SYNOPSIS - JUSTICE MODEL LEGISLATION

Bail Bond Reform

This bill addresses a number of weaknesses in the current bail and release-on-recognizance practices in Illinois:

1. The unnecessary incarceration of indigents prior to trial because of inadequate use of OR or low-money bail.

2. The practice of arresting persons on some pretext, setting money bail at counselless proceedings and eventually dropping charges while keeping a portion of the bond posted as "costs".

3. The release on bail of offenders on probation or parole who are accused of a subsequent crime without first checking their prior record thoroughly.

4. The re-release on bail of offenders accused of committing another offense while on bail for a prior crime.

5. A failure to impose a severe enough sentence on offenders who violate the conditions of their bail, through non-appearance or otherwise.

This bill is thus both "hard" and "soft", as it deals with unwarranted extremes of both leniency and harshness in the present system.

The general approach the bill takes to these problems is as follows:

1. a. The statutory presumption against release on recognizance would be reversed, so that OR would become the preferred disposition of bail hearings (sec. 110-2(a), pp. 1-2 of bill).

   b. Each circuit court would be obliged to develop criteria by which to make bail decisions. Various relevant factors are set forth in the statute. The chief judge of each circuit is authorized to appoint a court services officer to assist him in developing and administering those standards. Periodic review of the release status of all incarcerated persons is mandated (sec. 110-2(b) and (c), pp. 2-3 of bill).

   c. The court is authorized to require participation by the accused in certain rehabilitative programs as a condition of release (sec. 110-10 (a)(5), p. 11 of bill).

Related Bills

Court Services Upgrading. This feature of the bill presupposes the courts will have adequate personnel to assist them in developing and administering a comprehensive pre-trial release program.

Bureau of Community Safety. Removal of responsibility for supervising adjudicated persons is essential if court services functions are to be given adequate attention.

2. The clerk of court is required to refund the entire bail bond posted whenever bond was set in proceedings where the accused was not represented by counsel (sec. 110-7, p. 9 of bill).

Related Bills

None

NOTE: This bill would have impact on counties, as they would be unable to collect a substantial portion of the revenue generated by their criminal justice system. Would act as an incentive to upgrade defender services.

3. a. Extensive requirements are imposed on the State to ascertain the status of persons accused of crimes of violence and seeking bail. Under the bill, before bail is granted to such persons, an inquiry must be initiated to discover whether they are on parole, probation, mandatory supervision, or are a fugitive from justice. The defendants may be held in custody for up to 7 days while that inquiry is completed. Defendants found to be on parole, probation or mandatory supervision may be remanded to the appropriate supervisory authority pending trial on the subsequent offense (sec. 110-2.1(b), pp. 3-6 of bill; sec. 110-2.3, p. 7 of bill; sec. 204-3.1, p. 12 of bill).

   b. The amount of bail (sec. 110-2.1(a), p. 3 of bill) and other conditions of release (sec. 110-10, pp. 10-11 of bill) can be modified to take into account likelihood that accused while on release will commit additional crimes, insofar as such an analysis affects the likelihood the accused will appear at trial.

   c. "Crimes of violence" defined as including "voluntary manslaughter, murder, rape, kidnapping, robbery, burglary, extortion accompanied by threats of violence, assault with a dangerous weapon or with intent to commit a felony, or conspiracy to commit any of the foregoing" (sec. 110-2.1(c) p. 6 of bill)

Related Bills

None

4. a. Persons convicted of committing a crime of violence while on release status (parole, probation, mandatory supervision, bail) must be sentenced either to periodic imprisonment or imprisonment (sec. 110-2.2, p. 6 of bill).

Related Bills

Determinate Sentencing. (which disallows probation or mandatory supervision as a disposition where Class 1 or Class 2 felony offense was committed while on parole, probation or mandatory supervision (sec. 5-5-3(h) p. 14 of Determinate Sentencing bill)

b. Court authorized to impose condition of lawfulness on persons released on recognizance or money bail (sec. 110-10 (a)(4), p. 11 of bill). If offender is then accused of committing subsequent felony offense, court, after notice and adversary hearing, is authorized to revoke bail on first offense (sec. 110-6(e)(1)-(3), pp. 7-8 of proposed bill).

5. Bill proposes stiffer penalties for violation of conditions of release (mandatory imprisonment or periodic imprisonment- sec 32-10, p. 1 of bill).

Grand Jury Reform

Eliminates need for grand jury presentation and indictment as stage of felony prosecution. All felony prosecutions may be commenced by information, with the probable cause finding of the preliminary hearing serving as the authorization to proceed to trial against the offender. Prosecutor may utilize grand jury when in his opinion the public interest so requires (sec. 111-2(a), p. 1 of bill).

Court authorized to use summons as well as arrest warrant to bring offender before court (sec. 111-2(c) - (e), p. 2 of bill). This practice has always been encouraged by commentators, but has not been possible under Illinois Law.

Related Bills

Sixty Day Fair Trial Bill. It is essential to eliminate the time taken in securing grand jury indictments of felons if the goal of 60-day trials in criminal cases is to be achieved.

