

STATUTE REVISION IN THE STATE OF INDIANA

Program of the Indiana Legislative Council and its Statute Revision Commission is under way using EDR equipment to facilitate compilation of current Indiana statutes and their codification on tape for instant retrieval in drafting amendments or new laws. Means of expanding system through co-operation between legislature and the bar could result in fully computerized system for retrieval of case law as well as continuously current statute law.

by
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The Indiana Legislative Council is in the midst of preparing a compilation of the laws passed by the General Assembly during the past 120 years. More than 60 volumes of session laws have been published in that period of time, each volume containing only the new laws and amendatory laws enacted during one session and/or special session of the Legislature. Not since the revision of 1852 has the General Assembly attempted to sort through the morass of laws it has passed, pick out those still in effect, arrange them in logical order, and reenact them as the official compiled statutes. But only by an effort such as this can a set of books be produced which is officially *the law*. The compilation must be *enacted as the law of Indiana*, superseding all prior statutes, so that it will serve, not as prima facie evidence of the law, but AS THE LAW.

Presently, the only official text of the law is to be found in the enrolled acts themselves and in the volumes of the Acts of Indiana certified as authentic by the Secretary of State. Neither of these sources is readily available; copies of volumes of the Acts of Indiana published before 1900 are, in fact, extremely scarce and kept under lock and key. In order to obtain a working set of all the Acts, the

staff of the Legislative Council has had to photocopy many of the volumes published prior to 1900. (This unavailability of the official text of the laws governing our state may indeed be reason enough to warrant republication of the official laws!)

Despite these difficulties, a working set of the Acts of Indiana published between 1852 and 1969 has been collected. Researchers are now going through the laws, page by page, section by section. Their task is to identify those statutes which are no longer in effect—those which have been either specifically repealed or amended. When this work is completed, and has been checked and rechecked, only those statutes presently in effect will remain.

These remaining statutes will then be logically arranged by subject, so that all the education laws will be found under one heading, all the laws concerning municipal corporations under another, etc. Lastly, a bill will be prepared containing the arranged, currently valid law for enactment by the General Assembly.

When the bill becomes law, it will serve as the official source of all the general statutes governing the State of Indiana. There will be no need to look back to the older acts upon which the official compilation was based; they will have been repealed. There will be no cause to cite the older acts when preparing amendatory bills; the official compiled statutes of Indiana will be the one authoritative source of the Indiana statute law and will be amended directly.

Although the Indiana General Assembly meets in regular session for only 61 days every two years, activities continue during the interim period. The 16-member Indiana Legislative Council, composed of the leadership of both houses of the General Assembly, meets monthly to make decisions affecting the legislative branch of government and to direct the operations of the more than 20 study committees active between sessions. The Council is served by a staff of more than 30 full-time employees, who assist the study committees by doing research and preparing legislation.

A more detailed explanation of why an official compilation is needed and how the work will be accomplished follows, along with a description of how the preparation of such a compilation fits into the overall plan for improvement of the legislative process. But first, it should be stressed that there is nothing revolutionary about this project. We prepared a set of compiled and revised statutes in 1842. We did it again in 1852. Within more recent times, every state in the union with the exception of Indiana and Pennsylvania has compiled or recompiled its statute law.

The Need for a Compilation

All those familiar with the legislative process know that after a bill has been approved by both houses of the General Assembly, it is enrolled, signed by the officers of the House and Senate, and sent to the Governor. If the bill is not vetoed by the Governor, it is then sent to the Secretary of State.

At the end of the legislative session, the Secretary of State arranges the laws in the order of their signing by the Governor and contracts to have them printed as the latest volume of the Acts of Indiana. The volume becomes official only after the Secretary of State has certified that it contains the completely accurate text of the session laws upon which it was based.

The fact that the text of the Acts has been certified as official is important because the General Assembly

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cannot constitutionally amend anything other than the official statute. Under the requirements of Article 4, Section 19 of the Indiana Constitution, reference must be made to the official citation of the act. The official text of the section or subsection to be amended must be set forth and published at full length in the amendatory bill.

A new volume of the Acts of Indiana is published at the end of each session of the General Assembly. The volume contains only the laws passed in the preceding session. Because there is no comprehensive index to these individual volumes, and because there is no way to determine whether a law passed in one session has been amended or repealed to some later date, the Acts are virtually unusable by themselves.

Unquestionably, the need exists for an official compilation of the statutes. The Indiana statutes are in such poor order that the only possible way to find something in the Acts is by first finding it in the privately published, unofficial compilation of the Indiana statutes and checking the cross-references back to the Acts. In practical effect, then, the Indiana General Assembly has placed itself and the Indiana bar and bench in the position of having become completely dependent upon a private publishing company for the only usable source of the Indiana statute law.

This is not to say, of course, that there is no need for a privately published, annotated version of the Indiana statutes. It would be difficult to practice law without the annotations. But, on the other hand, the Legislature does have the duty to keep the statute law in order and to make it available and accessible to the persons who desire to use it. This calls for the preparation of an official compilation by the Legislature, which will serve as the authoritative and comprehensive statement of the Indiana statute law.

