work release term at the time of granting parole.

5 12 The bill provides that the decision to grant or deny parole
5 13 or work release shall be in writing, setting forth the
5 14 findings and reasons for granting or denying parole or work
5 15 release based upon the factors enumerated in the bill.

5 16 The bill provides that a decision of the board granting or
5 17 denying parole or work release is a contested case subject to
5 18 judicial review pursuant to Code chapter 17A. Current law
5 19 provides that parole decisions are not a contested case and
5 20 are not subject to judicial review pursuant to Code chapter
5 21 17A.

5 22 The bill provides that a person is eligible to submit an
5 23 application every two years to the person's counselor.

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