



Iowa General Assembly

2008 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: [January 15, 2009](#) | [September 8, 2008](#) | [June 3, 2008](#)

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 REORGANIZATION STUDY COMMITTEE

January 15, 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 was authorized to meet two days during the 2008 interim and this was the second meeting.

Subcommittee Updates.

- **Foundational Provision Subcommittee.** Co-chairperson Swaim stated the subcommittee continues its work comparing the foundational provisions in the Iowa Criminal Code with the Model Penal Code foundational provisions. Committee discussion ensued about developing a general statute relating to attempts of a criminal act and other criminal law provisions.
- **Sentencing Subcommittee.** The Honorable Michael Mullins stated the subcommittee unanimously voted to further study the establishment of a "Public Safety Advisory Committee" that would systematically review criminal law in this state. Committee discussion centered on the membership and duties of a Public Safety Advisory Committee. The Committee unanimously agreed that the subcommittee should further review the establishment of such a committee.
- **Reorganization Subcommittee.** The Committee discussed reclassifying some criminal offenses that are currently nonscheduled offenses to be simple misdemeanors. The Committee learned many of the nonscheduled offenses are traffic-related offenses. The Committee agreed to request the Judiciary Committee of both chambers draft a bill reclassifying some nonscheduled traffic-related offenses as simple misdemeanors. Ms. Erica Nichols, a student at Drake University Law School, presented to the Committee a proposal rewriting Code chapter 321J (operating while intoxicated). Committee discussion proceeded about the proposal. The Committee agreed to request the Judiciary Committee of both chambers draft a bill rewriting Code chapter 321J. The Committee also agreed that the subcommittee continue work on a proposal rewriting Code chapter 124 (controlled substances).
- **Specific Crimes Subcommittee.** The subcommittee delayed meeting until certain work of the other subcommittees is complete and thus did not report.

Limited Jurisdiction Task Force. Co-chairperson Kreiman reported that the task force was created by the Iowa Supreme Court and had many recommendations about the office of magistrate and magistrate jurisdiction. He further reported the Legislature is awaiting the final approval of the task force recommendations by the Judicial Council.

Other Committee Discussion. The Committee agreed to request a change to the rules of the House and Senate that would require legislation containing a criminal penalty be reviewed by the Judiciary Committee of each chamber prior to enactment. The Committee also agreed to request the Legislative Council permit the Committee to continue the work of the Committee for two additional years.

Next Meeting Date. The next meeting date is May 21, 2009, at 10:00 a.m. The location of the meeting has not been determined.

CRIMINAL CODE REORGANIZATION STUDY COMMITTEE

September 8, 2008

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 has been authorized to meet two days during the 2008 interim and this was the first meeting.

Prison Population Disparity. Representative Wayne Ford stated that Iowa was first in the nation in 1988 for incarcerating juveniles who are minorities. He further stated that many factors have contributed to the current high incarceration rate for African-Americans in Iowa including numerous laws enacted over the previous twenty years. He noted that gang participation and crack cocaine laws have disproportionately impacted the African-American community. He stated that the Minority Impact legislation (H.F. 2393) is a good first step and will at least provide information to legislators about the potential impact of legislation on minority incarceration rates prior to enactment.

Minority Impact Statements. Beth Lenstra, Senior Fiscal Analyst, Legislative Services Agency (LSA), stated that LSA is in the process of developing protocols for the minority impact statement. In developing such protocols, LSA has met with the Criminal and Juvenile Justice Planning Division of the Department of Human Rights, the Department of Corrections, Department of Public Safety, Department of Transportation, and the Department of Justice. Minority information is difficult to ascertain for persons incarcerated in jails.

Sentencing Commissions Annual Conference. Joe McEniry, Senior Legal Counsel, LSA, and Ms. Lenstra attended the National Association of State Sentencing Commissions annual conference. Mr. McEniry stated that 23 states have established sentencing commissions and there are many variations. Some sentencing commissions are established by states based upon the principles of fairness, equity, or sentencing certainty. Most sentencing commissions are nonpartisan, have a well-defined mission, and have a strong research component.

Criminal Justice Systems Initiative (CJIS). The Honorable Michael Newmeister, a Senior District Associate Judge, stated CJIS has identified 2,700 criminal offenses in the Iowa Code for the purpose of establishing a seamless electronic database for users to electronically transfer uniform information about criminal offenses. He stated during the process of identifying the criminal offenses, CJIS has compiled a list of proposals to improve the Criminal Code. He suggested the following: the jurisdiction of magistrates be clarified; simple misdemeanors be clearly identified; place criminal offenses in separate paragraphs within the Code; clarify the criminal offense of fraudulent practice; and improve communications with the Code Editor.