60 Day Fair Trial

1. Defendants in custody would have to be tried within the time limits set forth below, excluding periods of delay occasioned by the defendant or necessary for other specified purposes:

   a. 120 days - if charged in informations or indictments filed on or before January 1, 1976;

   b. 90 days - if charged in informations or indictments filed after January 1, 1976, through January 1, 1977;

   c. 60 days - if charged in informations or indictments filed after January 1, 1977.

   All dates would run from the date the defendant was taken into custody (secs. 103-5(a) (1) & (3), p. 1 of bill).

2. Defendants at large on OR or money bail would have to be tried within the time limits set forth below, excluding periods of delay occasioned by the defendant, or necessary for other specific purposes:

   a. 160 days - if charged in informations or indictments filed on or before January 1, 1976;

   b. 120 days - if charged in informations or indictments filed after January 1, 1976, through January 1, 1977;

   c. 90 days - if charged in informations or indictments filed after January 1, 1977.

   All dates would run from the date the defendant demands trial (sec. 103-5(b) (1) & (3), pp. 1-2 of bill).

3. Defendants in custody upon multiple charges must have at least one such charge disposed of as provided in No. 1 above. The balance must be disposed of as provided in No. 2 above, with the period therefor running from the date of entry of judgment on the first offense (secs. 103-5(e) (1) & (3), pp. 2-3 of bill).

   EXCEPTION: Persons charged with "crimes of violence" (voluntary manslaughter, murder, rape, kidnaping, robbery, burglary, extortion accompanied by threats of violence, assault with a dangerous weapon or with intent to commit a felony, or conspiracy to commit any of the foregoing) go on the accelerated 60 day/90 day in-custody/at-large schedule for all offenses charged in informations or indictments filed more than 6 months after the effective date of this Act. The period is measured from the date of arrest or issuance of a summons, or from the date of filing of an indictment or information, whichever is sooner (sec. 103-5.1, pp. 3-5 of the bill). Similar provisions are made for "crimes of violence" defendants returned by interstate compact from other states (see pp. 6-13 of bill).

NOTE: Leaving the "speedy trial" guarantee to be triggered by a demand for trial by the defendant as to those persons at large is a deliberate safety valve designed to ease the transition to these shorter times in major metropolitan jurisdictions, especially Cook County. While this will allow substantial backlogs to develop in misdemeanor and "minor" felony cases, it also will serve to encourage a liberal use of OR and low-money bail as a pressure-easing device if nothing else. The serious, violent felons will not escape this net, however, even if they make bail, because of the special provisions of 103-5.1 outlined above.

4. The bill also adopts the position recently taken by the Illinois Supreme Court in People v. Lewis, that the periods for trial referred to in the statute are only tolled - and not re-started as had previously been held - by delays occasioned by the defendant, competency hearings and the like (secs. 103-5(a) (2) p. 1 of bill; 103-5(b) (2) p. 2 of bill; 103-5(e) (2), p. 3 of bill; 103-5.1(b), p. 4 of bill). This reinterpretation will greatly shorten the actual time available to the State to try a case - far more than will the reduction in the period from 120/160 to 60/90. To mitigate one possible pernicious effect of the Lewis decision, this bill will propose that the State never have less than 10 days in which to answer ready for trial, no matter how few days are left in the term when the delay occasioned by the defendant terminates. This will prevent unscrupulous defense counsel from stringing a case out to the end of the term (say to day 119 of a 120-day term) seeking continuances until the State's witnesses finally do not appear and then answering ready for trial and letting the term expire.

Related Bills

Grand Jury Reform. Elimination of the delay occasioned by the need for grand jury presentment would permit 60-day trial in all non-congested courts, and would eliminate 45-90 days from the processing time of the average felony case in metropolitan areas. That reform should be pursued vigorously.

Bureau of Community Safety. As offenders are processed more and more rapidly through the courts, the number of persons placed under mandatory supervision will rise dramatically. The pressure to take "bad" pleas in order to dispose of cases is apt to accentuate this trend. It is thus essential to secure adequate funding for the Bureau from the outset.

Bureau of Community Safety

1. Bill creates a new division within the Department of Corrections, which would assume responsibility for supervision of all non-institutionalized offenders under sentences of parole or mandatory supervision. Former Adult Field Services Division of the Department of Corrections would form the nucleus of this Bureau, which would immediately begin supervision of present parolees and also would gradually assume the supervisory function of superceded adult probation departments over a two-year period. D.O.C. authorizing statutes are amended to reflect proposed tri-partite structure.

2. Bill also establishes basis for "voucher system" within the Department, whereby offenders may utilize their good-time credits to "purchase" advanced rehabilitative services, either while in prison or shortly after release. See No. 9 below for more details.

