

Criminal Code Reorganization and Review--Other States

Illinois

1. Illinois established the Clear Initiative in 2005 to review and reform the Illinois Criminal Code and make the Code more readable, understandable, consistent, and just.

2. The Committee is funded through private donations and is not affiliated with a branch of government. However, Committee members consist of judges, legislators, states attorneys, public defenders, and private citizens.

3. The Clear Initiative outlined the positive benefits of a less complex Criminal Code:

- a. The Code will be more accessible to laypeople trying to obey the law.
- b. Judges and lawyers will find the Code easier to understand and apply.
- c. The size of the Code will be reduced significantly.
- d. The policy makers will more easily understand the implications of future amendments and changes.
- e. The new Criminal Code will limit the opportunity for lengthy and expensive appeals due to confusion with the existing Code.

4. All Clear Initiative decisions are made by consensus and require approval of all members.

5. The process used by staff included mailing proposed changes to Committee members six weeks in advance of any meeting. If a Committee member had a problem with a proposed change, the proposed change was added to the agenda for discussion at the next meeting. If a consensus was not reached the proposed change did not occur.

5. The Clear Initiative has drafted a proposal to reorganize the Criminal Code. However, the criminal code rewrite has been in the drafting process for over a year with the Illinois version of the LSA.

6. The Clear Initiative agreed to explore the following issues this year:

a. Illinois policy makers must better understand the data and information about Illinois' sentencing system.

- 1) Who goes to prison
- 2) How long are the prison sentences
- 3) What are the underlying costs
- 4) How these issues impact public safety

b. Illinois should consider one entity to gather and analyze sentencing data.

c. Illinois should analyze the need to divert certain populations out of prison and into incarceration alternatives similar to drug courts, drug schools, and mental health courts.

d. A cost benefit analysis should be done in Illinois to quantify the impact of incarceration alternatives which lead to better informed decisions about how resources are spent and redeployed throughout the criminal justice system.

e. Explore the development of an entity or process to identify persons in the system that may benefit from assignment to incarceration alternatives.

7. The Clear Initiative divided into two workgroups

a. *Data and Sentencing Structures Workgroup*

- 1) Develop an understanding of what data and information will be necessary to analyze the impact of current sentencing and incarceration practices.
- 2) Design a format to collect future data
- 3) Create a process to collect data
- 4) Consider the advisability of a Sentencing Commission

b. *Public Safety and Diversion Work Group*

- 1) Explore how to design a risk-assessment process to determine who should be incarcerated and who are the possible candidates for diversion programs.
- 2) Design a cost benefit model to determine what the implementation of designing a risk-assessment process could achieve.
- 3) Examine the institutional entities that would be appropriate to oversee the implementation.
- 4) Examine what alternative programs are effective, their costs, and the capacity to employ alternatives programs currently and in the future.

California

1. Currently Senate Study Bill 110 is pending before the California Legislature. The bill establishes a State Sentencing Commission that amends almost all criminal statutes with the following language:

Alternatively, on or after the operative date of an applicable rule or rules proposed by the California Sentencing Commission, a person who violates this section shall be punished as provided in the applicable sentencing rules.

2. The bill provides that if the Sentencing Commission adopts a rule changing the punishment for a criminal offense, the rule becomes law unless the Legislature rejects the rule prior to the effective date of the rule.

New Jersey

1. In 2004 the New Jersey Legislature declared that since the New Jersey Criminal Code was codified many new criminal offenses have been added to the Code and penalties for many existing offenses have been enhanced. The Legislature further declared that a comprehensive review of these new offenses and enhanced offenses should be conducted to determine if the sentences for these offenses are fair and proportional to other sentences imposed.

2. The state of New Jersey established a Commission to Review Criminal Sentencing. The mission of the Commission includes a review of the statutory law pertaining to sentences and to make recommendations to the Legislature to be enacted by the Legislature that would ensure that these sentences are fair and proportionate to other sentences imposed for criminal offenses.

3. The Commission was first created on a temporary basis.

Wisconsin

1. The State of Wisconsin recently eliminated its Sentencing Commission. According to staff, the establishment of the Wisconsin Sentencing Commission was contentious. In order to establish the Commission a sunset clause was included in the enabling legislation. The Commission was allowed to sunset on 12/31/2007 due to lack of support.

Missouri

1. Missouri has established a Sentencing Advisory Commission for the purpose of studying circuit court practices throughout the state in order to determine whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same offense. The Commission is also to examine and determine whether and to what extent sentencing disparity exists among economic and social classes, if the length of sentence is appropriate, and the rate of rehabilitation based on the sentence. The Sentencing Advisory Commission shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities.

2. The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of the state. The system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri.

3. The recommended sentence for each crime shall take into account, but not limited to, the following factors:

- a. The nature and severity of each offense
- b. The record of prior offenses by the offender
- c. The data gathered by the commission showing the duration and nature of sentences imposed for each crime.
- d. The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

4. The Sentencing Advisory Commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report about the feasibility of the these options in Missouri.

5. The court retains jurisdiction to lower or exceed the sentence recommended by the Commission as otherwise allowable by law.

Virginia

1. The Virginia Legislature created the Virginia Criminal Sentencing Commission within the Judicial Branch as an agency of the Supreme Court.

2. The purpose of the Commission is to ensure the imposition of appropriate and just criminal penalties, and to make the most efficient use of correctional resources, especially for the effective incapacitation of violent criminal offenders. Furthermore the Legislature has determined that it is in the best interest of the Commonwealth to develop, implement, and revise discretionary sentencing guidelines and to establish a discretionary sentencing guidelines system which emphasizes accountability of the offender and of the criminal justice system to the citizens of the Commonwealth.

3. The Commission shall develop discretionary sentencing guidelines to achieve the goals of certainty, consistency, and adequacy of punishment with due regard to the

seriousness of the offense, the dangerousness of the offender, the deterrence of individuals from committing criminal offenses and the use of alternative sanctions, when appropriate.

Iowa Code Section 97D.4

1. The Legislature could establish a criminal law committee much like the IPERs committee established in section 97D.4.

- a. Develop and recommend coherent standards and policy.
- b. Review individually sponsored bills relating to the criminal justice system.
- c. Review proposals from interested organizations.
- d. Make recommendations to the Legislature.

2. Membership is entirely made up of Legislators and who are appointed prior to January 31 of the first regular session of each general assembly.