Subcommittee Updates.

- **Sentencing Subcommittee.** Chairperson, the Honorable Michael Mullins stated the Sentencing Subcommittee has met one time and noted the Subcommittee is interested in further reviewing Sentencing Commissions but is not interested in establishing sentencing guidelines.
- **Specific Crimes Subcommittee.** Chairperson Representative Rick Olson stated the Specific Crimes Subcommittee met one time and heard from the various stakeholders in the criminal justice system.
- **Reorganization Subcommittee.** Senator Keith Kreiman stated the Reorganization Subcommittee, chaired by Professor Robert Rigg, is studying the reorganization of the penalty provisions in Code Chapter 124 (Controlled Substances) and 321J (Operating While Intoxicated).
- **Foundational Provision Subcommittee.** Representative Kurt Swaim stated the Foundational Provision Subcommittee has been meeting monthly about portions of the Model Penal Code with Chairperson James Tomkovicz.

Upcoming Meetings. The next meeting of the full committee is in the process of being scheduled. The Foundational Provision Subcommittee will meet September 22, 2008, at the University of Iowa College of Law, and the Reorganization Subcommittee will meet September 24, 2008, at the Drake Legal Clinic. The meetings of the other Subcommittees are also in the process of being scheduled.

June 3, 2008

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.

Criminal Justice Information System Integration System (CJIS). Mr. David Meyers, Project Manager, CJIS, presented an overview of CJIS. CJIS was formed in response to the need for criminal justice agencies to integrate information systems in order to share critical data, documents, images, and key transactions. Each criminal justice agency inputs decisions regarding a person or case into a computer system that was developed in isolation from other agencies involved in a criminal case. The goal of CJIS is to allow independent computer systems to share common data concepts and to more easily communicate in an accurate and timely manner. As CJIS developed, the persons working on the system realized each reference to a criminal charge must be more uniform to facilitate the exchange of information between criminal justice agencies. In order to make the information more uniform, CJIS must identify each criminal offense in the Iowa Code by Code section. CJIS culled the Criminal Code and identified approximately 3,000 criminal offenses which will be used by criminal justice agencies to identify a particular criminal charge in CJIS.

Criminal Code Reorganization — Other States. Mr. Joe McEniry, Senior Legal Counsel, Legislative Services Agency, presented an overview of Criminal Code reorganizations and reviews occurring in other states. Illinois launched the Criminal Law Edit, Alignment and Reform (CLEAR) Initiative in 2005 to review and reorganize the Criminal Code of Illinois. CLEAR submitted a bill request embodying the reorganization plan with the Illinois Legislature. Senate Study Bill 110, currently before the California Legislature, would establish a Sentencing Commission and grant the Sentencing Commission the authority to modify criminal penalties in the California Criminal Code. Some states have established a Sentencing Commission but included a sunset on the Commission. Another option to consider for Iowa would be to codify a Criminal Law Committee much like the Public Retirement Committee codified in Code Section 97D.4.

Committee Discussion. Committee discussion ensued about the four established subcommittees that will meet during the next few months and begin reporting later in the fall to the full Committee. Co-chairperson Kreiman stated that the Foundational Subcommittee will be chaired by Professor Tomkovicz (University of Iowa) and will review definitions, culpability issues, defenses, and inchoate (conspiracy) crimes. The Reorganization Subcommittee will temporarily be chaired by Co-chairperson Kreiman and will review proposals to reorganize the Criminal Code and to enhance the readability of the Code. The Specific Crimes Subcommittee will be chaired by Representative Rick Olson and will review proposals related to specific crimes in the Criminal Code by identifying potential gaps, adding criminal offenses, removing duplicative offenses and penalties, and reviewing proportionality. The Sentencing Subcommittee will be chaired by the Honorable Michael Mullins and will review sentencing structures in other states, including the establishment of a sentencing commission.

Upcoming Meetings. The next meeting of the full Committee will be scheduled later, perhaps in September. The Foundational Subcommittee will meet July 8, 2008, at the University of Iowa College of Law. The meetings of the other subcommittees are in the process of being scheduled.

LSA Contacts: Joe McEniry, Legal Services, (515) 281-3189; Rachele Hjelmaas, Legal Services, (515) 281-8127.

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