



# 2017 State Justice System Legislation Monitoring Report

December 1, 2017

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Completion of this report fulfills the Criminal and Juvenile Justice Planning Advisory Council's (CJJPAC) legislative obligations outlined in Iowa Code section §216A.133. This section of the code instructs the CJJPAC, a council staffed by The Division of Criminal and Juvenile Justice Planning (CJJP), to examine and provide analysis of criminal and juvenile justice policy. The council is to "report criminal and juvenile justice system needs to the governor, the general-assembly, and other decision makers to improve the criminal and juvenile justice system."

On November 15, 2017 Iowa's CJJPAC approved this report.

## **Summary of 2017 Enacted Legislation**

The Criminal and Juvenile Justice Planning Advisory Council (CJJ PAC) has requested that the Division of Criminal and Juvenile Justice Planning (CJJ) monitor the correctional impact of enacted legislation of particular interest. The following information provides a summary of enacted legislation during the 2017 session by the 87<sup>th</sup> General Assembly and the estimated correctional impact.

### **HF 263 - Mandatory Minimums for Some Domestic Abuse Crimes**

- Established a 20% mandatory term for domestic abuse assault 3<sup>rd</sup> offenses, expanded the definition of stalking, and established penalties for the unauthorized placement of a global positioning device.
- Correctional Impact: This bill is expected to result in an additional 21 convictions annually. It is estimated that there would be an additional 19 admissions to prison, an additional 11 admissions to jail, an additional placement of one offender to a residential treatment program, and an additional 16 offenders placed on probation annually. By year four, the prison population would increase to an additional 84 offenders due in part to the increased LOS for those under a mandatory minimum sentence (as well as due to the expansion of the stalking definition).

### **SF445 – Modifications to Crack and Cocaine Penalties**

- Modified the amounts and penalties for crack cocaine such that possession of less than 200 grams of crack is a B+ felony, possession of 40-200 grams of crack is a B felony, and possession of less than 40 grams of crack is a C felony.
- Correctional Impact: This bill is expected to move one offender convicted from a B felony to a C felony. Data are somewhat difficult to obtain due to an inability to differentiate between crack and powder forms of cocaine. Data are somewhat difficult to obtain due to an inability to differentiate between crack and powder forms of cocaine.

### **HF 526 – Invasion of Privacy, Distribution of Materials**

- Created two new criminal codes for invasion of privacy; including:
  - Knowingly disseminating, publishing, distributing, posting, or causing the dissemination, publication, distribution, or posting of a photograph or film showing another person in a state of full or partial nudity or engaged in a sex act without the consent of the other person.
  - Knowingly creating a photograph or film that shows another person in a state of full or partial nudity or engaged in a sex act, if the other person did not or was unable to consent to the creation.
- Correctional Impact: This bill is estimated to increase aggravated misdemeanor convictions by 15 annually, 10 of which are estimated to result in a prison order with 5 receiving jail orders. The net increase to the prison population would be three individuals in the first year of implementation, and six individuals annually thereafter.

### **HF69 – Intentional Trespassing**

- A person that knowingly trespasses on property owned by another person commits a simple misdemeanor that is punishable as a scheduled violation. The bill also increased fines for criminal trespassing and made intentional trespassing a serious misdemeanor.
- Correctional Impact: This bill is expected to reduce jail orders by 586, and probation orders by 281 annually by year-two of implementation.

## **Summary of Historical Legislation Data Tracking**

The following provides a list of historical legislation passed for which the CJJPAC continues to monitor in regard to impact upon the judicial system in Iowa.

### **Synthetic Drugs**

#### **SF510: July, 2011, Iowa Code 124.401(1)(d)**

In July of 2011, the Iowa General Assembly added synthetic cannabinoids (such as K2), Salvia Divinorum, and synthetic cathinones (bath salts) to Iowa's list of Schedule I controlled substances. The effects of this provision are best captured by observing accidental hospitalizations and emergency room visits, as the result of substance abuse, provided by the Iowa Department of Public Health (IDPH). The IDPH reports that FY2017 data are not available, and FY2016 data only includes information for the first six months from January through June.