History of the Project

The Indiana Legislative Council therefore has undertaken the prepara-

tion of a bill, suitable for introduction in the 1971 session, which would include for reenactment all statutes which are currently in force, arranged logically by subject and numbered for easy reference.

Preparation of this revision bill involves a two-pronged process. The Council has formed the Statute Revision Commission to supervise the compilation procedures and to make policy decisions. This sixteen member Commission is composed of outstanding members of the Indiana General Assembly, as well as representatives of the two state-supported law schools, the offices of the Governor and the Attorney General, the Indiana Judiciary, the Indiana State Bar Association and the Central Data Processing Division of the State Department of Administration. The chairman of the Commission is Senator Phillip E. Gutman of Fort Wayne.

The Council has delegated to the Commission the responsibility of selecting and recommending to the Council the best consultant to assist it in preparing the compilation. The consultant is to do the actual sorting out of those laws which have not been repealed or further amended, and is to arrange the resultant statutes within a subject matter framework in accordance with guidelines to be established by the Commission.

The procedures utilized to prepare our 1852 compilation were exceedingly long and tedious. The amount of material to be processed for a compilation in 1971 has increased several hundred-fold over that involved in the 1852 undertaking. Clearly, therefore, the hand-sorting and cutting and pasting methods applied in preparing the last compilation are no longer feasible on either a time or cost basis. It is no wonder, then, that the General Assembly has not, in this century, seriously considered undertaking the preparation of a new official compilation.

Recently, however, several other states have undertaken the preparation of new compilation of their statutes. Hawaii has enacted a compilation of its laws from 1959 to 1969, a 10 year period. Texas, whose laws were last revised in 1925, is recompil-

ing the statutes passed during the intervening 45 year period. Both of these states engaged the same company to assist them in the preparation of the compilation—the Aspen Systems Corporation of Pittsburgh, Pennsylvania.

Learning of the activities in Hawaii and Texas, the Indiana Legislative Council requested the Aspen company to determine whether or not a similar project could feasibly be undertaken in Indiana, where the laws had not been recompiled in 110 years. Aspen replied that such a compilation was completely feasible and could be completed within one year, utilizing modern computer technology.

Other companies involved in either computerized retrieval of statute law or the compilation and publication of state statutes by traditional means were also invited to submit proposals regarding the compilation of the Acts of Indiana. After intensive study, the Aspen Systems Corporation was selected on the grounds that it combined the attributes of both an expert legal staff and sophisticated computer techniques, and had had actual experience in applying these qualities to the compilation of state laws.

How the Compilation will be Prepared

As noted earlier, the first steps in the preparation of the bill for compilation are already underway. The Statute Revision Commission has been appointed and a contract has been signed with Aspen Systems Corporation calling for delivery of the manuscript of the compilation by September 1, 1970. The session laws from 1852 through 1969 have been shipped to the contractor. Aspen's legal staff is currently paging through the Acts of Indiana, identifying the statutes still in force.

The Commission will soon be at work deciding upon the classes of statutes to be excluded from the compilation. These will undoubtedly include local and temporary statutes, appropriation bills without substantive content, etc. The Commission will then begin the task of deciding

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how the remaining statutes are to be arranged in the bill for compilation in a manner which will be satisfactory to both the General Assembly and to members of the Indiana legal profession.

The Commission will take every precaution to be absolutely certain that the bill for compilation in no way alters the substance of the existing statutory law. The members of the General Assembly must know that the bill for compilation contains the exact text of the official acts. Only then will they be justified in enacting it and repealing all prior statutes. Because of the enormity of the task and the size of the resultant bill, the legislators must rely in large part upon the absolute integrity of the commissioners. It is for this reason that such outstanding members of the Indiana Legislature and legal community were appointed to the Commission.

Future Plans of Commission

The enactment of a bill containing the compiled statutes of Indiana is the goal of the Commission for this biennium. But it is only the first step in a complete revision and codification of the Indiana statutes. The real work of the Commission will begin after the compilation has been enacted.

The compilation will be merely a collection and arrangement of the existing effective statute law. The next step must be revision. Revision involves the structure, form and contents of the statute law. It asks, how can the laws be clarified, simplified and correlated so as to be readily understandable—how can the obsolete, unconstitutional, impliedly repealed and conflicting provisions be eliminated?

At the present time, a great deal of the statute law to which practicing attorneys refer daily is in relatively good shape. Thanks to the combined efforts of the Indiana bar and the General Assembly, we have codified the probate laws, the laws of civil procedure and several other important areas. A bill for a trust code will be introduced in the next session, and plans are underway to codify the rules

of criminal procedure and the substantive criminal law. But the major body of law, that which is not used every day by most practicing attorneys, unfortunately has not received such interest and attention. The laws concerning education are a prime example. Others are the laws relating to municipal corporations and mental health.

The preparation of an official compilation and its enactment hopefully will provide the incentive and impetus necessary to start a movement toward the goal of putting all areas of the law in order. It has been reported that the old School Law Codification Commission spent seven years just *finding* all of the statutes relating to education. Much of the group's problem during the period of its existence involved keeping up with the Legislature. At two year intervals, or more frequently, the Legislature made substantial changes in, and additions to, the statutes relating to education. Simply stated, the crux of the problem was how to keep pace with the Legislature!

