

JRC

Justice Reform Consortium



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A Thorough Report

The Justice Reform Consortium Newsletter is often sent on a weekend. However, we delayed this issue until Monday to analyze the bills that did and did not make the Legislature's first funnel deadline. We hope you take the time and enjoy going this list, contacting your state senator and representative on those specific issues that interest you most, and follow up whenever possible.

Bills on the House Calendar for Debate

HF 167: An Act establishing a child endangerment offense for the mother of a newborn child who caused an illegal drug to be present in the newborn child's body, and providing a penalty. *JRC Opposes.* This sort of legislation is more likely to result in a drug-induced mother putting the baby in an industrial dumpster than seeking prenatal care. The bill is on the House Regular Calendar and eligible for debate. At the request of Rep. [Mary Wolfe](#) (D – Clinton) a [fiscal note](#), which includes a minority impact statement, has been prepared by the nonpartisan Fiscal Division of the Legislative Services Agency. The fiscal note states: "To the extent the Bill results in additional criminal convictions, there will be a disproportionate impact on minorities because approximately 16.0% to 18.0% of offenders convicted under the Bill's provisions may be minorities. Additional criminal convictions will result in an increased number of minority offenders supervised in the corrections system." The Fiscal Note also estimates that the "fiscal impact is estimated to be an increased cost of \$192,600 in FY 2014 and \$414,400 in FY 2015."

Please contact your [representative](#) and urge him or her to vote against this bill if it comes up for consideration. This action is not good for the mother or the baby.

HF 184: An Act relating to the authority of cities to regulate and restrict the occupancy of residential rental property. *JRC Supports.* This bill passed out of the House Judiciary Committee on February 7 and is ready for floor debate. Currently, several cities in Iowa have ordinances that restrict how many unrelated people can live in a one-family dwelling. This bill would prohibit such ordinances. JRC supports this legislation because many people released from prison need a safe place to live. The only place to live may often be a residential home in which several ex-felons are attempting to get back on their feet. Ordinances that prohibit habitation

based upon kinship are outdated and discriminatory. After all, why should the [local] government know “who” lives in your home? Isn’t that scary?

HF 214: by Judiciary. A bill for an act relating to the possession of alcohol by certain minors under juvenile court jurisdiction, and making penalties applicable. (Formerly **HSB 12**) *JRC Opposes* this bill because there is absolutely nothing wrong with the language of the current statute. The change in this statute is proposed because the Iowa appellate courts have overturned convictions of a couple of teenage Iowans who were charged with crimes as juveniles after a considerable amount of time had lapsed, at which time the former juveniles became adults with juvenile charges. JRC believes that enactment of bills for the purpose of correcting a prosecutorial problem that shouldn’t have existed in the first place is an inappropriate use of the legislative process.

HF 234: by Hein, Pettengill, Deyoe, Maxwell and Salmon (**This bill may or may not be renumbered as a different House File within the next two weeks**). A bill for an act relating to the underage possession or consumption of alcohol and providing penalties. This concept is often called the “social host” law and has been adopted by many city and county ordinances throughout Iowa. *JRC Opposes* this bill because of potential problems with enforcement. However, we are anticipating an amendment that will, at the least, preempt all municipal and county ordinances dealing with the same subject matter. The amendment is a necessary part of ensuring that the law is consistent throughout the state.

HF 475: by Public Safety Committee. A bill relating to the issuance of a search warrant to authorize the placement, tracking, monitoring, and removal of a global positioning device. (Formerly **HSB 91**.) *JRC Opposes* this bill, just as it did last year. Those who want this change are adamant about placing the change in the law under Iowa’s current law addressing search warrants. We believe this change should be made in a different section of the Iowa Code. As we see it, the bill as it stands now would make a short cut around the Fourth Amendment for obtaining warrants.

HSB 51: (**This bill will be renumbered as a House File within the next two weeks**): A bill requiring a person receiving a deferred judgment for or convicted of an aggravated misdemeanor to submit a DNA sample and including effective date provisions. *JRC Opposes*. This measure was not considered in the Senate Judiciary Committee, but passed out of the House Public Safety Committee after it was amended. The amendment provided that persons convicted of the offense of OWI and juveniles convicted of crimes that are aggravated misdemeanors would be exempt from DNA profiling. JRC OPPOSES this legislation that expands the unnecessary use of DNA harvesting from people who are not violent.

