

Access to ideas

CSG helps legislators find out what laws other states are enacting in a variety of areas.

BY BILL VOIT

Preventing and responding to terrorism has been at the forefront of America's collective psyche since Sept. 11. Fortunately, federal, state and local governments have planned for terrorist attacks for years, and this is reflected in the work of Suggested State Legislation, a program of The Council of State Governments.

CSG has identified and highlighted innovative legislative trends in all aspects of public policy for more than 50 years. Legislators, legislative staff and representatives of CSG Affiliates serve on the SSL committee, which debates and selects bills for publication in an annual volume of legislation available to state officials and the public.

Noteworthy issues the committee has considered recently include state anti-terrorism efforts, computer crime, privacy, cloning, teacher shortages and prescription-drug prices. Many issues are controversial, and the committee is often among the first to tackle them. As Jerry Bassett, director of the Alabama Legislative Reference Service, said, "Just because an issue is really hot or unpopular, we can't hide our heads in the sand."

Here is a look at some of the major trends CSG has explored:

Terrorism

CSG has aided states in planning for terrorism since 1994. Most recently, 2002 CSG draft legislation on terrorism prevention makes it illegal to make, possess, use or threaten to use weapons of mass destruction against people, animals, prop-

erty or the environment. The draft also makes it a crime to possess restricted biological agents, and requires police officers who encounter restricted biological

agents to notify local health officials.

Draft CSG terrorism legislation from 1999 makes it felony for people, charitable groups, professional fund-raisers or



CSG has identified and highlighted innovative legislative trends in all aspects of public policy for more than 50 years through its Suggested State Legislation program. Photo illustration by Frances Park Bayer.



professional solicitors to provide material support for international terrorism.

In 1998, CSG promoted the Emergency Management Assistance Compact, which

provides for mutual assistance between states in managing emergencies and disasters, and grants limited immunity from liability to personnel from one state who are rendering aid in another. Forty-three states and two territories are members of the compact, which is administered by the National Emergency Management Association, a CSG affiliate. More information may be found on the NEMA Web site at <http://nemaweb.org>.

CSG also promoted the 1994 Disaster Services Volunteer Leave Act, draft legislation from the American Red Cross. It authorizes paid leave for state government employees who volunteer for American Red Cross operations.

Computer crime

The Information Age is creating new technologies that make life easier and work more productive. Unfortunately, it has also generated new crimes that threaten the technology and the people who use it. Recognizing this, CSG has worked on draft legislation about computer crime, cyberstalking and identity theft in recent volumes.

The 2001 CSG legislation on computer contaminants establishes penalties for introducing viruses, worms or other damaging programs into computers. Previous CSG work on com-

puter crime dates to 1981 and addresses issues such as denying an authorized user access to a computer system or service. Ironically, 20 years later, electronically blocking or denying service to Internet sites has become a serious problem.

The 2000 draft CSG legislation on cyberstalking prohibits willful, malicious and repeated following or harassing of another person, where a credible threat has been communicated with the intent of placing the victim in reasonable fear for his or



CSG draft legislation of 2002 makes it illegal to make, possess or use weapons of mass destruction.



CSG draft legislation of 2001 establishes penalties for introducing computer viruses.

her safety. It defines “credible threat” to include threats communicated through telephones, cellular phones, computers, video recorders, fax machines and pagers. The legislation provides that a threatening message sent electronically, including over the Internet, may be an offense even if the electronic message was originally sent or first viewed by the recipient.

Identity theft

Stealing someone’s identity is particularly onerous because victims can spend years trying to restore their personal and financial integrity. Until the mid-1990s, victims of identity theft had little legal recourse. In 2000 CSG reported that in the previous four years almost half the states had passed legislation to curb



In 2000 almost half the states passed legislation to curb identity fraud.

identity fraud. In addition to criminal penalties, which are included all state identity-theft laws, eight states made provisions for court-ordered restitution, and some states made provisions for civil recovery by a victim against a perpetrator.

Arizona passed the first identity-theft law in 1996 (A.R.S. § 13-2008). Simple in approach but comprehensive in reach, the Arizona law recognizes that identity theft applies when a “person knowingly takes the name, birth date or social security number of another person, without the consent of that other person, with the intent to obtain or use the other person’s identity for any unlawful purpose or to cause loss to a person.”

A 1998 Georgia statute, (O.C.G.A. § 16-9-120 et seq.), declares that a person commits financial identity fraud when he or she “obtains or records identifying information which would assist in accessing the financial resources of the other person; or accesses or attempts to access the financial resources of the other person through the use of identifying information.”

