

JRC

Justice Reform Consortium



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DAYLIGHT SAVINGS TIME BEGINS

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Chasing Ineffective Legislation

A Davenport police officer drove up to the Iowa Capitol on Monday, February 27, to make a presentation before a [Senate State Government](#) subcommittee about the need for an enhanced penalty for people who elude law enforcement vehicles. [Senate File 284](#) is a bill that does that. In addition to enhancing penalties, the bill adds a provision that includes outrunning an “official law enforcement vehicle” even if it’s an “unmarked” police vehicle.

JRC opposes all legislation that enhances a penalty unless someone can present empirical evidence the enhancement will actually reduce the instances of the prohibitive act. We do not see that a penalty enhancement for eluding or attempting to elude will reduce the number of high speed chases occurring in Iowa.

The inclusion of an “official law enforcement vehicle” (unmarked police vehicle), even though driven by a uniformed peace officer is troublesome. Removable police emergency lights and sirens are available for sale to anyone on the Internet. You may buy police light bars [online](#) (free shipping). A stalker, an ex-spouse, or potential first degree robber may utilize abandoned or used lights and sirens to pull over an unsuspecting target. This has happened in Iowa. [Kirksville teens convicted in brutal Iowa murder to be resentenced](#); and [Police look for man who impersonated officer](#). People are constantly told to drive to a spot that is lit up and has the potential for witnesses when being pulled over. The scary stories of robbery and murder warrant this provision dangerous and unnecessary.

Another provision of the bill provides that the police may seize and impound a vehicle involved in a high-speed chase. Not only will this cause a hardship for families with one vehicle and the uncharged person with a job depending upon the vehicle (especially in rural areas without public transportation), but there is a proper procedure for forfeiture and seizure of items seized as the result of a crime. This provision may also eventually clash with several pending pieces of legislation that reform Iowa’s unfair forfeiture laws. But the real opposition to this provision might be banks (who have a financial interest in the vehicle); owners of a stolen vehicle; and rental car dealers.

Finally, the bill creates a class “B” felony (25 years in prison) “when the person unintentionally causes the death of another by eluding or attempting to elude a pursuing law enforcement vehicle

. . . if the death of the other person directly or indirectly results” from the eluding violation. We believe that language in this section of the bill is vague, overbroad, and lacks the criminal intent (*mens rea*) necessary for conviction. *Mens rea* is defined as “the intention or knowledge of wrongdoing that constitutes part of a crime, as opposed to the action or conduct of the accused.” A vague example would be the unintentional death of a person who was hit by an unmarked police vehicle involved in the pursuit.

A Minority Impact Statement on SF 284 states that the bill will “have a minority impact to the African-American community. In FY 2016, 18.0% of the persons convicted of eluding a law enforcement vehicle in Iowa were African-American. The U.S. Census estimate as of July 1, 2015, states that the Iowa population was 3.5% African-American.”

Whatever law enforcement officials think, this bill is not going to have one ounce of deterrent effect. Of course, as reasonable people, we would pull over and comply with the law. However, place yourself in the defendant’s situation. A person who knows there is a warrant for their arrest, holds a sizable cache of drugs, or possesses weapons illegally, is not going to be cognizant of the penalties of this law, nor will they care. The whole purpose for trying to outrun police vehicles is to get away, not think of the consequences if you’re caught.

Our heavy lobbying on this bill is not getting as far as we would like. We do not condone the practice of outrunning law enforcement vehicles, but enhancing penalties is nothing but a backdoor attempt at claiming to do “something”. It’s not effective.

This issue is a great example of how most legislators listen to their hometown police forces, county attorneys, council members, and other noted community leaders, but claim they rarely hear from individual constituents. We ask that you become involved and get to know your legislators on a first-name basis.

The Wrong Use of Tax Dollars

Seventeen years ago, in 2000, several small business owners complained that people were not returning VCR video rentals. Their solution was to have a law making it a degree of theft for those who failed to return a video to the store. The law, as written, was pretty weak, and not too many people today own a VCR or rent a VCR videotape, but the crime is still on the books.

The Iowa Nebraska Farm Equipment Dealers Association thinks it’s a good idea to expand the video law to include “rental equipment property”. [Senate File 403](#) would incorporate a vague and expansive list beyond video rentals as property that can be subjected to civil AND criminal relief.

Rental dealers have various options to ensure the return of their property, or means of obtaining just compensation when the equipment is damaged or missing. Most of those options are included in a lease agreement and may include (but not be limited to):

- Declaring the entire amount of rent due and payable without notice;

- Suing for recovery of all rent and other payments, including those incurred and future incurrence under certain circumstances;
- Taking immediate possession without notice, demand, or legal process, wherever it is located or no matter what the shape it is in;
- Terminating the lease without notice; and
- Pursuing any other remedy allowed by equity.

