

IOWA POLICE JOURNAL

OFFICIAL PUBLICATION FOR THE IOWA STATE POLICE ASSOCIATION

LEGISLATIVE UPDATE

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The 2017 Iowa Legislative session adjourned Sine Die on Saturday, April 22, with the House adjourning at 7:14 a.m. and the Senate wrapping up at 7:16 a.m. The session, which began January 9, lasted 104 days.

It was the most active year for law enforcement in several years. The following bills are the most important and controversial bills passed by the 2017 session, dealing with safer roads, drugs, controversial prohibitions on worker's rights and issues affecting the jobs of public safety personnel.

24/7 SOBRIETY/SAFER ROADS: [Senate File 444](#) establishes a sobriety treatment program that has been successful in other states to combat drunk driving. It also makes changes with hand-held communication devices if a Class C felony is committed. The Iowa State Police Association (ISPA) unsuccessfully supported this bill last legislative session, and now it will be law. Current law states that a person commits a Class C felony when the person unintentionally causes the death of another person by driving a motor vehicle in a reckless manner. This bill states that usage of a hand-held electronic communication device while driving a motor vehicle will be considered **prima facie evidence** that the offender was driving the motor vehicle in a reckless manner and is subject to a Class C felony. The bill also directs the Department of Public Safety (DPS) to establish a statewide sobriety and drug monitoring program (also known as a **24/7 Sobriety Program**) and **allows local jurisdictions to apply for participation**. Participating law enforcement agencies are directed to set up a Sobriety Program Account to collect participant, enrollment and testing fees. The DPS is also required to provide and approve the use of a program data management system for reporting on the program.

The Judicial Branch, the Department of Corrections (DOC) and the Board of Parole (BOP) may order or place a participant in the 24/7 Sobriety Program as a condition of any bond or pretrial release, receipt of a suspended sentence or probation or as a condition of parole. An eligible offense for placement in a 24/7 Sobriety Program includes: (1) A first offense in which the offender's blood alcohol content is higher than 0.15; (2) A first offense in which an accident resulted in personal injury or property damage; (3) A first offense in which the offender refused to submit to a chemical test, or; (4) A second or subsequent offense. A person who has not been required to participate but has been charged with, pled guilty to or been convicted of an eligible offense **may voluntarily request to participate** in the 24/7 Sobriety Program in a participating jurisdiction. A participant in the program must also install an ignition interlock

device on all motor vehicles they own or operate. The DPS is required to submit a report to the General Assembly outlining the effectiveness of the program and making recommendations by December 1, 2021. The 24/7 Sobriety Program is repealed as of July 1, 2022. [Senate File 444](#)

TEXTING WHILE DRIVING AS A PRIMARY OFFENSE: [Senate File 234](#) resulted from a collaborative effort involving law enforcement groups, treatment personnel and bicycle enthusiasts headed up by the DPS. Our association supported this program the last two years. This year it has become law. The bill prohibits drivers from using an electronic communication device to text or view digital media while operating a motor vehicle unless the motor vehicle is at a complete stop off the traveled portion of the road. The act amends Iowa Code section 321.276 to change the use of an electronic communication device while driving from a secondary offense to a **primary offense. This act allows for a law enforcement officer to pull over a driver exclusively for violation of this provision.** A person found in violation of this statute is subject to a scheduled fine of \$30. ISPA had also supported the DPS "Hands Free Driving" bill, which did not pass. While not "hands free," this bill because is stricter than current law (which allows officers to issue tickets for texting only after drivers have been pulled over for some other offense, such as speeding or running a stop sign). It allows drivers to still use cellphones for GPS purposes and to make phone calls. [Senate File 234](#)

DOT OFFICERS ISSUING TICKETS: Lawmakers ended up giving Iowa transportation officers a **one-year okay** to continue to write speeding and other tickets to non-commercial drivers. If signed by the governor, the provisions will sunset the explicit okay for DOT officers to enforce most state laws on July 1, 2018. That gives the state a year to more fully review whether and how a separation of powers and duties between various peace officers of the state is appropriate. Our association supported DOT officers but the highway patrol resisted this bill.

