



2018 Public Safety Advisory Board Annual Report

Legislative Recommendations to the General Assembly

December 1, 2018

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*This report satisfies the PSAB's obligation to submit an annual report
to the Iowa State Legislature by December 1, 2018.*

I. PURPOSE

The Public Safety Advisory Board (PSAB) was established in Iowa Code §216A.133 in 2010. At that time, the Criminal and Juvenile Justice Advisory Council (CJJJAC) was tasked with the responsibility of determining membership of the Public Safety Advisory Board (PSAB). On July 21, 2010, the CJJJAC voted to have its membership also serve as the PSAB.

The purpose of the 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 that will enhance public safety, improve outcomes, and demonstrate the effective and efficient use of public resources.

It should be noted the PSAB considers the impact that various policies and recommendations have on the disproportionality of racial and ethnic minorities in the justice system. The PSAB carefully explores and considers such impact and makes policy recommendations in an effort to reduce disparities.

As stated in Iowa Code §216A.133A, the PSAB shall do all of the following:

1. A public safety advisory board is established whose membership shall be determined by the criminal and juvenile justice planning advisory council and shall consist of current members of the council. Any actions taken by the board shall be considered separate and distinct from the council.
2. The purpose of the board is to provide the general assembly with an analysis of current and proposed criminal code provisions.
3. The duties of the board shall consist of the following:
 - a. Reviewing and making recommendations relating to current sentencing provisions. In reviewing such provisions the board shall consider the impact on all of the following:
 - (1) Potential disparity in sentencing.
 - (2) Truth in sentencing.
 - (3) Victims.
 - (4) The proportionality of specific sentences.
 - (5) Sentencing procedures.
 - (6) Costs associated with the implementation of criminal code provisions, including costs to the judicial branch, department of corrections, and judicial district departments of correctional services, costs for representing indigent defendants, and costs incurred by political subdivisions of the state.
 - (7) Best practices related to the department of corrections including recidivism rates, safety and efficient use of correctional staff, and compliance with correctional standards set by the federal government and other jurisdictions.
 - (8) Best practices related to the Iowa child death review team established in section 135.43 and the Iowa domestic abuse death review team established in section 135.109.
 - b. Reviewing and making recommendations relating to proposed legislation, in accordance with paragraph "a", as set by rule by the general assembly or as requested by the executive or judicial branch proposing such legislation.
 - c. Providing expertise and advice to the legislative services agency, the department of corrections, the judicial branch, and others charged with formulating fiscal, correctional, or minority impact statements.

- d. Reviewing data supplied by the division, the department of management, the legislative services agency, the Iowa supreme court, and other departments or agencies for the purpose of determining the effectiveness and efficiency of the collection of such data.
4. The board may call upon any department, agency, or office of the state, or any political subdivision of the state, for information or assistance as needed in the performance of its duties. The information or assistance shall be furnished to the extent that it is within the resources and authority of the department, agency, office, or political subdivision. This section does not require the production or opening of any records which are required by law to be kept private or confidential.
5. The board shall report to the general assembly's standing committees on government oversight all sources of funding by December 1 of each year.
6. Membership on the board shall be bipartisan as provided in section 69.16 and gender balanced as provided in section 69.16A.
7. Meetings of the board shall be open to the public as provided in chapter 21.
8. Members of the board shall receive reimbursement from the state for actual and necessary expenses incurred in the performance of their official duties. Members may also be eligible to receive compensation as provided in section 7E.6.

II. MEMBERSHIP

Thomas Walton, Chair	Nyemaster, Goode, West, Hansell & O'Brien, P.C.	Waukee
Tiffany Allison	Soaring Hearts Foundation	Des Moines
Tammy Bramley	Monona County Board of Supervisors	Ute
Kim Cheeks	Iowa Department of Human Rights Office on the Status of African Americans	Des Moines
DeAnn Decker	Iowa Department of Public Health Division of Behavioral Health	Des Moines
Joel Greer	Mayor, City of Marshalltown	Marshalltown
Amber Markham	Iowa Department of Public Safety	Des Moines
Thomas H. Miller	Polk County Attorney's Office	Des Moines
Andrea Muelhaupt	Iowa Board of Parole	Des Moines
Cody Samec	Iowa Department of Correctional Services Fifth Judicial District	Des Moines
Beth Skinner	Iowa Department of Corrections	Des Moines
Sherri Soich	Office of the Iowa Attorney General	Des Moines
Kurt Swaim	Office of the State Public Defender	Des Moines
Sheriff Tony Thompson	Iowa State Sheriffs' & Deputies' Association	Waterloo
Doug Wolfe	Iowa Department of Human Services	Des Moines
Dale Woolery	Governor's Office on Drug Control Policy	Des Moines
Hon. Romonda Belcher	District Associate Judge, Fifth Judicial District	Des Moines
Hon. Jeffrey Neary	District Court Judge, Third Judicial District	Sioux City
Rep. Zach Nunn	Iowa House - District 30	Bondurant
Sen. Rich Taylor	Iowa Senate - District 42	Mount Pleasant
Rep. Mary Lynn Wolfe	Iowa House - District 98	Clinton
Sen. Brad Zaun	Iowa Senate - District 20	Urbandale

The following report is a compilation of the PSAB's recommendations to the General Assembly as required. *Recommendations supported by the PSAB are based on a majority vote, and are italicized in the body of this report.*

The PSAB respectfully submits this report and welcomes the opportunity to provide any additional assistance to the Iowa Legislature upon request.