3. New Bureau acts primarily as "service broker" - supervisory and rehabilitative functions are minimized.

4. Organization of Bureau of Community Safety

   a. Regions or subregions must be contiguous with circuit court boundaries (sec. 6-2-4, p. 4 of bill), operating under the direction of a circuit administrator appointed by the head of the Bureau (sec. 6-2-6, p. 5 of bill) and advised by a circuit correctional policy board (sec. 6-2-5, p. 5 of bill).

   b. The Bureau has the full range of powers given to D.O.C. regarding internal operations (right to receive funds (sec. 6-2-7, pp. 5-6 of bill) maintain records (sec. 6-4-1, pp. 8-9 of bill), promulgate rules and regulations (sec. 6-4-2, p. 9 of bill), and the like). The Bureau is charged (sec. 6-2-2, pp. 2-3 of bill)

      a. to accept persons committed to it by the Illinois Courts or the Department of Corrrections, Bureau of Prisons, for care, custody, treatment, programming, or supervision;

      b. to develop and maintain programs of control, counseling, medical treatment, education and employment of persons committed to it;

      c. to establish a system of graduated release and supervision of committed persons within the community.

5. Circuit Correctional Policy Boards. Local boards are created to recommend programs, policies and budgets for mandatory supervision services to the Bureau and to foster public awareness of and involvement in local correctional efforts. Membership is weighed in favor of county representation, but judicial and Bureau participation is also provided for.

6. Circuit Mandatory Supervision Services become the single source of services to what formerly were probationers (sec. 6-5-1, pp. 9-11 of bill) and parolees (secs. 6-6-1 and 6-6-2, pp. 11-12 of bill). Participation by persons released from DOC will be strictly voluntary, but persons placed on mandatory supervision by the court as an alternative to incarceration may be required to partake of them. Services available include:

   a. employment counseling and placement;

   b. residential placement;

   c. placement in family and individual counseling

   d. financial counseling

   e. vocational and educational counseling and placement

   f. referral services to other State and Local agencies.

   The legislation authorizes the Bureau to purchase or contract for these services with private agencies in those cases where the offender cannot afford to purchase them. Half-way house care is also authorized in the same fashion, as is assistance to people on work release (secs. 6-6-3, 6-7-1 and 6-7-2, pp. 12-14 of bill).

7. Work release is altered by this bill, so that it is available only during the last 120 days prior to release. Other than that no change is made in present law.

8. Development of Employment Opportunities for Prisoners. This bill also authorizes the Department to lease unnecessary or under-productive land, floor space, equipment or other resources to public or private corporations willing to locate production or training facilities in or adjacent to prisons (secs. 3-4-2, 3-12-1, 3-12-2, pp. 16-17 of bill). Compensation at up to the prevailing wage for similar labor is authorized (sec. 3-12-5, p. 18 of bill), but it is not mandated. The Department is required to survey the needs of its inmates periodically as to the appropriateness of proposed or existing programs (sec. 3-12-3, p. 18 of bill).

9. Good time credits may be utilized by inmates to "purchase" academic education, pre-vocational or vocational education, vocational or personal counseling, or job placement assistance at the rate of $8.00 for each day of good time accrued. Unused credits may be exchanged for cash rather than services up to:

   a. $10/week while incarcerated

   b. $150 at the time of release

   c. $60/week after release

Regulations dealing with the requisition, use and forfeiture of credits are to be promulgated by the Department, but all credits must be used within 600 days of release (sec. 3-12-5(b) - (f), pp. 19-20 of bill).

Related Bills:

Court Services Upgrading. It will be necessary to develop smooth linkages between corresponding Court Services and B.C.S. regions to insure the orderly transfer of jurisdiction over adult offenders and the joint development and sharing of facilities and programs wherever possible.

Court Services Upgrading

1. This bill establishes circuit-wide departments of court services, headed by a Director of Circuit Court Services who in turn is responsible to the Chief Judge of the Circuit. While the system is state-wide in scope, employees of the Court Services unit are not state employees. They are hired and supervised by the Circuit Director. The following broad areas of responsibility, discussed in greater detail below, reside with the Circuit Court Services Departments.

   a. Court services (OR and bail data-gathering, pre-trial release programs, pre-sentence report data) for adults and juveniles.

   b. Post-adjudication supervision of juveniles only.

2. The Circuit Court Services Departments will not have any responsibility for supervising adjudicated adult defendants, although they will retain supervision over juveniles in that category. Their activities and jurisdiction as set forth in No. 3 below will extend only through the presentation of the pre-sentence report, although liaison with the Bureau of Community Safety is provided for (sec. 2-4-3, p. 7 of bill). During a two-year transition period, however, Court Services Departments will retain jurisdiction over those adult affenders placed on probation prior to the effective date of this Act. That will prevent the new Bureau of Community Safety from floundering under the crush of the 25,000 - 35,000 adults currently on probation in Illinois. The residuum still on probation after the two-year grace period will be transferred to the Bureau.

3. The Circuit Court Services Department will have the following responsibilities:

   a. Present information to the court for its use in setting bond or OR at bail hearings (p. 4 of bill).

   b. Supervise released defendants prior to trial in the manner and to the extent the court may direct (p. 4 of bill).

   c. Develop pre-trial classification system for use of the court in:

      (i) diverting apprehended individuals from the criminal justice system;

      (ii) determining the eligibility of accused persons for pre-trial release programs;

      (iii) evaluating convicted individuals before the court for sentencing to assist the court in making an appropriate disposition.

   d. Develop pre-trial programs for employment, educational or psychiatric counseling for defendants, as deemed appropriate by the court, on such terms as the court may prescribe.

   e. Develop similar or additional services for juveniles and their families, according to standards set by the Supreme Court. Provisions of separate adult and juvenile services is specifically contemplated and endorsed by the Act (sec. 2-5-3, p. 9 of bill).

   f. Prepare and present all pre-sentence reports for adult offenders and all pre-hearing and social investigation reports for juvenile offenders.