LAW ENFORCEMENT PRIVILEGE: [Senate File 445](#) For two years, ISPA has had as a priority resolution protecting law enforcement personal information. We also supported a bill increasing sentences for attempted murder of a peace officer. However, ISPA has traditionally opposed changing the penalties for crack cocaine, lowering drug minimum mandatory sentences and reconsideration of a felon's sentence. This bill, passed at the end of session, contains all of those provisions: (1) It establishes law enforcement officer privilege and the confidentiality of certain law enforcement officer personnel records. It states that a law enforcement officer is not required to disclose certain information in criminal proceedings, including personal identifying information about themselves or immediate family members. (2) The bill modifies criminal penalties for cocaine possession — current law contains disparities in the penalties for crack cocaine compared to powder cocaine. This bill reduces the penalties for crack cocaine to lessen that disparity. The bill removes the mandatory minimum sentence for a Class C felony of cocaine possession and the limitations to release on parole, work release and earned time. (3) This bill establishes that an offender attempting to commit murder against a peace officer, knowing that the person is a peace officer while that officer is acting within the officer's official capacity, will serve 100 percent of the prison sentence imposed and will be denied parole, work release or any other early release. Attempted murder is a Class B felony, punishable by confinement for no more than 25 years. Current law requires a 70 percent mandatory sentence for an offender convicted of attempted murder. This bill also prohibits an offender convicted of attempted murder against a peace officer from accumulating earned time by establishing a category C sentence. (4) Finally, it deals with reconsideration of a felon's sentence — current law states that within one year from when an offender is convicted of a felony other than a Class A felony or a felony requiring a minimum mandatory sentence, the offender may be resentenced by the court. This bill would make that reconsideration of a felon's sentence possible for an

offender serving a minimum mandatory sentence, but not an offender serving a sentence for a Class A felony or a Class B felony. [Senate File 445](#)

SEARCH WARRANTS, ELECTRONIC APPLICATIONS TO COURT: [Senate File 358](#) allows for the application for and issuance of a search warrant by electronic means. Our association supported this measure. The act permits the Judicial Branch to establish the processes and procedures for the electronic submission of an application for, and issuance of, a search warrant. In addition, the bill allows for the written inventory of any property seized to be filed with the clerk of the district court. An electronic submission system for the application for, and issuance of, search warrants would not be implemented until the necessary technology funds are available within the Judicial Branch operating budget. The estimated cost of completing the project is approximately \$75,000. ISPA supported this legislation. [Senate File 358](#)

MEDICAL CANNABIS OIL: Our association was neutral on this legislation which passed the last day of session. It is narrower than a wide-ranging medical marijuana bill approved this session by the Iowa Senate. It expands the list of debilitating medical conditions in Iowa eligible for a marijuana extract known as cannabis oil to include cancer, Parkinson's disease, AIDS or HIV, multiple sclerosis, terminal illnesses with severe pain, as well as epileptic seizures and some other ailments. Smoking of the drug is prohibited and only Iowa doctors will be allowed to recommend it. Patients and primary care givers may obtain a card from the Iowa Department of Health that must be renewed annually. [House File 524](#)

IMITATION CONTROLLED SUBSTANCES: [House File 296](#) relates to controlled substances and modifying procedures relating to the temporary designation of substances as controlled substances and enhances penalties for imitation controlled substances and certain controlled substances. The bill allows the Board of Pharmacy to designate substances as temporary controlled substances by rule but repeals the designation in two years if the legislature does not act. The bill increases penalties for fentanyl offenses to Class B felony/50 years and Class B felony/25 years offenses. It also rewrites provisions on imitation controlled substances and adds penalties for the sale or distribution of such substances. The bill makes penalties the same as for Schedule I controlled substances and requires a law enforcement officer to attempt to notify the parents of a juvenile for an offense involving imitation drugs, unless it is not in the best interest of the child. It also requires a juvenile court officer to notify the school about a juvenile in custody. Our association worked with Iowa's drug tsar and other law enforcement groups for four years to get this comprehensive bill passed. [House File 296](#)

DRUG ENDANGERED CHILD: [House File 543](#) deems that an unmarried child who is exposed to drug endangerment as defined by the bill can be considered an abused child and therefore subject to a "Child in Need of Assistance" designation. The bill defines "drug endangered" as when the parent, custodian, guardian or any other adult member of the household in which a child resides (defined as in a child's home, on the premises and in a motor vehicle located on the premises) does any of the following: unlawfully uses, possesses, manufactures, cultivates or distributes a dangerous substance or allows anyone in the presence of a child to do same, he or she is guilty of child abuse. A dangerous substance is defined as amphetamine, methamphetamine, cocaine, heroin, opium and opiate or any chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire or other danger to the life and health of a person if intended to be used to manufacture an illegal or controlled substance or a precursor.