Commissions formed after the enactment of the compilation will have a less difficult time. They will at the least have a starting point; the statutes relevant to their area of work will be found under one title of the compilation. Furthermore, it is anticipated that once the statutes have been compiled, they will not be allowed to slide into disarray again, but will be recompiled after each session (so that we will not be faced with this problem again in another 110 years!)

By the time the Statute Revision Commission has completed the bill for compilation, the members will no doubt have a great deal of familiarity with the weaknesses of our present statutes. They will have an idea of the areas which need to be reworked and revised, and will report to the Legislature on the same. In the next biennium, then, one or more special commissions can be established to revise the laws in the most pressing areas.

Future Plans of Council

These plans for compilation in this biennium and revision in the next are

complete in themselves. The utilization of computer technology is justified by both the time element—a completed manuscript in bill form delivered in less than one year—and by the accuracy insured by the elimination of the need for many retypings and reproofings of complex material.

In addition, however, the use of automated techniques opens up many new areas to the Legislature. As part of the procedure for preparing the completed manuscript, the contractor will put the complete text of every active Indiana statute on computer tape. The Legislative Council will obtain a copy of this tape, which can be used in several ways.

A computer can be programmed to search the tape for every occurrence of a specific word. Thus, if it were desired to find every instance in the law where the phrase "handicapped child" was mentioned, the computer could be so instructed and within moments would print out the complete text of every section of the Indiana statutes containing this phrase. More sophisticated searches can be devised to find, for example, every section containing the word "police" plus the word "pension" plus the phrase "second class city."

The computer can be programmed to make corrections regarding style in the tape of the statutes. Thus, consistency in capitalization and spelling can be assured.

A computer-generated index can be prepared within a very short period of time. If the compiled statutes are to be published, they will be of little more use than the session laws unless they are thoroughly and accurately indexed.

The computer tape can be coded for photocomposition purposes. This will mean that the statutes in their final printed form will be as accurate as the text of the statutes stored on the computer tape.

Perhaps most important to the members of the General Assembly, the tape of the compiled statutes can be used in an automated bill drafting system after the bill for compilation itself has been enacted into law. Sup-

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pose that a member of the Legislature wishes to have a simple amendment prepared, changing "5%" to "10%" in an existing section of the law. Presently, a secretary of the Public Law Division of the Council would have to find the required statute in the Acts of Indiana and retype it in bill form, making only one change—that of omitting "5%" and inserting "10%". Next the bill would be proofread against the existing act to make certain that the remainder of the section had been correctly copied—that nothing had been changed inadvertently.

Using an automated bill drafting system, the same secretary could sit in front of a computer terminal (somewhat like a television screen attached to a typewriter) and type out a request to the computer to retrieve the desired section. Within seconds, the text of the section would flash upon the screen. Moving a marker to the

point on the screen where "5%" appeared, the secretary would instruct the computer to delete it. In place of "5%", she would then type "10%". Next she would instruct the computer to type out a clean copy of the proposed amendment in bill form.

The only typing which would be required would be that of keying in the change. The only proofreading required would be that of checking the amendatory language itself. Since the text of the statutes had undergone rigorous proofing when they were stored on the computer tape, there would be no need to copyread the computer printout. Whatever text the computer generates must be an exact duplicate of the information stored on the tape in the first instance.

Approximately ninety percent of the bills prepared for introduction each session are amendatory. An automated bill drafting system such as described above would insure greater accuracy in the amendatory bills, re-

duce the need for extra typists and proofreaders during the session, and allow the Legislature's bill drafters more time to fill requests for completely new legislation which requires study and research.

Conclusion

The result of the introduction of modern computer technology into the legislative process via the program outlined above will be better drafted bills, a more accurate and orderly system of statutory law and easy accessibility to the law.

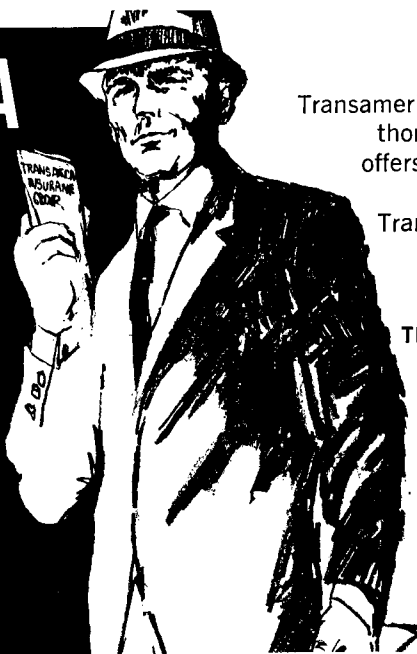
Although no plans yet have been made regarding the opinions of the Attorney General, the rules and regulations of the administrative agencies and the decisions of the courts, continued cooperation between the legislature and the Indiana bar ultimately could result in a fully computerized and operational system for retrieving not only the Indiana statute law, but the case law as well.

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