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## Statehouse Update - 4/10/2006

by Marty Ryan, Legislative Director

### End in sight?

Unless something unusual happens, this will be the final *Statehouse Update* of the year.

Last year, about this same time, we thought the end was in sight, but it was May 20th before the resolution *sine die* was introduced. This year's end could be similar to last year's, or we could be done as early as later this week – but don't count on it.

Two bills of major civil liberties concern remain alive for the year:

[HF 2351](#) EMINENT DOMAIN – “Highlights of the Senate amendment ([S-5118](#)), which is more restrictive than the current law and HF 2351, include:

- Restricting the use of eminent domain for economic development purposes.
- Putting the burden of proof upon the City Council or County Board of Supervisors which claims that their use of eminent domain is within the definition of public use.
- Increasing “just compensation” due the landowner whose land is being taken for public projects.
- Prohibiting City Councils from condemning land outside their city limits.

“The new proposal will allow local governmental officials to continue to use eminent domain for public improvement projects, including sewers, streets and drinking water projects.” *Iowa Legislative News Service Bulletin, March 23, 2006.* NOTE: Amendment [S-5118](#) will most likely be replaced by [S-5166](#), a bipartisan effort that is basically the same as [S-5118](#), but with a few changes. **ACLU-IA SUPPORTS (at this time).**

**[HF 2750](#) – DEPARTMENT OF CORRECTIONS OMNIBUS – Enhances the penalty for sexual misconduct with offenders from an aggravated misdemeanor to a class “D” felony; defines the classification of each correction facility (i.e. medium security, maximum security, etc.) and puts it in the Iowa Code; requires child support to be deducted from offender accounts before any other restitution**

amounts; increases the fees for probation supervision from \$250 to \$300; and makes other substantive and non-substantive changes pertaining to corrections. **ACLU-IA OPPOSES.** We expect that this bill will have an amendment attached to it that will make changes in Iowa's draconian sex offender laws. However, the 2,000 feet residential restriction, which was initially going to be a part of the revised law, is now going to be unchanged. James Q. Lynch, Negotiators agree to keep 2,000-foot sex offender rule, *Cedar Rapids Gazette*, April 6, 2006. Page 8A.

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The following is a few bills registered on by the ACLU of Iowa during the 2006 session of the 81st Iowa General Assembly that have been sent to the governor for his approval or veto. Information below originated from Iowa Legislative News Service Bulletins.

**SF 2267** SHARING THE ROAD - Requires drivers' education classes to cover sharing the road with motorcycles. Allows for persons convicted of certain right-of-way moving violations to be subjected to increased penalties in certain cases. **ACLU-IA OPPOSED.**

The **House PASSED** the bill, 91-3; it now goes to the **Governor**

**SF 2342** ASSOCIATE DISTRICT JUDGES & MAGISTRATES - Increases the number of district associate judges that can be appointed. Allows the chief judge of a district to substitute three magistrates for vacant district associate judges, but requires approval from the Iowa Supreme Court and the majority of judges in the district. Allows a majority of the judges in the district to terminate a substitution order. **ACLU-IA is UNDECIDED.**

The **House PASSED** the bill, 86-12; it now goes to the **Governor**

**SF 2207** NEWSPAPER NOTICE - Allows notices required by law to be published in a newspaper, to be published in newspapers that publish primarily, rather than wholly, in English. **ACLU-IA SUPPORTED.**

The **House PASSED** the bill, 96-0; it now goes to the **Governor**

**HF 2624** DNA FILINGS - Allows an indictment to be filed with only DNA information. Requires that an indictment be filed within three years from when the person is identified by the profile. **ACLU-IA OPPOSED.**

The **Senate PASSED** the bill, 50-0; it now goes to the **Governor**

**HF 2652** PROTECTIVE AND NO CONTACT ORDERS - Consolidates provisions on criminal no contact orders and civil protective orders. Defines a no-contact order to mean a court order issued in a criminal proceeding and a protective order to mean other protective orders. Strikes provisions which do not consider domestic abuse convictions,

or deferred judgments, that are more than 6 years old in determining if another offense is a second or subsequent offense. **ACLU-IA is UNDECIDED.**

The **Senate PASSED** the bill, 50-0; it now goes to the **Governor**

**HF 2697** JAIL MEDICAL CHARGES - Allows a county jail or municipal holding facility to charge a prisoner for any medical aid provided to that prisoner. **ACLU-IA OPPOSED.**

The **Senate PASSED** the bill, 48-1; it now goes to the **Governor**

**SF 2219** HUMAN TRAFFICKING - Establishes felony penalties, ranging from Class "D" to Class "A" for persons who commit, or entice others to commit various human trafficking and forced labor offenses. Establishes protections for the victims of such crimes, including affirmative defenses for any crimes that may have been committed under duress, and gives the victims a private right of action. Establishes the amounts of wages that the victim can collect, and directs the Attorney General to assist these victims. Requires that a corporation convicted of such crimes be dissolved. Authorizes the forfeiture of property due to these crimes.

