



2017 Public Safety Advisory Board Annual Report

Legislative Recommendations to the General Assembly

December 1, 2017

Primary Author: Sarah Fineran, M.A.

Iowa Department of Human
Rights, Division of Criminal and
Juvenile Justice Planning

Statistical Analysis Center

Steve Michael, Administrator

321 E. 12th Street
Des Moines, IA 50319
(515) 242-5823

<https://humanrights.iowa.gov>



*This report satisfies the PSAB's obligation to submit an annual report
to the Iowa State Legislature by December 1, 2017.*

I. INTRODUCTION

The purpose of the Public Safety Advisory Board (PSAB) is to provide the General Assembly with an analysis of current and proposed criminal code provisions. The mission of this Board is to provide research, evaluation, and data to the General Assembly to facilitate improvement in the criminal justice system in Iowa in terms of public safety, improved outcomes, and appropriate use of public resources.

It should be noted the PSAB considers the impact that various policies and recommendations have on the disproportionality of racial minorities in the justice system. The PSAB carefully explores and considers such impact and makes policy recommendations in an effort to reduce disparities. The following report is a compilation of the PSAB's recommendations to the General Assembly as required. The PSAB respectfully submits this report and welcomes the opportunity to provide any additional assistance to the Iowa Legislature upon request.

II. PRIORITY AREAS FOR THE 2017 LEGISLATIVE SESSION

The following legislative recommendations are deemed areas of high priority by the PSAB for the upcoming legislative session.

Elimination of Certain Driving Sanctions

During the September, 2017 Public Safety Advisory Board meeting a motion carried to support the following:

- Pursue elimination of federal compliance with statute 23 U.S.C. 159¹ through a statement from the Governor and a resolution by the state legislature opposing enforcement
- Modify Iowa Code section 901.5(10)² to eliminate driving sanctions for controlled substance violations
- Eliminate driving sanctions for failure to pay fines under Iowa Code section 321.210A³

Enactment of Anti-Racial Profiling Legislation

During the September 21st, 2016, meeting of the Criminal and Juvenile Justice Planning Advisory Council (CJJPAC), a presentation from the NAACP was made regarding the lack of anti-racial profiling legislation in Iowa. Senate File 2173 was introduced during the 2016 legislative session supporting comprehensive anti-racial profiling laws, but did not pass.

The CJJPAC passed a motion⁴ to recommend the legislature enact anti-racial profiling legislation. This issue was discussed by the PSAB and a motion carried in support of enactment of anti-racial profiling legislation in Iowa.

¹ <https://www.gpo.gov/fdsys/granule/USCODE-2011-title23/USCODE-2011-title23-chap1-sec159>

² <https://www.legis.iowa.gov/docs/code/901.5.pdf>

³ <https://www.legis.iowa.gov/docs/code/321.210A.pdf>

⁴ This motion was passed by the Criminal and Juvenile Justice Advisory Council and was presented for review and adoption by the Public Safety Advisory Board for inclusion in the 2017 PSAB Annual Update report to the General Assembly.

Changes to Iowa's Child Kidnapping Legislation⁵

A 2013 CJP analysis revealed that while child kidnapping in Iowa is rare, a review of the effectiveness of kidnapping laws reveals weaknesses in Iowa's Criminal Code. Currently, the Code does not distinguish between adult and child victims and does not provide for penalty enhancements for repeat offenders. The PSAB believes Iowa's Criminal Code should be strengthened by addressing these weaknesses.

The PSAB specifically offered that Iowa Code §710.3 is narrowly defined and rarely imposed, as it penalizes only kidnapping involving a ransom or dangerous weapon. This section of the Code should be revised to include language making non-parental/custodial kidnapping of a child/minor or any subsequent kidnapping conviction an automatic Class B felony subject to the mandatory minimum contained in §902.12. Additionally, policymakers should clearly define the age of the child/minor so as not to exclude minor victims over the age of 14, as many kidnapping victims are in their mid-teens.