4. Employees of present county adult and juvenile county probation departments will be offered employment in the Circuit Court Service Department embracing their county. The Supreme Court or the Circuit Court, however, will establish merit criteria for employment in such departments which all new employees must meet, and which former probation officers must meet if they wish to be promoted.

5. Employees will be paid by a county, but their assignment to duties will be on a circuit-wide basis, and their removal will be a matter for the Circuit Court.

6. Supreme Court is given power to set training and education requirements for courts services employees (sec. 2-4-5, pp. 7-8) and to set minimal standards relating to the amount of office space, support staff and the like necessary to establish an adequate program (sec. 2-4-2, p. 7 of bill).

7. Other compensations and gratuities beyond salaries are prohibited to courts services employees. This merely carries current law forward.

8. Extensive record-keeping and reporting requirements are imposed on Court Services Departments (sec. 2-3-2(b) (5), p. 4 of bill), with all data going to Administrative Office of the Illinois Courts for its annual comprehensive report (sec. 2-2-3(a) - (e), p. 3 of bill). Areas of the report include the operation of the system in terms of its impact on community safety, correctional effectiveness, financial effectiveness, systems impact and juvenile court effectiveness.

Related Bills

Determinate Sentencing. The Determinate Sentencing bill presupposes full and accurate presentence reports. The Circuit Court Services Departments are the vehicles for providing those data. Moreover, early constructive involvement with defendants is essential to prevent the wholesale shipping of defendants to prison under the fixed sentences mandated by that bill.

Bureau of Community Safety. This agency will assume the responsibility of "correcting" adjudicated adult offenders. This is done for these reasons:

1. To allow Court Services personnel to devote additional time to their essential functions, without the necessity of burdening county governments with the expense necessary to hire the additional personnel necessary to allow them to do both jobs well.

2. To bring all adult offenders within the "justice model" and to free them of the constraints of the "medical" or "rehabilitative" model, whatever disposition may have been imposed upon them by the court. BCS officers will have a different conception of their jobs than do traditional probation officers. While their job will have a supervision component (seeing to it that express conditions of mandatory supervision imposed by the court are discharged), they will function primarily in a "service broker" capacity - linking adjudicated individuals with services that they themselves have identified as useful to them.

3. To exclude juveniles from the "justice model", their supervision was left in the hands of Court Services. This was done in recognition of the degree to which the "helping", "medical" model is entrenched in this area. It was felt that any "lack of symmetry" in treating adjudicated adults different from adjudicated juveniles could be defended by apologists for the present juvenile justice system as based on real differences in malleability, susceptibility to rehabilitation and the like. Juveniles are given the benefit of new due-process disciplinary procedures in custodial institutions, however (sec. 3-10-8 pp. 7A, 8 and 9 of Determinate Sentencing Bill).

Determinate Sentencing

This bill is extremely complicated, and is best analyzed in terms of certain broad topics which unfortunately are not treated in sequential portions of the Act. The areas are as follows:

1. Upgrading of the sentencing process
2. Establishment of mandatory supervision in place of probation
3. Establishment of determinate sentencing
4. Abolition of parole
5. Creating a more just prison environment
6. Transition to new system

They are treated in detail below.

I. Upgrading of the Sentencing Process. The main features of this aspect of the bill are:

1. Upgrading of quality of pre-sentence investigations (PSIs). PSIs will now have to contain much more information on non-custodial alternatives that might be of benefit to the defendant, and also must take into consideration how proposed disposition will affect the victim. Individualized rehabilitation plans will have to be prepared for each defendant (sec. 5-3-2, pp. 10-11 of bill). The Circuit Court Services Departments created by the "Court Services Upgrading" bill will be needed to prepare these reports.

2. Making PSI mandatory in all felony cases (it now can be waived by the defendant) and in all misdemeanors involving a prison sentence in excess of 90 days (sec. 5-3-1, p. 10 of bill). Egregious plea bargains are made far more unpalatable by this procedure.

3. Setting forth standards in mitigation or aggravation of the possible sentence. Factors in favor of withholding a sentence of imprisonment - 11 in number, e.g. defendant acted under provocation, had no prior criminal record, etc. - are listed (sec. 5-5-3.1, p. 15 of bill) - but imprisonment is possible even where such factors are present. Analogously, imprisonment is seen as indicated, or mandated in the following circumstances (sec. 5-5-3.2, pp. 15-17 of bill):

a. The defendant inflicted or attempted to inflict serious bodily injury while committing or fleeing from a felony (prison indicated);

b. The defendant presents a continuing risk of physical harm to the public (prison mandated, extended term permitted);

c. The defendant is a repeat offender, whose commitment for an extended term is necessary to protect the public - must be over 17 and have at least 1 prior Class 1 or Class 2 felony conviction (prison mandated, extended term mandated);

d. The defendant was either obliged to prevent commission of the offense (e.g. the police burglar) or abused a public trust (e.g. the corrupt politician) or used a position of wealth or influence to facilitate commission of a serious offense (e.g. the Equity funding scandal) (prison indicated).