Our association worked with Iowa's drug tsar, DHS, hospitals, child advocacy groups and other law enforcement groups for two years to get this comprehensive bill passed. [House File 543](#)

PRESCRIPTION CONTROLLED SUBSTANCES: This bill, supported by ISPA requires pharmacies to do daily reporting of controlled substance prescriptions that are covered under drug prescribing and dispensing program. It allows the Board of Pharmacy to enter into an agreement for the exchange of information for the prescription monitoring program with any state, rather than just border states. [House File 524](#)

DOMESTIC ABUSE ASSAULT/ UNAUTHORIZED GLOBAL POSITIONING

DEVICE/STALKING: [House File 263](#), supported by our association, expands the definition of stalking to include the unauthorized placement of a global positioning device with the intent to intimidate, annoy or alarm another person without the consent of that person and provides tougher criminal penalties for repeated incidents of domestic violence. The measure also reduces the standard for prosecutors to bring stalking charges. Additionally, to be eligible for a reduction of sentence, the offender needs to have completed a domestic abuse treatment program if the offender is required to participate in one. Finally, under this act, the BOP is required to develop a risk assessment validated for domestic abuse-related offenses in consultation with the DOC. This risk assessment would be used by the BOP when determining the appropriate conditions for release. Another provision of this act is that a person placed on probation, parole, work release or any other type of conditional release for domestic abuse assault may be supervised in a program that includes the use of an electronic tracking and monitoring system. [House File 263](#)

INVASION OF PRIVACY, REVENGE DISTRIBUTION OF MATERIAL: [House File 526](#) creates two additional criminal offenses related to invasion of privacy and was supported by ISPA. Current law regarding invasion of privacy does not address situations where the victim had given prior consent to being photographed or filmed, but not to dissemination of the photograph or film. This act establishes two additional invasion of privacy criminal offenses that would be aggravated misdemeanors punishable by confinement for no more than two years and a fine of at least \$625 but no more than \$6,250. Those offenses are: (1) 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; (2) 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. [House File 526](#)

E911 CONSOLIDATION: [Senate File 500](#) supported by our association deals with the E911 emergency telephone communication systems and E911 surcharge fund and makes the following changes: the bill modifies and adds technological terminology related to E911 emergency telephone communication systems and allows the distribution and permissible expenditures of the E911 emergency communications service surcharge. The bill limits the definition of consolidation with respect to grants provided to Public Safety Answering Points (PSAPs) and adds a member to the existing 13 members of the E911 Communications Council that would be appointed from the Iowa Geographic Information Council. It also requires the HSEMD to develop a plan to combine the wireline E911 network with the next generation E911 network. Additionally, it changes the amount of funds available for local PSAPs consolidation grants from \$4.4 million to \$7.0 million, and specifies that these consolidations would be physical rather than virtual. It also combines existing language allowing PSAPs to use E911 surcharge funds for costs related to receipt and disposition of E911 calls as well as costs to access the state's Interoperable Communications System. The PSAPs can currently use E911 surcharge funds for radio systems, and the intent of this provision is to remove redundant language from the Iowa Code. [Senate File 500](#)

CIVIL ASSET FORFEITURE: [Senate File 446](#) includes a prohibition on civil asset forfeiture for property valued at less than \$5,000 will be prohibited unless the criminal charges resulted in a conviction, increases the standard of proof required for asset forfeiture to "clear and convincing evidence" rather than a "preponderance of evidence," requires a proportionality review with regard to property to be forfeited, and requires law enforcement agencies to retain certain records related to asset forfeiture. Law enforcement groups worked with the Senate to improve the initial legislation but remained "undecided" on the bill. [Senate File 446](#)

GUN RIGHTS: Rights of gun owners were expanded with an extensive list of changes in state laws. ISPA was "undecided" on [House File 517](#). We did have as a priority for the association legislation (**ISPA Resolution #4**) that would allow peace officers to go anywhere in the state at all times, "including on the grounds of a school." We were able to get that provision in this bill — see page 5, section 10(1)(c). The legislation as a whole specifies that reasonable force, including deadly force, may be used even if an alternative course of action is available, if the alternative action entails a risk to life or safety, or the life or safety of a third party. In addition, the bill allows persons with permits to carry weapons to possess concealed handguns in the Iowa Capitol and strikes possible restrictions on firearms sales during an emergency. The bill also allows children to possess a pistol or revolver while under direct supervision of a parent or guardian who is at least 21 years old. Some other provisions will create a uniform permit to carry weapons and provide for five-year permits to acquire handguns rather than single-year permits. The bill also ensures permit-holder confidentiality, adds penalties for illegal sales and legalizes short-barreled rifles and short-barreled shotguns. [House File 517](#)

