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## Statehouse Update - 2/25/2006

by Marty Ryan, Legislative Director

### Preposterous!

The big news around the Capitol this week was the passage of a death penalty reinstatement bill by the [House Judiciary Committee](#). It passed out of committee on a straight party line vote. That was expected, primarily because it's a political issue and has very little to do with actually trying to reinstate capital punishment in Iowa.

[House File 2286](#) was introduced on Tuesday, February 7, 2006 (House Journal p. 223). It was immediately assigned to the Committee on Judiciary, but a subcommittee was not assigned to the bill until 2 weeks later (H.J. p. 372). The announcement of the subcommittee was published in the House Journal for Wednesday, February 22, which is unavailable for distribution until Thursday, February 23, the day of the Judiciary Committee meeting in which the bill was taken up for consideration.

A notice for a subcommittee meeting on HF 2286 was published at 1:51 PM on Wednesday. Guess what? The subcommittee meeting was to take place at 2:00 PM, nine minutes after the notice was published. There were no lawyers assigned to the subcommittee, even though the issue of capital punishment reaches the U.S. Supreme Court more often than any other issue, and results in more written legal opinions than any other criminal or civil law matter. The manner in which procedure on this bill was conducted is preposterous. Was this strategy designed to avoid messy legal arguments and the exposure of nasty constitutional flaws and get the bill to the whole committee as quickly as possible, thereby allowing the media to spin the issue for particular political posturing? Preposterous!

About one-half of the House Judiciary Committee members commented on the bill. Some were for it; some were against it. One of those speaking in favor of the bill was [Rep. Danny Carroll](#) (R-Grinnell). Rep. Carroll warned that "without a doubt we should move carefully". What has been described above is not careful moving of a bill through the legislative process, especially since [Rep. Dwayne Alons](#) (R-Hull) claimed that most other nations have the death penalty. Later in the discussion, [Rep. Kurt Swaim](#) (D-Bloomfield) would correct Rep. Alons' statement, without personally admonishing the statesman from Northwest Iowa, by pointing out that China, the US, Iran and Vietnam

account for 97% of all executions in the world today.

[Rep. Joe Hutter](#) (R-Bettendorf) reminded the Committee that “this [bill] is restricted”. Yes, we’ve heard that before. But get it into the Code and the expansion begins; just like the occupations we define in section [708.3A](#), the Code section on assault in which assaulting a member of a particular group will get you an enhanced penalty. It began with police officers (1995) and has been Spandexed over the years to include health care providers (1996), jailers and correctional staff (1998), firefighters (1999), and parole board members and employees of the Department of Human Services (2004). There’s a bill this year to add umpires, referees, etc. We call these bills “Animal Farm Bills”.

The death penalty does not deter; is not guaranteed to be applied equitably; carries no guarantee that innocent persons might not be executed; and is more expensive by far than our present procedure of life without parole for persons committing murder.

### **Justiciability**

Another political question to hit the committee trail this week has been [House Study Bill 550](#). This bill consists of three sections. The first section basically says that the governor may still have the constitutional power to grant reprieves, pardons, and commutations of sentences under Article IV, section 16, but only as the Legislature so desires. Sort of takes the constitutional power away, doesn’t it?

Section 2 of the bill is a dandy. It dictates that county auditors must rescind and cancel the voter registration of any ex-felon who registered to vote after July 4, 2005. Section 3 of the bill makes the act effective retroactively to July 4, 2005.

- Voting is a fundamental right.
- Basing the right to vote on whether someone has paid restitution constitutes a poll tax and violates the 24th Amendment to the US Constitution.
- Perhaps ex-felons who are “off-paper” should be able to have their taxes waived until restitution is paid since they have no representation regarding their taxation. This proposition would also help victims recover restitution quickly.

**A few bills registered on by the ACLU of Iowa during the 2006 session of the 81st Iowa General Assembly. Not all bills are listed; only those that have some significance or civil liberties importance. Some of the following are dead. All bills in which the ACLU-IA is registered “undecided” have not been included. Bills are NOT listed in any particular order.**

**The ACLU of Iowa SUPPORTS the following bills:**

HF 367, HSB 220, SF 406 HSB 692 SSB 3126 & SSB 1308 – These bills relate to the establishment of state and school antiharassment and antibullying policies.

HF 2425 – The Death with Dignity Act.

HF 2381 – A bill that relates to sealing juvenile court records.

HF 2298 – Prohibits an inmate in Iowa from being housed in a private prison.

HF 605 – Authorizes schools to provide comprehensive (age-appropriate and science-based) sexual health education.

SF 2146 – Limits canine drug searches to certain instances and requires them to be videotaped. (ACLU-IA bill.)

HF 2183 – Eliminates mandatory-minimum sentences.

HSB 595 – Allows a person to contribute to a statewide nonprofit legal aid organization in lieu of community service.

**The ACLU of Iowa OPPOSES the following bills:**

HF 2286 & SF 2010 – Reinstatement of the death penalty in Iowa.

HF 2446 – A bill denying services to noncitizens of the United States.

House Study Bill 714 and Senate Study Bill 3194 – Bills expanding the definition of the word “sample” in Section 730.5, private sector drug testing.

SSB 3190 – Another version of the Stanley Amendment.

HF 2207 & SF 2121 – This a bill that ABATE of Iowa wants enacted. It enhances penalties by making a 3-tiered system of punishment depending upon a person’s injuries sustained in an accident. ACLU opposes this bill because criminal intent is missing from the equation.

HF 2378 – A bill that requires proof of insurance before a vehicle can be registered.

SSB 3168, SSB 3053, HF 2033 & HSB633, et. al. – Bills that drastically limit freedom for teenagers in automobiles. Enforcement will be a nightmare rife with civil liberties problems, including profiling.

HSB 623 – Requires a government-issued photo ID to be presented in order to vote.

SF 2168 – Loss of driver’s license for providing alcohol to minors. The punishment and crime are not related. Also has some due process and equal application of the law

problems.

SF 2151 – Grants an exception to municipal tort liability for golfing.

HF 2163 – Prohibits the dissemination or display of sex toys to minors.

HF 2194 – Requires parental permission for minors to attend art exhibits.

HF 2104 & SF 2071 – Prohibits the sale or rental of violent or sexually explicit video games to minors.

SF 2108 – Prohibits libraries from receiving state money unless the library installs filtering software.

SF 2111, HF 2116 & SF 2054 – Provides for grounds for termination of parental rights when a parent serves time.

HSB 550 (passed out of House Public Safety on Thursday and will have a new bill number next week) – A bill that requires county auditors to rescind the voter registration of ex-felons who have registered since July 4, 2005.

HSB 551 & SSB 3004 – A bill that allows peace officers to check pharmacy logbooks for possible pseudoephedrine “smurfers”.

HF 722 – A bill that is still in a Senate Committee that will allow the Board of Pharmacy Examiners to establish a prescription drug database.

HF 2070 – Enhanced penalty for assaulting an umpire, referee, etc. (This year’s Animal Farm bill [all animals are equal, but some are more equal than others]).

SF 2014 – Enhances the penalty for possession of marijuana.