4. Refining dispositions allowable under the Code

a. Mandatory supervision and/or conditional discharge eliminated as possible disposition for certain Class 1 felonies (murder, rape, armed robbery, serious drug offenses - most of which was true under prior law) and for all Class 1 or Class 2 felonies committed while on release pending trial or appeal, or while serving a term of probation, parole or mandatory supervision, or while legitimately absent from a custodial institution (e.g. on furloughs or work release) - (secs. 5-5-3(d) and (h), pp. 14 and 15 of bill).

b. Fine eliminated as sole disposition in Class 3 or 4 felony cases (sec. 5-5-3 (e), p. 15 of bill).

c. Maximum length of periodic imprisonment made flexible by Class of felony (sec. 5-7-1(d), p. 22 of bill) and allowed in combination with other sentences (sec. 1005-7-1(c), pp. 22 of bill)

5. Judges must make an independent assessment of the facts of each case and place the reasons for their sentencing decisions on the record (sec. 5-4-1, pp. 11-13 of bill), knowing that they are subject to review (id., and Sentencing Equalization bill).

II. Establishment of Mandatory Supervision in Place of Probation

1. All - or almost all - references to probation are stricken from the Code. For example, "mandatory supervision" is substituted for "probation" as a sentencing disposition allowable under the Code (secs. 5-5-3(d) and (e), pp. 13-14 of bill).

2. Similarly the sections of the Code specifying how and with what conditions "probation" could be imposed, modified or revoked (secs. 5-6-1, 5-6-2, 5-6-3, and 5-6-4, pp. 18-22 of bill) had to be altered in a similar fashion. In addition, however, a number of substantive changes were made, as follows:

a. The presumption against imposing probation was shifted to one in favor of mandatory supervision (sec. 5-6-1 (a), p. 18 of bill). This was seen as proper because

i. other portions of the bill had disallowed mandatory supervision in inappropriate cases, and

ii. mandatory supervision was seen as more meaningful and stringent than was probation, as explained in (c) below.

b. The maximum allowable periods on mandatory supervision were modified over those prevailing for probation as set forth below (sec. 5-6-2(b), p. 18 of bill).

Offense	Maximum Probation	Maximum Mand. Supervision
F1 & F2	5 yrs.	4 yrs.
F3 & F4	5 yrs.	30 mos.
M	2 yrs.	1 yr.
Petty Ofse.	1 yr.	6 mo.

The new periods were seen as more commensurate with the offense involved.

c. The required conditions of release on mandatory supervision were altered from those pertaining for probation. Possession of a firearm now is forbidden to persons on mandatory supervision except in very limited circumstances (sec. 5-6-3(a), p. 19 of bill). Moreover imposition of one or more of former permissive conditions of parole (e.g., pay fine, make restitution, undergo treatment, etc.) is required for sentence of mandatory supervision (sec. 5-6-3(c), p. 20 of bill), the idea being that a person is put on mandatory supervision and assigned to the Bureau only if there's something the court wants him to do besides remain law abiding. If indeed, there

are no such additional requirements, the court is expected to impose a sentence of conditional discharge.

Because "mandatory supervision" and "parole" - until it is phased out - will be administered by the same agency and with the same objectives, the conditions of parole have been amended to conform to the conditions of mandatory supervision (sec. 3-3-7(a) pp. 2-3 of bill).

d. Alleged violations of mandatory supervision are required to be processed more expeditiously than were the analogous probation infractions - within 14 days of the onset of any incarceration resulting therefrom (sec. 5-6-4(b), p. 21 of bill), and judgments revoking that status are reviewable to the extent original sentences of imprisonment are (sec. 5-6-4(g), p. 22 of bill).

III. Establishment of Determinate Sentencing

1. While imposition of a term of imprisonment is mandated in only a very small group of cases (see discussion above under I. 3(b) and (c), the term of imprisonment the court is free to impose once it decides such a sentence is appropriate is circumscribed within fairly narrow limits. The range of sentences available for murder and each of the four felony classes is set forth below. Misdemeanor sentences are unaffected by the bill (sec. 5-8-1 and 5-8-1A, pp. 24-30 of bill).

Offense	Flat Sentence	Range in Aggravation or Mitigation
M(sec. 5 8-1(A))	Death or Life	-
M (other)	Life or, 25 yrs.	- ± up to 5 yrs.
F1	8 yrs.	± up to 2 yrs.
F2	5 yrs.	± up to 2 yrs.
F3	3 yrs.	± up to 1 yr.
F4	2 yrs.	± up to 1 yr.

"Capital" murders (sec. 5-8-1A, pp. 27-30 of bill) are not affected by this bill, except to require life imprisonment for those not sentenced to death. All other murders are divided into two categories, with the possibility of a life sentence available for particularly heinous offenses (sec. 5-8-1(b)(1), p. 24 of bill).