ROLLBACKS FOR COLLECTIVE BARGAINING: After exhaustive debates that included an all-night Senate floor session, the republican majority approved a proposal to dramatically scale back a four-decades-old collective bargaining law that governs union contract negotiations for the state's 184,000 public employees. No democrats supported the bill. Under the legislation, most public-sector union contract negotiations will be limited to base wages. Unions will be banned from negotiating with their employers over issues such as health insurance, evaluation procedures, staff reduction and leaves of absence for political purposes. However, public safety workers such as police and firefighters will have a broader list of issues to be considered in contract talks. All unions will be barred from having union dues deducted from public employees' paychecks and unions will need to be recertified prior to every contract negotiation. The legislation also changes the arbitration process when contract talks reach an impasse. Currently, the union and management will make their best offers and an independent arbitrator will be required to choose the most reasonable of the two. The legislation requires an arbitrator to consider the employer's ability to finance any wage increase. It also puts a cap on how much an arbitrator can raise wages. The wage increase could not exceed whichever is lower: 3 percent, or a percent equal to the cost of living increase outlined in the consumer price index. There are two lawsuits filed against the bill by the American Federation of State, County and Munciple Employees (AFSCME) Council 61 and the Iowa State Education Association (ISEA). Our association opposed this bill. [House File 291](#)

WORKERS' COMPENSATION CUTS: Legislation was approved to reduce workers' compensation after a heated debate over the importance of Iowa's business climate versus the interests of injured workers. The bill cuts workers' benefits, changes the qualifications for benefits and reduces a key interest rate calculation. The bill was supported by republicans and opposed by democrats in both chambers. ISPA registered against this bill. [House File 518](#)

BENEFITS FOR FELONS: [Senate File 467](#) provides that a person convicted of certain felonies perpetrated against a decedent in the six months immediately prior to the decedent's death is not entitled, as a named beneficiary of a bond, life insurance policy or any other contractual arrangement, to any benefit under the bond, policy or other contractual arrangement, and the benefits become payable as though the person causing death had predeceased the decedent. However, the bill allows such a decedent, in the six months prior to death, to affirm by affidavit that the named beneficiary should receive the described benefit despite the felony conviction. Our association supported this bill. [Senate File 467](#)

Of course not every bill won final approval. Here are some of the 2017 "dead" bills ISPA was involved in:

POLICE STOPS/PROFILING, OPPOSED by our association, did not make the first funnel. The bill required standardizing collection and centralizing the compilation and reporting of officer stop and compliant data, providing for officer training, creating a community policing advisory board and also provided for penalties and remedies. [House File 499](#)

DEFINED PENSION PLANS, OPPOSED by our association, died in the first funnel. The bill provided for the development of a mandatory defined contribution pension plan for public employees. [Senate File 45](#)

PENSION AS GENERAL PURPOSE, OPPOSED by our association, died in the first funnel. It would have allowed cities to move police pension benefits from essential purposes to general purposes for bonding. Under Code chapter 384, a city may approve the issuance of general obligation bonds to carry out an essential corporate purpose without approval by voters at an election, while the issuance of general obligation bonds to carry out a general corporate purpose generally **requires approval by voters at election.** [House Study Bill 91](#)

EXEMPTING RETIREMENT INCOME (Resolution #1): Due to the state budget decline, this bill (which is one of our conference resolutions) did not have a chance but it would have increased the amount of retirement income that is exempt from the individual income tax and had retroactive provisions. [Senate File 485](#)

STATE CONTRIBUTION TO 411 SYSTEM: An annual attempt to make the state live up to its original commitment to contribute to the 411 system failed to pass again this year. [Senate Bill 195](#)

APPOINTMENT OF SPECIAL PROSECUTOR, OPPOSED by our association. The bills required the appointment of a special prosecutor after a peace officer discharges a firearm while on duty that results in a bodily injury, serious injury or death. [House File 587, Senate File 370](#)