- Accidental poisoning emergency room visits have declined since FY2011 from 324 to 264 in FY2014, as have hospitalizations, declining from 140 to 38.
- The IDPH indicates that on October 1, 2015 Iowa hospitals transitioned from ICD-9-CM to ICD-10-CM codes. With this transition, hospitals are required to use ICD-10-CM to code Inpatient and Outpatient data. This change is a potential cause of any variations that appear to occur between the 2015-2016 data. The IDPH prompts readers to interpret 2015-2016 data with caution.

Data from the Poison Control Center located in Sioux City demonstrate that of voluntary calls to the facility concerning patient treatment, salvia treatments have been nearly non-existent from CY2013-CY2016 (one call in CY2014). Treatments for bath salts and K2 have followed similar patterns, increasing in 2011 and substantially declining thereafter.

### **Aggravated Theft & Mandatory Minimums for Violent Offenses**

#### **SF2250: July 2010, Iowa Code 714.3A; HF2064: 5/12/2016, Iowa Code 711.3, 711.3A, 901, 902**

SF2250: Intended to be an alternative to Robbery 1<sup>st</sup> or Robbery 2<sup>nd</sup> degree, both of which are 70% forcible felony crimes, Aggravated Theft is a non-forcible crime for acts of theft combined with low-level physical threat and is not subject to the 70% mandatory minimum.

HF2064: This bill is also related to the mandatory minimum terms for Robbery crimes. The bill decreased the mandatory minimum term for parole eligibility for Robbery 2<sup>nd</sup> offenders to a range of 50% to 70%, established a new crime of Robbery 3<sup>rd</sup> which is an aggravated misdemeanor, and not subject to a mandatory term, and reduced the mandatory minimum term for 726.6 Child Endangerment convictions from 70% to 30% of prescribed confinement.

- During FY 2011 – FY 2017 aggravated theft convictions decreased slightly by 7.1%
- During FY2017 there were 47 convictions for robbery 3<sup>rd</sup>
- During FY 2011 – FY 2016 Robbery 1<sup>st</sup> convictions decreased by 93.9%, while Robbery 2<sup>nd</sup> convictions increased by 57.4%.
- African-Americans are overrepresented in both aggravated theft and robbery convictions however, the overrepresentation is greater for robbery offenses.

**70% Mandatory Minimum Crimes**  
**SF1151: July, 1996, Iowa Code 902.12**

This bill required that inmates convicted of certain crimes were to serve 85% of their sentence before being eligible for parole. This requirement was modified in 2003, when inmates subject to 85% sentences were made eligible for parole after having served 70% of their sentence. The following year, this provision became retroactive.

- Admissions of new prisoners serving 70% mandatory minimum sentences increased between FY 2011-FY 2017 from 92 to 136 inmates.
- From FY 2011- FY 2017 the number of prisoners in the population serving mandatory 70% sentences has increased 27.9%.

**Enhanced Penalty for Domestic Abuse Involving Strangulation**  
**SF93: July 2012, Iowa Code 708.2A(5)**

This bill enhanced the penalty of strangulation in the domestic abuse statute (708.2A) from a serious misdemeanor to an aggravated misdemeanor if a person knowingly impedes the normal breathing or circulation of the blood of another by applying pressure to the throat or neck, or by obstructing the nose or mouth of the other person. If the assault causes bodily injury, it is a violation of Iowa Code 708.2A(5) and a class D felony.

- During FY2013 - FY2017, the number of charges for this crime has increased by 14% and the number of convictions has increased by 155.8% (43 to 110).

**Changes to the Purchase or Possession of Child Pornography**  
**HF2390: July, 2012, Iowa Code 728.12(3)**

This bill amended section 728.12(3) Purchase or Possess Medium Depicting Exploitation of a Minor by allowing separate charges to be filed for each child being exploited rather than the number of storage systems, mediums, or images purchased or possessed.

- From FY2013-FY2017 the number of disposed charges increased from 26 to 89 and the number of convictions increased from 9 to 28.

**DNA Hits**  
**HF527: May, 2013, Iowa Code 321J.2**

This bill required a person (other than a juvenile) convicted of or receiving a deferred judgement for an aggravated misdemeanor to submit a DNA sample. This mandate excludes some crimes including those identified under Iowa code chapters 321 (motor vehicles), 321J.2 (OWI 2<sup>nd</sup>), 716B (criminal mischief), 717A (animal facility violations), and 725.7 (gaming and betting). Prior law required this action solely for those convicted of felony level offenses.