2. Enhanced sentences are available for particularly dangerous or persistent offenders (see discussion at I. 3(b) and (c) above) under the following schedule (sec. 5-8-2, p. 31 of bill):

Offense	Flat Sentence	Range in Aggravation or Mitigation
F1	15 yrs.	± up to 3 yrs.
F2	9 yrs.	± up to 2 yrs.
F3	5 yrs.	± up to 2 yrs.
F4	5 yrs.	± up to 2 yrs.

Due to the severity of the original sentences for murder, enhancement is not seen as necessary.

3. Good time under this bill is increased dramatically, so that a defendant can earn his way out from under the bulk of the sentence imposed on him. Good time is one day off of the sentence imposed for each day of trouble-free behavior (sec. 3-6-3, p. 6 of bill). Thus a defendant can eliminate 50% of his jail sentence through meritorious conduct, so that the actual time served becomes closer to the following:

Offense	Period in Custody* Flat Sentences	Enhanced Sentences
M	12.5 yrs.**	-
F1	4 yrs.	7.5 yrs.
F2	2.5 yrs.	4.5 yrs.
F3	1.5 yrs.	2.5 yrs.
F4	1 yr.	2.5 yrs.

* Figures are averages, based on flat-time sentences and assuming all possible statutory good time is accumulated.

** Excludes offenders sentenced to "life" or "death"

4. Notwithstanding previous disclaimers, we now believe that the averages time served by Class 1 or Class 2 felons committed to the Department of Corrections will increase by about 1 year on the average. The number of such persons committed, however, may well decrease as community correctional programs take hold. In addition, temporary assignment of inmates to local jail facilities is now authorized, subject to court approval (sec. 5-7-5, p. 23 of bill). We believe overcrowding is manageable under this system, but the quality of inmate will harden over the present mix.

IV. Abolition of Parole

1. Parole is abolished, both as a means of securing release prior to serving a full term in custody and as a status after release from custody, but only as to all persons sentenced under the new structure. Parole as a means of release from custody is retained for all persons sentenced at a time when parole was a possibility for them; and parole as a status after release is retained for a two-year period after the effective date of the Act (no parole term imposed may extend beyond that two-year deadline).

2. The Parole and Pardon Board is not abolished by this bill, although its functions are modified. Under this proposal it will continue to have the following functions (secs. 3-3-1 to 3-3-6, 3-3-8, 3-3-9, pp. 1,2,2A,2B,3 and 5 of bill):

   a. The paroling and releasing authority for all inmates sentenced under prior law (see VI below for further details);

   b. The releasing authority for all inmates sentenced under the new determinate sentencing structure (here they would function in a largely ministerial capacity, certifying the computation of good-time credits and time served made by the Department).

   c. The commuting, reprieving and pardoning body advisory to the Governor. This duty could assume real importance, as it would be the only method of early release for the "truly exemplary" offender and the only way in which a "true life" offender could be discharged.

3. While parole is not possible under this proposal, a convict has far more control over the time he actually spends in prison than under prior law. The possibility of an even earlier release in exceptional cases via executive clemency remains an option (sec. 3-3-3(d), p. 2 of bill). Moreover, the services available to persons placed on mandatory supervision may be utilized by incarcerated individuals upon their release (sec. 3-3-7(e), p. 4 of bill). Finally, it is hoped that the prison reform features of the package (see V below) and the industrial production and training facilities program (see discussion of "Bureau of Community

Safety" bill, at p. 2) will significantly upgrade the quality of life in prison. In short, abolition of the possibility of parole is not viewed as a punitive or inhumane measure when put in this larger context.

V. Creation of a Just Prison Environment

This bill attempts to redress a number of the major grievances of convicts regarding life in prison. In addition, a number of significant improvements therein are contained in other bills, or are left to administrative regulation, as set forth below.

1. Good time credits vest on a not-less-than monthly (30 day) basis. Offenders cannot be punished by stripping them of accumulated good-time, beyond a 30-day maximum. Although not specified in the Act, it is anticipated that the 30-day period will set an outer limit for the penalty that may be imposed for disciplinary infractions via loss of good time. Other punishments - including criminal prosecution - are of course available.

2. Disciplinary procedures are tightened up considerably. A written schedule of the offenses, the possible sanctions attaching thereto, and the means by which they may be imposed is required (secs. 3-8-7(a) and 3-10-8(b), pp. 6 and 8 of bill). Punishment by restrictions on medical or sanitary facilities or mail privileges are prohibited, and disciplinary work, education or program reassignments are possible only for abuses connected therewith (secs. 3-8-7(b) and 3-10-8(a), pp. 7 and 7A of bill). These reforms are extended to both juvenile and adult offenders.

3. Expanded vocational and educational opportunities. The possibility for meaningful work opportunities at decent wages is promised by the "Bureau of Community Safety" bill (also see, sec. 3-12-5, p. 9 of this bill).

4. Institutional self-government (prisoner/guard councils) are under active consideration as a means of reducing tension among inmate factions and between prisoners and guards. This experiment, however, will be undertaken by regulation and does not appear in the legislation.

5. Correctional personnel upgrading likewise is an important priority, although not addressed in the legislation. ILEC currently is funding a massive training program for guards, and it is anticipated that correctional personnel will be given the opportunity to participate at minimal cost in training and education programs offered to inmates. This too would be accomplished by regulation.

