

Chicago Daily Law Bulletin

Chicago Daily Law Bulletin
May 05, 2010 Volume: 156 Issue: 88

Assembly considers rewrite of most of Criminal Code

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SPRINGFIELD — The rewrite of the state's Criminal Code would be 70 percent complete under a measure making its way through the Illinois General Assembly.

House Bill 5046 is the latest piece of the massive puzzle the Criminal Law Edit, Alignment and Reform (CLEAR) Commission started working on five years ago in an effort to overhaul the nearly 50-year-old code.

The commission, comprised of prosecutors, defense attorneys, judges, lawmakers and professors, has already tackled forfeiture and the first nine articles of the Illinois Criminal Code of 1961, which is expected to be reduced in size by one-third when all is said and done.

HB 5046 would reorganize Article 11 (sex offenses), Article 12 (bodily harm offenses) and Article 17 (deception and fraud offenses). As of early Wednesday, amendments to the measure, which gut and replace the original bill, still needed final approval from the House before it could be sent to the governor's office.

Following along with the mission of the CLEAR Commission, the measure eliminates redundancies, inconsistencies and confusing or archaic language, while reorganizing the articles to make it easier for lawyers, judges and the public to understand. It also incorporates case law into the code and removes provisions that have been found unconstitutional.

[Peter G. Baroni](#), the director of the CLEAR Commission, said passage of HB 5046 "gets the CLEAR Commission agenda to overhaul the entire Criminal Code to about 70 percent."

It is Baroni's hope that the General Assembly will take up legislation rewriting the code's articles on theft and miscellaneous offenses during its fall veto session. The article on drugs, he said, may have to wait until next spring.

Sen. [Kirk W. Dillard](#), R-Hinsdale, one of the bill's Senate sponsors and a member of the CLEAR Commission, said the rewrite process has been long and tedious, but one he believes should serve as model for other legislative rewrites.

"In my tenure in the legislature, I've not been prouder of the conduct or body of work from the General Assembly than I have with the CLEAR Commission," said Dillard.

Pointing to the passage of countless laws that have increased penalties over the years, Dillard said lawmakers have routinely proposed these enhancements to look tough on crime and to "gain political points" at the Criminal Code's expense.

"Hopefully, people will not revert back to the old slipshod methods of amending the Criminal Code for political purposes," he said.

In addition to the rewrite, the commission's work also led to the creation of the Sentencing Policy Advisory Council.

The 18-member council, which was expected to have its first meeting last month, is charged with analyzing data, conducting correctional population projections, and producing fiscal impact statements for the Illinois General Assembly, with the goal of cutting costs and increasing efficiency within the state's criminal justice system.

In other legislative news this week, a human trafficking bill pushed by the Cook County state's attorney's office was approved by the Senate on Tuesday.

According to a memo from the prosecutor's office, House Bill 6462 intends to "safeguard children who are forced into a life of prostitution and to fight the human trafficking groups that exploit them."

The bill would provide persons who are under the age of 18 and suspected or charged with prostitution immunity from prosecution on the prostitution offense. It would transfer jurisdiction over the juvenile from the criminal system to the child protection system.

HB 6462 would also add human trafficking and juvenile pimping cases to the list of offenses subject to court-ordered wiretapping. Though that provision garnered many questions during debate in committee and on the Senate floor, many lawmakers said they thought it was consistent with the purpose of the bill. The prosecutor's office said "the same legal tools used to fight groups selling drugs can be used against groups selling children" under the bill's provision providing for court-ordered interceptions.

In order for HB 6462 to get to the governor's desk, the House must give final approval to amendments that were added in the Senate.

Legislation can be found on the [General Assembly website](#).

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