



Iowa General Assembly

2009 Committee Briefings

Legislative Services Agency – Legal Services Division

<http://www.legis.state.ia.us/asp/Committees/Committee.aspx?id=211>

CRIMINAL CODE REORGANIZATION STUDY COMMITTEE

Meeting Dates: [September 9, 2009](#) | [May 21, 2009](#)

Purpose. *This compilation of briefings on legislative interim committee meetings and other meetings and topics of interest to the Iowa General Assembly, written by the Legal Services Division staff of the nonpartisan Legislative Services Agency, describes committee activities or topics. The briefings were originally distributed in the Iowa Legislative Interim Calendar and Briefing. Official minutes, reports, and other detailed information concerning the committee or topic addressed by a briefing can be obtained from the committee's Internet page listed above, from the Iowa General Assembly's Internet page at <http://www.legis.state.ia.us/>, or from the agency connected with the meeting or topic described.*

CRIMINAL CODE REORGANIZATIONAL STUDY COMMITTEE

September 9, 2009

Co-chairperson: Senator Keith Kreiman

Co-chairperson: Representative Kurt Swaim

Overview. The Criminal Code Reorganization Study Committee is charged with considering proposals for criminal code revisions, reorganizations, and updates during the 2007 through 2009 interims. The Committee has been approved for one meeting day during the 2009 interim.

Specific Crimes Subcommittee. Chairperson Rick Olson presented seven proposals adopted by the Subcommittee for consideration by the Criminal Code Reorganization Study Committee. The proposals and discussion by the full Committee can be summarized as follows:

- The Committee discussed creating a new robbery in the third degree criminal offense but did not reach consensus about how to classify the new offense.
- The Committee also discussed prescription drugs and contraband under Code Section 719.7 but agreed the issue required more study.
- The Committee recommended allowing the expungement of an underage possession of alcohol offense in violation of Code Section 123.46 if the defendant incurs no other criminal offenses other than traffic offenses and the defendant is at least 21 years of age.
- The Committee recommended providing authority for a judge to extend a defendant's probation period if a violation of probation has been established.
- The Committee recommended adding the term "recklessly" to the class "D" felony offense for intimidation with a dangerous weapon in violation of Code Section 708.6.
- The Committee recommended classifying any escape from custody in violation of Code Section 719.4(2) as a class "D" felony.
- The Committee recommended exempting from the definition of forcible felony under Code Section 702.11, an assault without intent to inflict serious injury but which results in serious injury in violation of Code Section 708.2(4).

Sentencing Subcommittee. The Sentencing Subcommittee recommended the creation of a Public Safety Advisory Board within the Division of Criminal and Juvenile Justice Planning of the Department of Human Rights. Subcommittee Chairperson Michael Mullins, Senator Keith Kreiman, and Representative Clel Baudler outlined the recommendation to the Committee. The members of the board would be from the members of the Criminal and Juvenile Justice Planning Advisory Council. The duties of the board would include analyzing the impact of current and proposed criminal code provisions on disparity, truth in sentencing, victims, proportionality, sentencing procedures, costs, and best practices. The recommendation also would require the board to review the collection of correctional data and to provide expertise and advice in formulating fiscal, correctional, and minority impact statements. The recommendation requires the board to be politically neutral. The Subcommittee recommendation was approved by the full Committee.

Reorganization Subcommittee. Drake Law School students Mr. Scott Watting and Mr. Rico Cordova presented to the Committee a draft proposal reorganizing Code Chapter 124 (Controlled Substances). Committee discussion ensued about simplifying the Code chapter and placing the criminal penalties into one Code section but the Committee did not act upon the draft proposal.

Foundational Provision Subcommittee. Mr. Thomas H. Miller, Assistant Attorney General, presented to the Committee the recommendations of the Foundational Provision Subcommittee. The recommendations included provisions related to the state of mind of a defendant (mens rea), the act requirement (actus reus), attempts, conspiracy, solicitation, intoxication, insanity, mistake, and liability for others. Committee discussion centered around the complexity of the provisions and the need for additional input and study from various stakeholders in the criminal justice system. The recommendations were referred back to the Foundational Provision Subcommittee for further study and review.

Next Meeting. The Committee agreed unresolved issues need further review and recommended scheduling a meeting prior to the beginning of the next legislative session.

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CRIMINAL CODE REORGANIZATION STUDY COMMITTEE

May 21, 2009

Co-chairperson: Senator Keith Kreiman

Co-chairperson: Representative Kurt Swaim

Overview. The Criminal Code Reorganization Study Committee is charged with considering proposals for Criminal Code revisions, reorganizations, and updates during the 2007 and 2008 interims. The Committee had been authorized to meet two days during the 2008 interim and requested that the Committee be authorized to continue meeting through the 2010 interim. The Committee welcomed Senator Pat Ward as a new member on the Committee.

Foundational Provision Subcommittee Update. Professor Jim Tomkovicz, University of Iowa Law School, updated the Committee about the status of the Subcommittee's work. He informed the Committee that the Subcommittee has taken final action on the following foundational criminal provisions: acts, mental state, mistake of fact, in choate crimes, and attempts. The Subcommittee has draft proposals for intoxication and insanity defenses, and the foundational provisions for diminished capacity, entrapment, duress, self-defense of others, and self-defense of property have not been completed. He stated the "mental state" provisions will have the greatest impact on the Criminal Code and will require the most work. The "mental state" provisions involve purpose, knowledge, recklessness, and negligence. Mr. Thomas H. Miller, Attorney General's Office, noted that some offenses do not involve a "mental state" but are strict liability offenses including traffic offenses.

Reorganization Subcommittee. The Committee discussed whether the Subcommittee should review and reorganize sex offenses to make the prosecution of sex offenses less complicated. The Committee agreed to further discuss this item with Professor Robert Rigg, Drake University Law School.

Sentencing Subcommittee. The Committee agreed to further review the establishment of a Public Safety Advisory Board to review criminal provisions. The Committee discussed the duties, membership, and authority of such a Board. The Committee agreed that the Subcommittee should begin its work in Summer 2009 and discussed about drafting a specific proposal for consideration by the General Assembly, 2010 Session.

Specific Crimes Subcommittee. The Committee discussed having the Subcommittee begin work on reviewing criminal offenses in the Code to determine the proper "mental state" provision to apply to the offense.

Sex Offender Registry Bill—Senate File 340. The Department of Public Safety discussed the sex offender registry changes contained in 2009 Iowa Acts, Senate File 340, and the implementation of such changes. The department also informed the Committee that each of the 5,000 offenders on the registry will be notified by mail of the new registry requirements and that the department will be holding training sessions with local county sheriffs' offices around the state about the new requirements.

Next Meeting Date. The next meeting date of the Criminal Code Reorganization Study Committee is scheduled for Wednesday, September 9, 2009, beginning at 10:00 a.m. in Room 103 at the State Capitol.

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