VI. Transition to New System

The proposed determinate sentencing structure and philosophy pose special problems in relation to persons sentenced under prior law. As to those adult offenders who received probation or conditional discharge the switchover from county probation departments to the Bureau of Community Safety is accomplished gradually over a period of two years (see discussion at p.1 of "Bureau of Community Safety" bill). For those who were sentenced to terms of imprisonment, the problem is more acute. It is felt the mixture of the two groups of prisoners sentenced under these disparate approaches will only serve to add fuel to the already volatile situation in our prisons. To that end, it is felt that the best approach is to make the indeterminate sentences of those now in prison as close to the determinate sentences of their successors as possible, and to parole or release those now incarcerated at as rapid a pace as is consistent with the public interest and the safety of the community. The transition strategy for such persons (set forth at Sec. 5-8-2A, pp. 31-34 of bill), was conceived with those problems and objectives in mind. Its main features are as follows:

1. Within 9 months of the effective date of the Act, the Parole and Pardon Board, after notice and hearing, is to fix a tentative release date for each committed offender (sec. 5-8-2A(a), p. 31 of bill). The date set must fall within the minimum and maximum sentences imposed by the court, less time credit for good behavior (sec. 5-8-2A(e), p. 33 of bill).

2. The Board is to consider each offender's case on an individual basis, based on any information contained in the PSI, the offender's behavior since commitment, the rate of accumulation of good time, and other similar criteria set forth in the bill (sec. 5-8-2A(b) p. 31 of bill).

3. The release date set must assume the offender will accumulate good time at the maximum new rate in the future, and be contingent thereon, thus creating an incentive for good behavior (sec. 5-8-2A(c), p. 32 of bill).

4. The release hearing and date are not a substitute for parole hearings and parole, as that might create serious constitutional questions. Instead parole hearings for offenders sentenced with the possibility of parole would continue to be scheduled as presently provided by law. Thus persons could be paroled - or released outright - prior to their official release date. The period of parole supervision, however, could not extend beyond 2 years from the effective date of the Act (see secs. 5-8-2A(e) and (f), p. 34 of bill, and discussion above at p. 1).

Related Bills

Court Services Upgrading. High-quality PSIs are essential to insure that sentences imposed are commensurate with the offender and the offense.

Sentence Equalization. Comprehensive appellate review of sentences is necessary to eliminate egregious sentencing errors in type (e.g. prison rather than mandatory supervision) more than it is to eliminate errors in length (6 rather than 4 years in prison).

Bureau of Community Safety. Complete PSIs are apt to disclose genuine rehabilitative possibilities for many offenders. BCS should be given enough funding to insure development of an adequate service-delivery capacity.

Juvenile Parole Reform. Removal of incarcerated juvenile from the jurisdiction of the Parole and Pardon Board is consistent with their treatment in the Court Services Bill as primarily wards of the court throughout the entire period of their contact with the criminal justice system and with the general disenchantment with parole expressed by this bill.

Sentencing Equalization

1. This bill attempts to eliminate sentencing disparities across the State. It makes sentences reviewable in the Appellate Courts, and mandates those courts to use that authority to modify the sentences imposed by the trial courts - as to length, type, or enhancement - so as to insure that they are:

   a. commensurate with the offense committed as aggravated or mitigated in the particular case;

   b. consistent with the public interest and safety of the community and most likely to work a full measure of justice between the offender and his victim if any;

   c. commensurate with the sentences imposed on other offenders for similar offenses committed in similar circumstances.

   These goals are made the public policy of the State (sec. 5-10-1, p. 1 of bill).

2. Either the defendant or the State may appeal a sentence, although the grounds upon which the State may appeal are more restricted.

   a. The defendant may question (sec. 5-10-2(a), pp. 1-2 of bill);

      (i) The legality of the sentence imposed upon him, as to its length and type

      (ii) The legality of utilizing enhanced punishment provisions

      (iii) Whether the court sentenced the defendant based on inadequate or inaccurate information

      (iv) Whether the sentence imposed, while legal, is unduly severe when compared to either (A) the length or type of sentence imposed on others similarly situated, or (B) the length or type of sentence mandated by a due regard for the public interest in the safety of the community.

NOTE: Only sentences to a term of imprisonment or of periodic imprisonment in excess of 90 days are appealable for equalization, although any sentence may be questioned as to its legality. Should the defendant prevail, the appellate court must impose (or order imposed) a legal and proper sentence under the Code - i.e. the sentence best fitting the offender and the offense. The former limitation on the authority of the Appellate Court forbidding it to impose a sentence of a different type than that imposed by the trial court has been removed (sec. 5-10-6(a),pp. 4-5 of the bill).

However, the defendant cannot get a more severe sentence as the result of an appeal he initiates (id., p. 5).

   b. The State may question (sec. 5-10-3, pp. 2-3 of bill):

      (i) The legality of a sentence

      (ii) Whether the sentence is less severe than mandated by a proper concern for the public interest and the safety of the community.