Changes to Iowa's Robbery Mandatory Minimum Sentencing Legislation⁶

A 2013 CJP analysis studied mandatory minimum sentences imposed by §902.12 of the Iowa Code (the "70% rule") and concluded that the current law does not meet the public safety needs of Iowans. Evidence suggests that 70% sentences disproportionately affect minorities; 37% of offenders serving mandatory minimums are African-American, however, African-Americans comprise approximately 26% of the total prison population. The PSAB offers the following recommendations:

- As in current law, robbery should remain a forcible felony that requires incarceration.
- Continue the current 15% cap on earned time for robbery offenses covered by §902.12. While this option contributes to larger prison populations, it permits the incapacitation of some of the prison system's most dangerous and violent offenders, increasing public safety.
- Establish a mandatory minimum term of seven years for Robbery in the First Degree and three years for Robbery in the Second Degree. These recommended minimum sentences are consistent with the average length-of-stay for robbers prior to establishment of the 70% sentence. They would require imprisonment of robbers for a period consistent with the seriousness of robbery offenses while allowing the Board of Parole discretion to consider possible release between expiration of the mandatory minimum and the maximum 85% term. While allowing for earlier release of lower-risk inmates, this proposal also would permit lengthy incarceration of those individuals at high risk to reoffend or those individuals who pose a significant threat to public safety.

Following the PSAB's recommendation for modifications to robbery mandatory minimum legislation, HF2064 was enacted in FY2016. This bill provides modifications to the Iowa Code for crimes including robbery, child endangerment, and drug offenses. Portions of this bill specifically modifying robbery crimes include the following:

- Decreased the mandatory minimum term for parole eligibility for Robbery 2nd offenders to a range of 50% to 70%.

⁵ <https://humanrights.iowa.gov/sites/default/files/media/Child%20Kidnapping%20Report%20FY2014-Final.pdf>

⁶ https://humanrights.iowa.gov/sites/default/files/media/Violent_Offender_70Pct_Report%5B1%5D.pdf

- Established a new crime of Robbery 3rd which is an aggravated misdemeanor, and not subject to a mandatory term.

The PSAB recognizes the efforts of the legislature in the passage of HF 2064. In light of this legislation, the PSAB will continue to support recommendations for modifications to Robbery-1 penalties to align with those changes made for Robbery 2nd offenses.

Modifying Special Sentence for Sex Offenders⁷

Imposition of the special sentence would remain as it is today, with the added provision to give the court the opportunity to review and reduce the special sentence. The change to current policy will be to allow the court to remove an offender from the special sentence supervision based on an evidentiary hearing that reviews information believed to be pertinent to special sentence placement (the nature of the sex offense, the offender's institutional behavior, sex offender treatment compliance, court mandate compliance, victim impact, risk assessment, etc.). This information would then be utilized by the judge to render a judgment as to whether or not continued special sentence supervision is appropriate.

This is a joint recommendation of the PSAB and the Sex Offender Research Council.

III. OTHER RECOMMENDATIONS FROM THE PUBLIC SAFETY ADVISORY BOARD

The PSAB supports the following efforts not requiring specific legislation:

Implementation of Results First in Iowa's Corrections and Juvenile Justice Systems

"The Iowa Public Safety Advisory Board has used the Iowa Results First model to estimate the costs and benefits associated with implementing alternative sentencing strategies and reinvesting projected taxpayer savings in effective programming."⁸ Through the process of cost/benefit analysis, the RF model allows policymakers to evaluate budget decisions, identify programs most effective in affecting outcomes, evaluate program fidelity, and target resources toward more effective programming.

The PSAB continues to support the use of the Results First model to evaluate criminal justice programs in an effort to determine best practice and cost effective services.

Voting Right Restoration for Certain Offenders

The PSAB supports the efforts of the Iowa Legislature to examine voting right restoration for some offenders. The PSAB suggests the Legislature consider which felonies should or should not be eligible for voting right restoration.

⁷<https://humanrights.iowa.gov/sites/default/files/media/An%2520Analysis%2520of%2520the%2520Sex%2520Offender%2520Special%2520Sentence%2520in%2520Iowa%202014%5B1%5D.pdf>

⁸ <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/10/04/the-pewmacarthur-results-first-initiative-in-iowa>