- During 2017, DNA hits were received at higher rates for crimes involving burglary (50.7%), sex offenses (12.4%) and theft (19.8%).
- Total DNA hits decreased between FY 2016 - FY 2017 from 321 to 282. The decrease is due in part to fewer profiles received as well as ongoing position vacancies for DNA processing.<sup>1</sup>

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<sup>1</sup> The Department of Public Safety (DPS) indicates that in FY2016 there were about 315 more profiles (convicted offender forensics) entered into CODIS, than were entered during FY2015. The increase in entered profiles is due to the passage of HF 527, new positions staffed within DPS's DNA division, and burglary cases (crimes with the historically the highest proportion of hits) that frequently involve repeat offenders.

## **Interference with Official Acts**

### **SF384: July, 2013, Iowa Code 719.1 & 719.2**

This bill created a new offense, removal of an officer's communication or control device. The bill provided a graduated system of penalties for the offense depending on the purpose behind communication device removal and whether injury was sustained by the officer. This legislation designates lesser penalties for the crime of interference with official acts for actions that simply *result* in bodily injury rather than requiring that the offender's actions *caused* serious injury.

- In FY 2017 there were 5,162 charges of Interference disposed in Iowa courts and 2,895 convictions. FY2017 conviction data indicate the lowest figures observed, even prior to crime code modification.
- While it was suggested that the 'loosening' of the requirements for providing injury could result in more convictions, it does not appear that charges or convictions have increased.

## **Elder Abuse**

### **SF2239: May, 2014, Iowa Code 235F**

This bill created a process for obtaining a civil protective order for vulnerable elders in cases involving physical injury, sexual assault, neglect, and financial exploitation. Individuals who violate an issued protective order can be found in contempt of court and subject to jail time.

- The impact of this bill is difficult to examine due to the fact that protective orders are not clearly tied to charge or conviction data. Crime code descriptions for 235B violations are generally defined as dependent adult abuse and specific information regarding victim age is unavailable.
- The bill's impact could potentially be examined by observing the number of petitions for civil protective orders filed for relief of elder abuse. State Court Administration reports that this information is difficult to extract, although better data on this topic in the future is anticipated.

## **School Related Sex Abuse**

### **HF2474: July, 2014, Iowa Code 709.15 / SF238: May, 2017, Iowa Code 709.15**

HF2474: This bill expanded the criminal offense of, and related penalties for, sexual exploitation to include persons issued a school coaching authorization. This law provided that the definition of a school employee is expanded to include individuals issued a coaching authorization.

- From FY2012-FY2017 the number of charges and convictions for this crime has remained relatively low with the exception of FY2013 charges where one case received 49 charges.

SF238: In FY 2017, this bill passed which included language pertaining to Iowa Code 709.15 to further expand the definition of sexual exploitation to include:

- 1) Any school employee including those who hold a license, certificate, or statement of professional recognition issued under chapter 272,
- 2) A person who holds an authorization issued under chapter 272,
- 3) A person employed by a school district full-time, part-time, or as a substitute,
- 4) A school district volunteer who has supervisory authority over students, or
- 5) A person working under contract for a school district who has direct supervisory authority over students.

## **Human Trafficking**

### **SF2311: July, 2014, Iowa Code 710A.2**

This bill related to sexual and criminal offenses involving minors and others, including prostitution, pimping, and human trafficking, providing for a fee, and including penalties and effective date and applicability provisions.

- During FY2017 there were 4 charges and no convictions for human trafficking offenses.
- Convictions at the state-level for crimes involving human trafficking are rare. However, it is difficult to know whether this finding speaks to the actual prevalence of the crimes in Iowa and/or indicates barriers in the tracking of these offenses.
- To better explain these findings, in 2016 CJJP contacted a variety of state and federal agencies as well as local task force members knowledgeable about human trafficking in Iowa. It was generally acknowledged that data capturing the prevalence and nature of human trafficking within the state is currently unavailable.

## **Sentencing Practices for Juveniles**

### **SF448: April, 2015, Iowa Code 902.12**

This bill related to the commission of a class “A” felony by a person less than eighteen years of age, providing penalties, and including effective date and applicability provisions. This Act provided additional sentencing options for the adult court for juveniles convicted of class “A” felonies.