HSB 90: (**This bill will be renumbered as a House File within the next two weeks**): A study bill relating to drug control, including the criminal offense of prohibited acts related to controlled substances and the information program for drug prescribing and dispensing, and providing a penalty. The original bill increases the penalty from a serious misdemeanor to a class “C” for violations of a Code provision prohibiting certain acts, such as forging a prescription. The bill also requires the Department of Human Services to provide patient information to the Pharmacy Board as it pertains to recipients of the **Lock-in program** and requires the Board of Pharmacy to

place the patient information into the Drug Prescribing and Dispensing – Information Program database. *JRC Opposes* this bill because of the enhanced penalty and because the inclusion of delicate patient information in the DPD-IP database may be compromised by future legislation, especially since this bill came from the Office of Drug Control Policy and not the DHS or Board of Pharmacy.

HSB 105: (This bill will be renumbered as a House File within the next two weeks): A study bill relating to the sentencing of a minor who commits murder in the first degree, providing penalties, and including effective date provisions. This bill is an Iowa Bar Association Criminal Section bill that is designed to address the U.S. Supreme Court’s decision in [Miller v. Alabama](#). Slip Opinion [here](#). *JRC Opposes* this bill because it provides for a mandatory sentence of 45 years before a person may be “eligible” to be “considered” for a parole. Several other states have settled on 25 years.

HSB 127: (This bill will be renumbered as a House File within the next two weeks): A study bill for establishing a criminal offense for removing or attempting to remove a communication device from the possession of a peace officer. *JRC Opposes* this bill because the penalty for attempting to remove or remove a radio from a law enforcement officer is a class “D” penalty, a steep sentence for someone who may not have had intent to prevent communication.

HSB 128: (This bill will be renumbered as a House File within the next two weeks): A study bill for modifying the criminal offense of interference with official acts. *JRC Opposes* this bill for the same reasons it opposed it last year.

The current law enhances the penalty if the defendant “inflicts” an injury upon the officer in the course of the interference. The modification would remove the word “inflict” and replace it with language that enhances the penalty if the officer suffers bodily injury while the alleged interference is occurring. There is a big difference.

Some people have called this the clumsy cop bill. As many of us read it, if the officer is injured in the course of the arrest, through no fault of the defendant, the enhancement of the penalty will be considered.

In a [JRC Newsletter last year](#), we argued that this “bill is totally unnecessary. If a law enforcement officer is injured in the course of an arrest there are plenty of alternatives for prosecutors to charge. There is the crime of assault on a police officer (with enhanced penalties), or the accused could be charged with resisting arrest, or reality suggests that the officer file a workers’ compensation claim. But enhancing the penalty without a causal connection between the officer’s injury and the interference by the defendant is unacceptable. “ During a subcommittee on this bill, [Representative Dave Dawson](#) (D-Sioux City) offered an amendment that would have replaced the word “inflicts”, which is current law, with “causes”. The Peace Officers Association and Iowa County Attorney Association want the language to read “and which results in injury”. JRC immediately accepted Rep. Dawson’s proposed change to “causes”. The Peace Officers Association indicated that it would look at it, but the county attorneys refuse to accept anything different from what they propose. We are hoping for an amendment on the floor of the House.

HSB 142: (This bill will be renumbered as a House File within the next two weeks): A study bill for enhancing the criminal penalty for an assault on a public transit bus operator, and providing penalties. This is another “Animal Farm” bill (a bill that appears to make some people “more equal” than others). *JRC Opposes* this bill because all people are equal. Enhancing penalties for assault does not deter the criminal element. Assaults are often committed under the influence of drugs or alcohol, in the heat of passion, and without thinking. We did make an offer of amending the bill so that the penalty will be enhanced for [bus drivers who assault passengers](#). Unfortunately, we were not taken seriously.

HSB 172: (This bill will be renumbered as a House File within the next two weeks): A study bill relating to the penalties for the criminal offense of sexual exploitation of a minor by the purchase or possession of child pornography. This bill enhances penalties for possession of child pornography. *JRC Opposes* the bill for a couple of reasons, but especially because of the reasoning behind the increase in penalties. We were told in a subcommittee meeting that police (and we take that to mean prosecutors) are not pursuing these cases because the penalties are not worth their time. If that’s the case, we have a prosecutorial problem that needs to be addressed, and increasing penalties is a backwards way of making sure pedophiles are charged and convicted.

HSB 174: (This bill will be renumbered as a House File within the next two weeks): A study bill for authorizing alternate members of the board of parole. *JRC is undecided* on this bill. There will be an amendment on the floor of the House when this bill is debated.

HSB 176: (This bill will be renumbered as a House File within the next two weeks): A study bill relating to identity theft, and providing a penalty. This weird bill makes most identity theft a class “D” felony. It makes a couple of exceptions, but a fiscal note on this bill may show that the implementation of this act is very costly.

Bills on the Senate Calendar for Debate

SF 134 by Jochum: (This bill may or may not be renumbered as a different Senate File within the next two weeks). A bill for an act relating to the use of restraints against a pregnant inmate or detainee and including effective date provisions. *JRC Supports* this legislation. Please [contact your state senator](#) and urge him or her to support passage of this issue. [Eighteen states](#) already prohibit this practice, and more are considering it. Iowa needs to keep up with the humanity of those 18 states and the Federal Bureau of Prisons.