The definition of what constitutes identifying information varies from state to state. Georgia’s definition includes social security numbers, driver’s license numbers, checking account numbers,

savings account numbers, credit card numbers, debit card numbers, personal identification numbers, electronic identification numbers, digital signatures, or any other information that can be used to access a person's financial resources.

Privacy

Technology and interconnectivity are synonymous with the New Economy, and generally are good things. However, they also raise questions about personal privacy as Americans seek to balance civil rights with surveillance, and as our purchasing, financial, employment, educational and medical histories are increasingly recorded and housed on electronic databases by governments and businesses. Genetic privacy is one component of the privacy debate that CSG has examined in detail.

The 1999 CSG draft legislation on genetic privacy declares genetic testing and information derived from genetic testing are confidential and privileged. It says that such information may be released only to people who are tested and to people specifically authorized to receive the information. It prohibits insurers from seeking information derived from genetic testing for use in health or accident insurance policies. However, companies may use information from genetic testing if the person who has been tested voluntarily provides such information. The bill also sets guidelines for disclosing genetic test results and for the rights of people whose results are inappropriately disclosed.

The 1999 draft legislation on confidentiality of genetic tests directs that people have exclusive property rights to the records of tests of their genetic material, particularly against unauthorized release. Release of genetic test results requires the informed consent of the subjects, with exceptions for forensic purposes. The legislation imposes penalties for testing without valid consent or revealing, listing or possessing confidential genetic information without authorization, although people may sign waivers to permit samples of their genetic material to be used for research. The bill establishes provisions for genetic testing of newborns and of people without their consent when the tests are used for research. The bill also sets protocols for storing and destroying genetic samples.

The 1997 draft legislation on genetic screening prohibits health-insurance companies, in determining eligibility for coverage, establishing premiums, limiting coverage, renewing coverage or any other decision, from requiring or requesting people or their relatives to take a genetic test, inquiring whether a person or their relatives has taken a genetic test, or taking into consideration the results of any genetic test. The bill also requires life-insurance companies that order genetic tests for policy-holders to get the person's informed consent and to instruct the person about the availability of genetic counseling.

Cloning

The appearance of Dolly, a cloned sheep, prompted worldwide debate about cloning, particularly as it relates to human beings. An announcement by researchers in 2001 that they had cloned human embryos has fueled the fire. California and Rhode Island were among the first states to enact legislation on the issue.



Researchers in Scotland cloned a sheep in 1997.

CSG's 1999 draft legislation on cloning is based on Rhode Island's law. It prohibits people or entities from using somatic cell nuclear transfer for the purpose of initiating or attempting to initiate a pregnancy, or any person from creating genetically identical human beings by dividing a blastocyst, zygote or embryo. The bill also establishes fines for violating its provisions. Generally, the fines apply to companies, research labs and their employees.

Teacher shortages

Increasing student enrollments, more teacher retirements and fewer college graduates entering the teaching profession have all contributed to a shortage of qualified teachers throughout the country. In recent years, states have attempted to counter the trend with a variety of measures, including alternative certification, stipends and scholarships. CSG work in

2001 highlights efforts in California, Kentucky, Maryland, Mississippi, New York and North Carolina.

CSG's 1999 draft legislation on alternative teacher certification is based on Kentucky's law (SB 265) of 1998. The legislation establishes a program to certify people as teachers based on their work or life experiences instead of a traditional teacher-preparation program. It outlines four options, including certification of a person with exceptional work experience, certification through a local district training program, certification of a professional from a postsecondary institution and certification of an adjunct instructor who has specific skills and training. Generally, qualified participants receive provisional teaching certificates that they must renew every year for up to three years. They get regular teaching certificates if they teach for more than three years.



CSG draft legislation of 1999 allowed for alternative teacher certification.

CSG's legislative services

As the trends mission progresses, CSG will continue to provide timely legislative services to state officials. CSG will be implementing changes in the coming weeks to make topical legislation even more readily available to state officials. Check www.csg.org for services and programs.

When states established The Council of State Governments in 1933 under the urging of Colorado Sen. Henry Toll, they sought to share ideas and work together in the federal system. As Toll said, "A single state's experience in a new field frequently leads to the adoption of similar action in other states, if the problem is general, the approach well conceived, and other states can be made aware of the action." This premise has driven and will continue to drive legislative services and all other CSG services and programs. ★

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