

Criminal Code Revision Planning Committee

Second Meeting Summary

Held on December 4, 2013

Present: Sen. Gerzofsky, Sen. Burns, Rep. Priest, Rep. Wilson, Hon. LaVerdiere, Stephanie Anderson, Neal Duffett, Zachary Heiden (Oami Amarasingham stand in) and Elizabeth Ward Saxl (Tamar Mathines stand in).

Absent: Sen. Hill, Rep. Carey, Tobey Dilworth (replacing Richard Hartley)

Introductions (10:30)

Staff

- Provided outline for committee to use in its deliberations regarding the Commission's membership, duties, staffing, duration and funding.
- Reported on research regarding possible funding sources. Staff was unable to find funding sources within state government or a federal grant program that would cover the work of the commission. NCSL was connected regarding federal or private funding sources but it was unfruitful. The PEW Charitable Trust has supported a similar recode/revision project in Illinois but only provided staffing and research support.
- Provided legislation from Kansas establishing a commission to recodify their criminal laws that has parallels to the commission as proposed in the Joint Order establishing this committee.
- Provided and updated list of crimes outside of the Criminal Code

John Pelletier, Criminal Law Advisory Commission (CLAC)

- CLAC consists of volunteers, all with full time jobs, and would not have the resources to provide any more than limited support.
- CLAC is willing to look at structural issues in the Code and is willing to provide technical and drafting support but uncomfortable being involved with policy work. CLAC's role is to advise on policy issues but not to make policy decisions.
- CLAC has no expertise with crimes outside of the Code and is uncomfortable determining whether those crimes should be civil instead.
- Part I of the Code is a model to other states and does not need any significant changes but the sentencing provisions in Part III need work.

Committee discussion highlights

- Consensus of the committee that the commission should be on-going and initially review/revise the Criminal Code and report its recommendations to the Legislature in the Second Regular Session of the 127th Legislature. It should then review/revise the criminal laws in one or two policy areas outside the Code each subsequent year and annually report its recommendations for each policy area to the Second Regular Session of the Legislature. Once the commission has reviewed/revise all criminal laws it should begin again with the Code.

- Consensus that the commission should have the duties outlined in the Joint Order establishing the planning committee and should review definitions of crimes and penalties to see if certain conduct can be combined into one criminal statute and to make revisions to facilitate a just and expedient resolution of criminal prosecutions. There should also be broadly worded language to give the commission some flexibility to pursue issues that may not have been contemplated by the committee. Also a majority of the committee agreed that the commission should be directed to do a policy review of mandatory minimums and administrative penalties that are imposed after a conviction is made such as license revocation.

- Consensus of the committee that the commission should have the authority to create policy groups or request the help of experts to advise the commission. Additionally, it should be authorized to accept grants, gifts and other funds, to hire and employ staff and to contract for services.

- Consensus that commission membership should be limited to eleven members and most agreed that the membership should be as follows: the Speaker of the House and the House minority leader and the Senate President and the Senate minority leader to appoint 2 members each (total of 4) from the Joint Standing Committee of the Legislature; the Attorney General or designee, one member representing criminal defense attorneys appointed by a criminal defense attorney association; President of the Maine Prosecutors Association or designee, President of CLAC and a member from the judicial branch who is not a judge appointed by the Chief Justice. The remaining two positions should be appointed by the Governor.

- Members discussed adding representatives from "special interest" groups to the membership of the commission but among those members present for the discussion, no clear consensus emerged.

- Members present agreed that judges/justices should not be members of the commission but serve as consultants.

- While committee members discussed staffing they decided to bring the topic back up at the next meeting for further deliberations. Discussion at this meeting included finding someone to lead the commission and staffing possibilities given financial realities.

Staff assignment

-Create draft legislation based on the direction of the committee as outlined above.

Next meeting

Next meeting is scheduled for Monday, December 16, 2013 at 1:00pm.

Adjourned 2:05