

ILLINOIS

A criminal code is set for major surgery

Lynne Marek/Staff reporter
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CHICAGO—An Illinois commission has spent the past 19 months rewriting the state's criminal code, paring a third of it by removing redundancies, outdated language and provisions ruled unconstitutional since it was last revised in 1961.

The proposed new code would help the state's courts become more efficient by reducing appeals and reversals, supporters say.

For Illinois judges and lawyers, 45 years of legislative amendments to the state criminal code have chiefly made it more confusing, said attorney and former Illinois Appellate Court Judge Gino DiVito. He worked with 20 other members of a bipartisan commission charged with rewriting the code.

The new code will be introduced in the state Legislature this month. It is likely to come to a vote in the fall, said state Senator John Cullerton, who was also on the commission.

All the commissioners, including prosecutors and public defenders, back the revision and are confident it will become law.

"It was an attempt to go back to a much cleaner, more concise, understandable code," said Paula Wolff, a senior executive at Chicago Metropolis 2020, an organization assisting the commission.

Chicago Metropolis 2020, funded by corporate and foundation grants, got the initiative rolling in December 2004 after legislators told Wolff that a revision was overdue. A 2003 overhaul failed because it lacked support from legislators and lost a main backer when Governor George Ryan left office, Wolff said.

The nuts and bolts

The new code draws together similar subjects scattered throughout the code; for instance, grouping all drug-related crimes in one section. It also replaces little-used words, such as "willfully," with more common ones such as "knowingly." Some theft

provisions are updated to use higher dollar amounts to trigger tougher sentences, giving a nod to inflation.

Illinois isn't the only state grappling with an overstuffed, anachronistic code last revised in the 1960s and 1970s. Legislators in many states have added lots of laws over the years to show they're tough on crime and are loath to vote against any such proposals, said Paul Robinson, a professor of criminal law at University of Pennsylvania Law School who worked on the previous attempt to revise the Illinois code.

"Inevitably, they pass this legislation that creates new offenses, most of which is completely unnecessary because it's already criminalized," Robinson said.

Illinois has one of the most problematic codes because its rate of legislative additions has outpaced other states, he said. While Illinois is currently the only state in the country rewriting its code, according to lawyers and scholars, there are others that have considered it. Kentucky tried and failed, while Kansas has recently reviewed the possibility, Robinson said.

By not tackling some controversial issues, such as removal of outdated provisions on adultery and fornication, commission members hoped to improve chances of winning public and legislative support for the new code, they said. Robinson said the size of the reduction suggested that the commission could have done more.

"Unless and until I've seen what they've done, I can't criticize or compliment them," said Chicago criminal defense attorney Ed Genson.

Next, the commission will turn to clarifying the complementary Illinois code of corrections. To help with the effort, Chicago Metropolis 2020 won a \$175,000 grant from the Pew Charitable Trusts.