WIRE CRIME FUND AND FEES, SUPPORTED by our association, died in the final hours of session. The bill dealt with narcotics criminal charges and fees by assessing a drug paraphernalia surcharge, creating a money transfer service fee under the control of the DPS. [House File 615](#)

CRACKDOWN ON HIGHWAY PROTESTS: Political activists who block traffic on Iowa's roads are now usually cited with a simple misdemeanor offense and fined \$35, but [Senate Study Bill 1135](#) would have stiffened the penalties by classifying a first offense as a serious misdemeanor with punishment of up to a year in prison and fine of up to \$1,875. A similar bill was filed in the

House, but neither won full chamber approval. The measures were drafted in response to an incident in November, when more than 100 protesters blocked eastbound traffic on Interstate Highway 80 in Iowa City for about 30 minutes to protest Donald Trump's presidential election. [Senate Study Bill 1135](#)

LEGALIZING MACHINE GUNS: Iowa would have eliminated a prohibition on possession of machine guns under [Senate File 108](#). The measure would have applied only to machine guns manufactured before 1986, and it would have required an extensive federal background check, filling out paperwork and obtaining a tax stamp. Some other parts of the bill, however, have been attached to omnibus gun rights legislation, including provisions to allow possession of short-barreled rifles and short-barreled shotguns. [Senate File 108](#).

REDUCED MARIJUANA PENALTIES: Legislation that would have reduced criminal penalties for possession of a small amount of marijuana was approved by a Senate subcommittee but failed to advance further. [Senate File 280](#) would have classified possession of five grams or less of marijuana as a simple misdemeanor for a first-time offender. Violators could be ordered to spend up to 30 days in jail and fined \$325. Under current law, a first-time offense for marijuana possession is a serious misdemeanor, punishable by up to six months behind bars and a fine of up to \$1,000. ISPA was against this bill. [Senate File 280](#)

CAPITAL PUNISHMENT: Sen. Jerry Behn, R-Boone, led a push to reinstate the death penalty, but only for multiple offenses in which a minor was kidnapped, raped and murdered. The bill was scheduled for a subcommittee hearing, but it was canceled and never rescheduled, although the issue could resurface next year. [Senate File 335](#)

BICYCLE SAFETY: Lawmakers again debated whether to establish rules for safely passing bicycles on Iowa's roads and requiring rear-facing bicycle lights to be used at night. Our association supported the bill. The legislation could not generate enough support to win approval because the bikers were divided on the issue of rear-facing and front-facing lights on their bikes. [House File 513](#)

BAN ON TRAFFIC ENFORCEMENT CAMERAS: The Senate rejected a statewide ban on automated traffic enforcement cameras used to issue tickets to motorists for speeding and running red lights. Instead, the Senate amended a bill with the goal of keeping traffic enforcement cameras while imposing a new set of regulations to govern the devices. The measure the passed the Senate but died in the House. [Senate File 220](#)

SANCTUARY CITIES: Iowa cities and counties would have been prohibited from enacting "sanctuary" policies to provide safe havens for undocumented immigrants under a bill approved by the Iowa Senate that died in the House. The measure would have barred a local government from receiving state funds if the legislation was violated. It would have required Iowa law enforcement agencies to comply with federal immigration detainer requests for persons in their custody. [Senate File 481](#)

75 MPH SPEED LIMIT: Iowa motorists could have driven at 75 mph on interstate with passage of a Senate bill. The bill has been proposed in the past few years and has attracted some interest, but not enough to pass either chamber. [Senate File 289](#)

ASSAULT WEAPON SALES: Iowa would have banned the sale or transfer of semi-automatic assault weapons under this proposal. [House File 157](#)

IMMUNITY FOR ALCOHOL OVERDOSE ASSISTANCE: This bill provided immunity from criminal offenses and disciplinary sanctions for people who report or require emergency assistance for alcohol overdoses. A person would not be charged or prosecuted for public intoxication, etc., if the person in good faith sought emergency assistance for another person.

[Senate File 415](#)

SEALING OF JUVENILE DELINQUENCY RECORDS: This bill amended current law to allow the sealing of records without meeting current code requirements if a person was convicted of a felony or an aggravated or serious misdemeanor and 10 years have passed without another infraction. [Senate File 434](#)

MOTOR VEHICLE INSURANCE VERIFICATION PROGRAM: This bill would have established a motor vehicle insurance verification program administered by DOT to implement an internet services model for insurance verification. Information would be confidential but could be used by law enforcement agencies and police officers for official purposes. [House File 604](#)