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Panel assaults state criminal code 'Hodgepodge' repairs are detailed in 1,100-page bill - Mike Ramsey

CHICAGO - After nearly two years of closed-door study, a privately funded task force is sending a proposed rewrite of the state's criminal laws to Illinois legislators that would prune the massive code by about one-third.

A 1,100-page bill emanating from the Criminal Law Edit, Alignment and Reform (CLEAR) Commission would simplify the statutes, cut many archaic references and make other corrections, panel members said. The criminal code was last overhauled in 1961, and lawmakers and governors have been tacking on amendments ever since.

"Our criminal code over the last 45 years has become a hodgepodge of illegible statutes, and it needs to be fixed," said state Sen. Kirk Dillard, a Hinsdale Republican who sits on the commission. "Even judges, the best of state's attorneys, professors or defense counsels are confused by our code."

The panel's recommendations range from the mundane - shuffling a criminal offense and its aggravated form under a single heading, for example - to substantive changes, such as increasing the monetary amount that triggers a felony theft charge (from \$300 to \$500 to reflect inflation). Members also suggest bringing parity to the offense of second-degree murder, which can be probational, and attempted murder, which carries a mandatory prison sentence, commission co-director Peter Baroni said. "It removes the incentive for killing somebody," he said.

Citing redundancy, the panel would eliminate "theft of motor fuel" as an offense because stealing gasoline already would be covered under retail theft provisions, according to a summary of the proposed changes.

On a lighter note, the commission also advises lawmakers to excise quaint sections of the code. The 1800s-era petty offense of "barratry" - that is, "wickedly and willfully" stirring up disputes - would be cut. So, too, would a reference to illegally transporting diseased animals by "steamboat." The old-school terms "pandering" and "pimping" would be recast as "promoting prostitution."

"We did try to modernize a lot of the language," State Appellate Defender Ted Gottfried, another commissioner, said. "There were references to thinking that no longer applied to our modern society."

The last attempt to tame the Illinois criminal code came during former Gov. George Ryan's 1999-2003 tenure, but a task force his administration set up ended in disagreement.

The latest effort was organized by the think tank Chicago Metropolis 2020 and financed through grants and other private means, officials said. Co-chaired by

former Gov. James R. Thompson, the broad-based commission includes legislators and representatives of law enforcement and the legal community - judges, prosecutors and defense attorneys. Members began meeting quarterly in early 2005.

The group piled up its recommendations by consensus and abandoned some changes if they were considered too controversial, participants said. They declined to recommend narrowing the number of circumstances that can activate the charge of aggravated battery. They also backed away from the idea of eliminating the anachronistic offenses of "adultery" and "fornication," Baroni, the commission co-director, said. He said the last successful prosecution for fornication - brazen sexual conduct between unmarried adults - occurred in 1913, while the charge of adultery was last aired in criminal court in the early-1960s. Still, Baroni said, commission members felt some lawmakers would worry about appearing to condone immorality if they agreed to drop the offenses. "At the end of the day, I think it would have been a difficult thing to pass," Baroni said. "Should we be sacrificing this great bill on the altar of these two offenses?"

It is estimated that the commission's report - now being converted into a bill by state government's Legislative Reference Bureau - would reduce the more than 300,000-word criminal code by about one third. Dillard, the state senator, said the legislation, if approved in the spring, would take effect in 2008 to give legal practitioners time to adapt.

To curb future add-ons, the commission is expected to recommend the creation of an independent, advisory body that would evaluate criminal legislation for the General Assembly. Panel member Bob Molaro, who chairs the House Judiciary II Committee, conceded that lawmakers tend to be prolific sponsors of crime bills. But he said they often pursue such measures with good intentions, on behalf of a constituent who has been victimized.

"Their heart's in the right place," the Chicago Democrat said. He added: "What am I going to say, it makes for a bad press release? It makes for a good press release." Next up, the Criminal Law Edit, Alignment and Reform Commission is considering changes in the separate criminal sentencing code. For more information, go to www.clearinitiative.org.