SF 151 by Soddors: (This bill may or may not be renumbered as a different Senate File within the next two weeks). A bill for an act establishing a criminal offense for removing or attempting to remove a communication device from the possession of a peace officer. *JRC Opposes* this legislation. The original bill required a class “D” felony as a penalty, no matter what situation was evident. We worked in subcommittee to improve the bill by offering a suggestion that the bill be amended to graduate the penalty depending upon the severity of the injury to the officer and the intent of the defendant. The bill was amended in the Senate

Judiciary Committee to adopt our suggestion. However, the amendment included language that JRC has opposed in another bill (See [HSB 128](#) above). Because of the added language, we remain adamantly opposed to the legislation. We have not seen the amendment, but if it changes language in the “interference with official acts” bill from “inflicts” to “causes” we will change our registration from “*opposed*” to ‘at least’ *undecided*.

[SF 203](#) by Human Resources: A bill for an act relating to mental health and disability services requirements involving the department of human services and including effective date and retroactive applicability provisions. (Formerly [SSB 1130](#).) JRC is registered as “*undecided*” on this bill.

[SF 363](#): A bill for an act relating to the intentional transmission of a contagious or infectious disease, and providing penalties. (Formerly [SF 215](#) by Sodders) JRC *Supports* this legislation because it changes radical punishment of the past that potentially caught unsuspected individuals (such as women) in the transmission of HIV/AIDS and replaces it with sensible modern law that reflects the intentional transmission.

Bills on the House Calendar AND the Senate Calendar for Debate

[HF 393](#) & [SF 288](#): These identical bills are the cumulative work of a Working Group of experts from the Iowa State Bar Association, the Iowa County Attorneys Association, and the Iowa Juvenile Court Services Association. The bills make necessary changes in Iowa’s Youth Offender law (not to be confused with Polk County’s Youthful Offender Program), including the establishment of a minimum age for prosecution as a Youthful Offender, and the possibility of a child receiving a deferred judgment (currently, the YO may only receive a deferred sentence), and several more changes. A Youthful Offender is a juvenile who is prosecuted in adult court for certain offenses (such as serious felonies, including murder in the first degree). JRC *supports* this legislation. Please contact your legislators and urge them to support these bills.

Bills That Failed to Meet the Funnel Deadline

The following bills failed to gain the required two out of three votes to pass out of a subcommittee meeting, or a subcommittee meeting was not held on the bill. These bills are considered dead for the year. However, even though a bill may be dead, an issue lives on through the final day of the general assembly. We mention them here because the bills have a significant bearing on the mission of Justice Reform Consortium.

[HSB 6](#): A study bill relating to interpreters and translators for limited English proficient participants in legal proceedings and in court-ordered programs. A meeting was held on this bill, but two legislators voted to keep the bill from passing out of subcommittee. See JRC Newsletter Vol. 4 #4, [Learn the Language](#). *Passage of this issue was a JRC priority.*

[SF 76](#) by Sorenson, Bertrand, Anderson, Chelgren, Feenstra, Whitver, and Segebart; **AND** [SF 167](#) by Behn, Chapman, Houser, Greiner, Feenstra, Guth, Anderson, Bertrand, Segebart, Chelgren, Zaun, Sorenson, Whitver, Kapucian and Boettger: These two bills create the penalty of death for the commission of murder in the first degree, kidnapping, and sexual abuse against the same minor, providing a penalty, and including effective date provisions. It appears as though the language of each bill is slightly different, but the concept is the same – state sanctioned murder. *Defeating this issue was a JRC priority.*

[SF 127](#) by Dearden: A bill for an act providing for the restoration of the right to register to vote and to vote and hold elective office for certain persons and including effective date and retroactive applicability provisions. *JRC Supports* this bill. Thanks to Senator Dearden. Unfortunately, this concept may not be realized again under the Branstad Administration.

[SF 228](#) by Soddors: A bill for an act relating to the use of a false or secret compartment in a motor vehicle, and providing penalties. *JRC Opposes* this bill. It was also opposed by at least two of the three subcommittee members assigned to this bill. Senators [Jerry Behn](#) (R-Boone) and [Jeff Danielson](#) (D-Cedar Falls) declined to move the bill forward.

Bills that Passed the House and are in Senate Committees

[HF 159](#): A bill relating to the possession of certain products with the intent to use the products to manufacture a controlled substance, and making penalties applicable. (Formerly [HSB 14](#)). This bill passed the House 95-0 on February 27 and was sent to the Senate. HF 159 has been assigned to a Senate Judiciary subcommittee of Taylor Courtney, and Zaun. *JRC Opposes* this legislation. The bill bans products that you may find in many Iowa barns or machine sheds.