- From FY 2011- FY 2017 there was a 5.4% decrease in the number of A felons who were under the age of 18 at time of their offense, and actively in prison as of June 30<sup>th</sup>. For this population, the number of prison exits has stable for the last seven years; fluctuating between 0 and 5 inmates.

While no legislative activity took place, the Supreme Court ruling of *Lyle v. State* filed on July 18th, 2014 also found that juveniles should not be automatically subjected to serve the 902.12 mandatory minimum for crimes including murder, attempted murder, sex abuse, kidnapping, robbery or vehicular homicide without considering offender level characteristics such as age, maturity and family history.

- From FY 2011- FY 2017 there was a 34.4% increase in the number of offenders incarcerated on 70% sentences who were under age 18 at the time of their offense, and incarcerated. Following this ruling prison releases for this population increased from 15 in FY15 to 34 in FY17.

## **Mandatory Minimums for Drug Offenses**

### **HF2064: May, 2016, Iowa Code 124.401**

This bill allows for parole eligibility for non-violent drug offenders, who are not high-risk, after having served at least one-half of their minimum sentence. This includes a person sentenced for a violation of Iowa Code sections 124.401 (1)(a), (b), or (c). This proposal was retroactive and affects current inmates as well as new prison admissions. This portion of the bill was expected to reduce the number of inmates in year-one by 205 and year-five by 179.

### **SF445: April, 2017, Iowa Code 124.401**

Offenders convicted of 124.401(1)(c) (class “C” felony small quantity, drug manufacturing, delivery, or possession with intent to manufacture or deliver offenses), who have not been previously convicted of a forcible felony, and who do not have a prior conviction under Code section 124.401(1) a, b, or c, shall not be required to serve a minimum term of confinement. In 2017 it was estimated that this proposal would affect 178 drug offenders who were currently in prison who would be immediately eligible for parole under this provision.

The overall goal of the above bills were to release inmates with a most serious drug offense whose risk and prior criminal history indicated a low rate of re-offense. Examining the number of offenders exiting prison on a most serious drug offense, there has been a 12.8% increase from FY 2015 – FY 2017. It is important to note however, within the same time period, there was also an increase in prison admissions for a most serious drug offense, increasing from 834 - 915 (9.7%).<sup>2</sup>

### **Human Trafficking and Kidnapping**

#### **HF 2278: 3/30/2016, Iowa Code 710A, 710**

This bill established an office within the Department of Public Safety (DPS) to monitor and manage human trafficking efforts and extended the statute of limitations for kidnapping in the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree, and human trafficking.

- In FY2017 there were no additional convictions for Human Trafficking or Kidnapping given the established proposal.

### **Trespassing**

#### **SF2185: 4/13/2016, Iowa Code 716.7 & 716.8**

This bill provides that filming an individual without their knowledge is an aggravated misdemeanor. The bill also specifies that trespassing to *intentionally* view, photograph or film another person without their consent, in an area where reasonable privacy is expected, commits a serious misdemeanor, whereas a person who knowingly trespasses upon the property of another commits a simple misdemeanor.

- From FY2011-FY2017 charges for 716.7 and 716.8 offenses increased by 26.6%, while convictions increased by 23.8%

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<sup>2</sup> Fineran, S. (2017). The Correctional Policy Project: Iowa Prison Population Forecast FY 2017- FY 2017.