If Senate File 403 is enacted, it doesn't preclude any of the above options from happening in addition to having the sheriff intervene. This bill is an inappropriate use of our county sheriffs' resources.

The Reality of Simulation

“[Senate File 414](#) enhances the penalty when a simulated firearm or explosive is used in the commission of a crime if it appears to be a firearm or explosive when displayed, or is represented to be a firearm or explosive. Currently, these crimes may be classified as robbery in the second or third degree, aggravated theft, or harassment.” That is the description given by the [The Fiscal Services Division](#) of the [Legislative Services Agency](#), a nonpartisan agency that produces several documents of value (no pun intended) during Iowa's Legislative Session and also during the interim.

A simulated firearm can be a finger in the pocket pointing out toward the victim to make the victim think the suspect is carrying a gun. It can be a note that says “[I have a gun, give me the \\$.](#)” A simulated explosive can be the bomb threat without the bomb that a kid calls in to the school because he didn't get his geometry assignment completed. If enacted, SF 414 will make the punishment of pretending to have a weapon or explosive device the same as actually having it. Which leads to what most people say when we describe this bill: “Why pretend to have a gun: might as well use the real thing.”

JRC is concerned also about the potential credibility of eyewitnesses and lack of forensic evidence in cases where a “simulated” weapon is supposedly used. With likely enactment of laws such as “stand your ground,” many citizens are going to be more apt to believe that someone is carrying a firearm, knife, or explosive.

When SF 414 was considered in a Senate [subcommittee](#) as [SF 88](#), a number of concerns about the bill were raised about it and its effects. Yet, SF 414 was recommended by the subcommittee and passed the [Senate Judiciary Committee unanimously](#).

The Fiscal Note says that this “Bill would have a minority impact to the African-American community. In FY 2016, 53.8% of the persons convicted of robbery in the second degree were African-American. The U.S. Census estimate as of July 1, 2015, states that the Iowa population was 3.5% African-American. In the second year of enactment, there would be five less admissions to probation or parole (those five would be State prison admissions instead), and **four of those five would be a minority.**”

JRC sympathizes with clerks and others who have been traumatized by robberies, whether a weapon was real or simulated. JRC also believes that there are alternatives to enhancing penalties. Better lighting on city streets; sharp image video cameras (as opposed to cheap grainy devices designed to save money) in convenience stores and other retail outlets; employing more than one person in 24-hour operations, or shutting down after a certain hour; and numerous other proactive moves that may cost a bit more, but will be more effective.



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UPCOMING EVENTS

Please think of being a member or contributor!

IOWANS AGAINST THE DEATH PENALTY

Dues are a minimum of \$15 per year. Checks may be made out to IADP and sent to:

IADP
P.O. Box 782
Des Moines, IA 50303

A tax-deductible gift may be made to the "IADP Fund", but a contribution to the "Fund" will not make you a member. Contributions to the IADP Fund" may be sent to the same P.O. Box in Des Moines.

The next [Friends of Iowa Women Prisoners](#) meeting is at noon on **Tues., March 21st** at Wesley United Methodist Church, 800 East 12th.

In March, we welcome Sheryl Dahm, newly appointed warden at ICIW. Come, hear about where she has been serving the DOC and her vision for the future of ICIW.

MISSION: To bring together and inform individuals and groups concerned about women in the Iowa correctional system and to act on their behalf.

FRIENDS OF IOWA WOMEN PRISONERS
PO Box 71272, Clive, IA 50325
email: fiwp2011@gmail.com
website: friendsofiowawomenprisoners.org

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.

[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 Wesley United Methodist Church (800 East 12th St. in Des Moines) from 5:30 – 7:00 p.m. Potluck begins at 5:30 p.m. meeting begins at 6:00 p.m. The group brings in speakers, performs outreach, provide support groups and leadership classes. It is a good idea to contact Alaire Saunders ahead of time because a head count is preferred for the pot luck. Contact Alaire at 515/954-0039 for more information.

Voices to be Heard has formed also in Cedar Rapids. Please contact: Voices to be Heard, Voices.Heard@yahoo.com. Sue Hutchins, 252 S. 22nd St., Marion, IA 52302.

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Justice Reform Consortium member organizations: ACLU of Iowa; American Friends Service Committee; Beacon of Life; Compassion, Peace, and Justice Taskforce, Des Moines Presbytery; Des Moines Chapter of WILPF; Friends of Iowa Women Prisoners; Iowa Annual Conference, UMC; Iowa CURE; Iowa Coalition 4 Juvenile Justice; Iowa Justice Action Network; Iowa-Nebraska Chapter of the NAACP; Iowa NOW and Des Moines NOW; Methodist Federation for Social Action; National Association of Social Workers; Plymouth Congregational Church, Board of Christian Social Action; Trinity United Methodist Church; Urban Dreams; and Voices to be Heard – Des Moines & Cedar Rapids.

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