Bills that Remain Eligible But are in Committee

[HF 468](#) by Public Safety - A study bill relating to the excise tax on unlawful dealing in certain substances by adding new taxable substances and tax rates, modifying the taxation and rates of currently taxable substances, and making penalties applicable. This bill was referred to the Committee on Ways & Means. *JRC Opposes* this bill. Read more about this issue [here](#).

Please keep up with those calls to Governor Branstad's office asking him for support of mental health funding and services – 515-281-5211.

Interesting Links:

Outside Box, Federal Judges Offer Addicts a Free Path:

http://www.nytimes.com/2013/03/02/nyregion/us-judges-offer-addicts-a-way-to-avoid-prison.html?_r=0

[U.S. Youth Incarceration Rate Down 40 Percent Since 1995, Report Finds](#) A new report from the Annie E. Casey Foundation found that the number of incarcerated youth in the U.S. fell more than 40 percent from 1995 to 2010.

A recent Fiscal Update from the nonpartisan Fiscal Division of the Legislative Services Agency (includes Beth Lenstra's notes from the February Board of Corrections meeting – pages 4-5): <https://www.legis.iowa.gov/DOCS/LSA/FiscUpdt/2013/FUMAS008.PDF>



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Contributions to JRC are appreciated and needed.

We have received a few contributions over the past few weeks and we are grateful. If you haven't contributed yet would you consider a donation of at \$20.00? \$50.00? \$10.00? We'll be happy with any amount you want to send. *Thank you* to those who have helped us out lately!

Please help us with your generous contribution today.

I want to help Justice Reform Consortium with its goal of working toward restorative justice.

Here is my contribution of \$ _____

Submit your subscription payment to:

Jean Basinger
Justice Reform Consortium
c/o Trinity United Methodist Church
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Des Moines, IA 50311

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UPCOMING EVENTS

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The next **Friends of Iowa Women Prisoners** meeting is at noon on **Tues., March 19th** at Wesley United Methodist Church, 800 East 12th.

In March our speaker will be Teresa Bomhoff, Chairperson of the Iowa Mental Health Planning Council and President of the National Alliance on Mental Illness (NAMI) of Greater Des Moines. She also volunteers with a number of other agencies as well as serving on several legislative task forces and committees on issues surrounding mental illness. Teresa has family members living with severe mental illness. Teresa's son is an Eagle Scout and disabled veteran

Our founder, Carlos Jayne, will update us on what's happening in the Legislature regarding the gun issue.

Bring your lunch. The place and time are consistent throughout the year. The meetings are always held on the third Tuesday of the month, and always held from noon to 1:00 pm at Wesley United Methodist Church located at 800 East 12th Street in Des Moines. The location is a block west of East High School. Please contact [Vi](#) for more information.

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Voices to be Heard is a support group for families and children of an incarcerated loved one. The group gathers to support and comfort those who know too well the grief that comes to those left behind when someone they love is incarcerated. The group meets on the first and third Tuesdays of the month at Union Park Methodist Church (East 12th & Guthrie in Des Moines) from 5:30 – 7:00 p.m. The group brings in speakers, performs outreach, provide support groups and leadership classes. It is a good idea to contact Melissa ahead of time because the group provides dinner and a head count is preferred. Contact Melissa at 515/229-2645 for more information.



ART THERAPY FOR CHILDREN OF VOICES TO BE HEARD

ART THERAPY PROVIDED BY DES MOINES ART CENTER

Voices to be Heard is a support group for families and children of an incarcerated loved one.

Who: Children grades K-8th that have a loved one incarcerated

****Parents** would need to be present and attend an adult socialization

When: 1st and 3rd Tuesday of the Month; 6 week course

April 9, 23

May 7

Where: Union Park Methodist located on E. 12th & Guthrie

Time: 5:30 potluck dinner

6:00-7:00 Voices to be Heard art therapy/adult socialization

PLEASE RSVP TO MELISSA BY EMAIL AT mel@cfpciowa.org

or calling 515-229-2645

or Jolene at joventure@me.com

Justice Reform Consortium member organizations: Iowa CURE & Iowa Coalition 4 Juvenile Justice; Friends of Iowa Women Prisoners; Trinity United Methodist Church; Methodist Federation for Social Action; Voices to be Heard; ACLU of Iowa; Social Action Committee, Des Moines Presbytery; Des Moines Chapter of WILPF; American Friends Service Committee; Plymouth Congregational Church, Board of Christian Social Action; Iowa Annual Conference, UMC; Iowa NOW and Des Moines NOW; National Association of Social Workers; Beacon of Life; Citizens for Undoing Racism-War on Drugs Task Force.

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