Table 1: Historical Legislation Tracking

Year Enacted	Legislation	FY11	FY12	FY13	FY14	FY15	FY16	FY17	% Change <sup>3</sup>
<b>Synthetic Drugs - Accidental Poisoning as a Result of Substance Use (Source: IDPH)</b>									
FY2011	Hospitalizations (In-Patient)	140	109	107	38	159 <sup>4</sup>	245 <sup>5</sup>	N/A	--%
	ER Visits (Out-Patient)	324	282	262	264	370	663	N/A	--%
<b>Aggravated Theft (714.3A) &amp; Mandatory Minimums for Violent Offenses (711) (Source: JDW)</b>									
FY2010	# Charges- AG Theft	74	129	112	131	114	155	76	2.7%
	# Convictions- AG Theft	56	102	75	104	97	84	52	-7.1%
	# Convictions – Robbery 1	33	26	33	20	24	10	2	-93.9%
	# Convictions – Robbery 2	68	43	54	69	97	71	107	57.4%
	# Convictions – Robbery 3	NA	NA	NA	NA	NA	NA	47	--
<b>70% Crimes 902.12 (Source: JDW and ICON)</b>									
FY1996	# New Prison Admissions	92	89	84	108	106	115	136	48.8%
	# Prison Population	931	964	1,008	1,074	1,119	1,169	1,191	27.9%
<b>Domestic Abuse Enhancement for Strangulation 708.2A(5) (Source: JDW)</b>									
FY2013	# Charges	NA	NA	472	526	544	553	538	14.0%
	# Convictions	NA	NA	43	86	128	100	110	155.8%
<b>Child Pornography Purchase or Possession (Source: JDW)</b>									
FY2013	# Charges	25	30	26	82	198	199	89	--
	# Convictions	3	6	9	22	48	65	28	--
<b>Iowa DNA Hits (Source: IDPS)</b>									
FY2013	# Hits Burglary	126	107	104	129	114	175	143	13.5
	# Hits Sex Offenses	36	36	29	40	43	45	35	-2.8
	# Hits Death	2	4	7	3	1	3	2	0.0%
	# Hits Theft	19	30	31	33	32	46	56	194.7%
	# Robbery	5	4	9	7	6	16	12	140.0%
	# Misc. or No Data	23	22	18	19	18	36	34	47.8%
	# Total Hits	211	203	198	231	214	321	282	33.6%

<sup>3</sup> Percent change was calculated using the earliest and most recent data available.

<sup>4</sup> On October 1, 2015, Iowa hospitals transitioned from ICD-9-CM to ICD-10-CM Codes. With this transition, hospitals are required to use ICD-10-CM to code Inpatient and Outpatient data. Consider this change as a potential cause of any variations that appear to occur between the 2015-2016 data. Use caution in interpreting apparent trends and differences between 2015 and 2016 data.

2015-2016 Synthetic Drug Hospitalization and ER Visit Data updated - combined ICD-9-CM coded data (January – September 2015) and ICD-10-CM coded data (October – December 2015).

<sup>5</sup> 2016 information include six months (January-December 2016) ICD-10-CM data.

Table 1: Historical Legislation Tracking Continued...

Year Enacted	Legislation	FY11	FY12	FY13	FY14	FY15	FY16	FY2017	% Change <sup>6</sup>
<b>Interference with Official Acts 719.1 and 719.2 (Source: JDW)</b>									
FY2014	# Charges	NA	5,797	6,169	5,845	5,528	5,646	5,162	-10.9%
	# Convictions	NA	3,542	3,703	3,463	3,315	2,740	2,895	-18.3%
<b>Coach-Student Sex 709.15 (Source: JDW)</b>									
FY2014	# Charges	NA	5	69	12	22	29	30	-56.5% <sup>7</sup>
	# Convictions	NA	6	11	2	3	11	14	27.3%
<b>Human Trafficking 710A (Source: JDW)</b>									
FY2011	# Charges	0	3	0	6	1	2	4	--
	# Convictions	0	1	0	0	0	0	0	--
<b>Juvenile Sentencing (Source: JDW)</b>									
FY2015	# A FEL Juveniles Incarcerated	37	36	37	40	40	40	35	-5.4%
	# A FEL Juvenile Prison Exits	2	0	1	0	1	5	0	--
FY2014	# 70% Juveniles Incarcerated	64	74	79	92	95	104	86	34.4%
	# 70% Juvenile Prison Exits	5	5	8	2	15	14	34	--
<b>Mandatory Minimums for Drug Offenses 124.401(1) (Source: JDW)</b>									
FY2016	# Drug Prison Exits	1,302	1,565	1,583	1,658	1,512	1,690	1,706	31.0%
<b>Human Trafficking 710A and Kidnapping 710 (Source: JDW)</b>									
FY2016	# Charges Kidnapping	55	71	73	60	60	55	48	-12.7%
	# Convictions Kidnapping	9	15	12	12	13	7	11	22.2%
<b>Trespassing 716.7 and 716.8 (Source: JDW)</b>									
FY2016	# Charges	2,925	3,193	3,273	3,520	3,295	3,521	3,702	26.6%
	# Convictions	2,196	2,276	2,410	2,515	2,347	2,469	2,719	23.8%

<sup>6</sup> Percent change was calculated using the earliest and most recent data available.

<sup>7</sup> % Change was for Coach-Student Sex data was calculated using FY2013-FY2017 figures.