**S-5142** by the **House** - Eliminates felony provisions covered in other parts of the Code and establishes penalties ranging from Class "D" to a Class "B" felony for human trafficking offenses. Establishes an affirmative defense for a human trafficking victim who commits an illegal act under duress. Requires the court to consider the gross income of the defendant and the value of the services performed by the victim when ordering restitution. Requires notification of the AG when a law enforcement agency is investigating such a crime. Requires the AG to communicate with the federal government to make the victim eligible for federal benefits. Gives victims of human trafficking the same status as refugees regardless of their immigration status. Makes human trafficking victims eligible for victim assistance benefits. Requires the ILEA to adopt training standards. Requires the training standards to include classes on cultural sensitivity and dealing appropriately with victims of human trafficking. Encourages communications in the native language of the victim. Requests an interim study on the needs of victims and agencies in regard to human trafficking crimes. Makes technical corrections. **ACLU-IA is UNDECIDED.**

The **Senate CONCURRED & PASSED** the bill, 50-0; it now goes to the **Governor**

**HF 2365** DISORDERLY FUNERALS - Prohibits a variety of disruptive conduct aimed at disrupting a funeral, or one hour before of after a funeral. Makes first offense a simple misdemeanor, second offense a serious misdemeanor and third offense a Class "D" felony.

**H-8137** by the **Senate** - Sets all distances for protesting at 500 feet. Makes the bill effective on enactment. **ACLU-IA is UNDECIDED.**

The **House CONCURRED & PASSED** the bill, as amended, 99-0; it now goes to the **Governor**

**HF 2398** FAILURE TO STOP - Increases the penalty for drivers who fail to stop and offer assistance in an accident to an aggravated misdemeanor if the accident results in serious injury and a Class "D" felony if the accident results in death. **ACLU-IA OPPOSED.**

The **Senate PASSED** the bill, 50-0; it now goes to the **Governor**

**HF 2590** SECRET EMERGENCY PROCEDURES – Makes an exception to the Open Record Law concerning security procedures or emergency preparedness information by a governmental body. Provides confidentiality to the governmental body for the protection of persons under the care of the body, if such disclosure could reasonably be expected to jeopardize such persons' safety. **ACLU-IA OPPOSED.**

The **Senate PASSED** the bill, 50-0; it now goes to the **Governor**

**SF 2362** SUBSTANCE ABUSER COMMITMENTS - Requires the evidence for the support of an involuntary commitment for chronic substance abusers be presented by the county attorney, or the applicant for the commitment, or an attorney for the applicant. Requires the doctor or professional who examined the abuser be present at the hearing unless the court finds that testimony from the person is not needed. Allows the use of a written report as evidence in those cases. Makes language changes. **ACLU-IA is UNDECIDED.**

The **House PASSED** the bill, 99-0; it now goes to the **Governor**

**HF 722** PRESCRIPTION DRUG DATABASE - Requires the Board of Pharmacy Examiners to establish a prescription drug database to help track the misuse or diversion of prescription drugs. Requires pharmacies to report specific information. Establishes an advisory council. Makes the information confidential and establishes criteria for who is eligible to request information from the database. Gives liability protection to pharmacies and prescribers who use the database and allows them to lawfully give that information to any other person for medical care purposes. **ACLU-IA OPPOSED the original bill.**

**H-8438** by the **Senate - *A Strike & Replace***: Requires the creation of the prescription drug database but limits the access to the database to pharmacists and prescribers, or under a subpoena. Allows prescribers to delegate program information access to another licensed health care professional only in emergency situations. Creates the Advisory Council. Establishes annual reporting requirements. Creates education and outreach programs, including information involving substance abuse. Creates a drug information program fund. Establishes a Class "D" felony for unlawful releases of information. Defines a prescribing practitioner to mean a practitioner who has prescribed or considered prescribing for the patient about whom information is

requested, and defines pharmacist to mean a practicing pharmacist who is involved in the pharmaceutical care of the patient. Contains other related provisions similar to the bill. Although the ACLU-IA was instrumental in drafting amendment [H-8438](#), **ACLU-IA remains opposed** to the bill because of the concept.

The **House CONCURRED & PASSED** the bill, 96-0; it now goes to the **Governor**

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