III. PRIORITY AREAS FOR THE 2018 LEGISLATIVE SESSION

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

Voting Right Restoration for Offenders

For the last two years, the PSAB has recommended modifications supporting voting right restoration for offenders. On November 15th, 2018 the Governor's Office indicated that 88 offenders have had their voting rights restored through executive clemency by Governor Reynolds. The Governor's Office also indicates there are no pending applications for voting right restoration at this time.

Recommendation: The PSAB recommends the Iowa Legislature take action to restore voting rights for offenders.

Enactment of Anti-Racial Profiling Legislation

During the September 21st, 2016 meeting of the Criminal and Juvenile Justice Planning Advisory Council (CJJ PAC), a presentation from the NAACP was made regarding the lack of anti-racial profiling legislation in Iowa. In 2016 SF 2173 and in 2017 SSB 1177 were introduced supporting comprehensive anti-racial profiling laws, but did not pass.

For the last three years, the PSAB has supported enactment of anti-racial profiling legislation in Iowa.

Recommendation: The PSAB recommends the Iowa Legislature take action to:

- 1) *Define racial profiling*
- 2) *Ban racial profiling*
- 3) *Require law enforcement agencies collect data on officer involved stops*
- 4) *Require review and analysis of law enforcement officer stops data*
- 5) *Require adequate training for law enforcement personnel to prevent profiling*

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

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>

In 2018:

- The Legislature Passed SJR 2007 indicating opposition to suspension of drivers' licenses for drug offenses. The drivers' license suspensions were required by federal law in order to receive federal funds. But this three part process allows states to continue to receive federal funds while not suspending driver's licenses.
- The Legislature passed HF 2502, the "Standings" bill, which repealed current Code language requiring suspension of a person's driver's license for a drug conviction. That language repeal was to take effect when the Governor submitted a certification to the U.S. Secretary of Transportation that the Governor was opposed to the suspension of drivers' licenses for drug offenses.
 - To further elaborate, HF 2502, was enrolled which repealed Iowa Code §901.5(10), which revokes a defendant's driver's license for 180 days if the defendant is convicted of a controlled substance offense under Iowa Code sections 124.401, 124.401A, or 124.402, 124.403. The bill specifies that this change takes effect on the date the Governor submits to the U.S. Secretary of Transportation a written certification that the Governor is opposed to the enforcement in Iowa of a law described in 23 U.S.C. §159(a)(3)(A) and a written certification that the General Assembly has adopted a joint resolution expressing its opposition to the same, in accordance with federal law.
- The Governor sent a written certification to the U.S. Secretary of Transportation. As of July 1, 2018 Iowa does not suspend driver's license for drug offenses.

Recommendation: The PSAB recognizes the efforts of the Legislature. However, the PSAB continues to support further efforts to eliminate driving sanctions for failure to pay fines, penalties, surcharges, or court costs under Iowa Code section 321.210A.

Changes to Iowa's Child Kidnapping Legislation⁴

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.

Recommendation: 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.

⁴ <https://humanrights.iowa.gov/sites/default/files/media/Child%20Kidnapping%20Report%20FY2014-Final.pdf>

Changes to Iowa's Robbery Mandatory Minimum Sentencing Legislation⁵

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. The recommendation 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 modified robbery crimes include the following:

- Decreased the mandatory minimum term for parole eligibility for Robbery 2nd offenders to a range of 50% to 70%.
- Established a new crime of Robbery 3rd, an aggravated misdemeanor and not subject to a mandatory term.

Recommendation: 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 Offenders⁶

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

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

⁶https://humanrights.iowa.gov/sites/default/files/media/An%2520Analysis%2520of%2520the%2520Sex%2520Offender%2520Special%2520Sentence%2520in%2520Iowa_2014%5B1%5D.pdf

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.

Recommendation: For the last two years, the PSAB and the Sex Offender Research Council have supported a joint recommendation to modify this policy.

IV. 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."⁷ Through the process of cost/benefit analysis, the Results First model allows policymakers to evaluate budget decisions, identify programs most effective in affecting outcomes, evaluate program fidelity, and target resources towards more effective programming.

Recommendation: 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.

⁷ <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/10/04/the-pewmacarthur-results-first-initiative-in-iowa>