NOTE The defendant must have access to counsel in this proceeding. The State must prove its case under (ii) above by "clear and convincing evidence". If it does, the Appellate Court may impose a more severe sentence, but only if it also finds one or more of the following circumstances concerning factors in aggravation: (A) they were unknown to the State and not discoverable through due diligence; or (B) they were presented at the sentencing hearing but ignored or excluded by the trial court; or (C) they were knowingly and actively concealed by the defendant (mere silence would not constitute such active concealment - sec. 5-10-6(b), pp. 5-6 of bill).

3. The Supreme Court is authorized to provide by rule for the method of perfecting appeals of sentences (secs. 5-10-4 and 5-10-5, pp. 3-4 of bill) and for the institution of such practices and procedures as will promote a uniformity and parity of sentences (sec. 5-10-7, p. 6 of bill).

4. The Department of Corrections is mandated to collect detailed data relative to the sentencing of offenders to be made available to concerned parties in connection with sentencing proceedings (sec. 5-10-8, pp. 6-7 of bill).

Related Bills

Determinate Sentencing. Sentences imposed on felons will now be either imprisonment for some definite (and fairly substantial) term or no custody at all. This bill is designed to insure review of that very important classification decision of the trial courts.

Court Services Upgrading. This bill presupposes a full presentence investigation and report in a large number of cases. The courts must be provided with adequate numbers of skilled courts services personnel if this is to become a reality.

Juvenile Parole Reform

(Ch. 37, par. 5-10, pp. 1-2 of bill)

This portion of the bill removes juveniles from the jurisdiction of the Illinois Parole and Pardon Board. Release decisions on juveniles are to be made by the committing court, at the instigation of the Administrator of the Bureau of Youth Services. The power to transfer juveniles among suitable institutions within the Department remains with the Department.

(Ch. 38, par. 3-3-1 et seq., pp. 2-9 of bill)

These sections are amended to eliminate all references to juvenile matters from those statutes dealing with the powers and duties of the Parole and Pardon Board. In addition, various conforming amendments (e.g., changing all references to "Assistant Director of Corrections, Juvenile Division" to Administrator, Bureau of Youth Services") were made. No other changes in substance are proposed.

Related Bills:

Bureau of Community Safety (which contains the bulk of the material relating to the restructuring of the Department of Corrections).

Determinate Sentencing (which contains other restrictions on the activities of the Parole and Pardon Board).

Public Defender Upgrading

This bill amends the provisions of ch. 34, § 5601 et seq. relative to the provision of public defenders in the following respects:

1. Authorizes multi-county defender offices across circuit lines. (sec. 5601.2, p. 1 of bill).

2. Makes the position of public defender appointive for a term of 4 years; and places discipline of the public defender (other than by contempt proceedings) in the hands of the Attorney Registration Commission. Specifies the basis for imposing disciplinary sanctions (serious mental or physical disability, willful misconduct in office, willful and persistent failure to perform defender duties, habitual intemperance, conduct prejudicial to administration of justice - sec. 5602, pp. 1-2 of bill). Under present system, defenders serve at pleasure of the majority of the judges in his circuit.

3. Increase rate of compensation of public defender as follows (sec. 5605, p. 2 of bill):

County Pop.	New Salary (as % of State's Attorneys)	Old Salary
100,001-499,999	75% - 100%	40% - 80%
0 - 100,000	60% - 100%	25% - 80%

Whenever defender is full-time, he must be compensated at same rate as State's Attorney.

NOTE: Increases cost of single-county defender to county and hence encourages regional approach.

4. Gives public defender power to appoint his assistants and clerks himself (formerly the judges had this power). Authorizes him to hire investigators and other professional and paraprofessional personnel as well, to the extent funds are available (sec. 5606, pp. 2-3 of bill).

5. Authorizes expenditure of State and federal funds for defender services as well as county funds, thus paving way for subsidies or support for local efforts. Such supplements are not guaranteed, however (sec. 5605, 5605 & 5607, pp. 203 of bill).

Related Bills

None

A Partial Comparison of Current and Proposed Sentencing Practices

Offense*	Class	A Current Sentence Imposed (yrs.)**	B Current Time Served (yrs.) Custody to Parole	% (B÷A)	C Proposed Sentence Imposed (yrs.)***	D Proposed Time Served (yrs.) Custody to Release****
Burglary	2	4.21	1.75	41.7	5	2.75
Robbery	2	3.77	1.74	46.1	5	2.75
Armed Robbery	1	7.95	3.45	43.4	8	4.4
Theft	3 or 4	3.15	1.43	45.5	3 or 2	1.65 or 1.1
Vol. Manslaughter	2	8.18	3.68	45.0	5	2.75
Murder	-	58.0	11.4	19.7	25	13.75
Aggravated Battery	3	3.25	1.73	53.2	3	1.65
Forgery	3	3.61	1.39	38.4	3	1.65

*These are the eight offenses involving the most commitments to DOC, from most frequent to least frequent. Together they comprise roughly 55% of total population.

**Computed by taking average of minimum and maximum sentences imposed on a sample of 800 recent parolees.

*** Uses sentencing schedule provided in Act, except assumes all murderers get 25 years. Assumes mitigating and aggravating sentences cancel each other out (i.e., everyone given average).

**** Assumes inmates earn 90% of good time credit possible.

END