



# Commission on Sentencing

## 64th Montana Legislature

PO BOX 201706  
HELENA, MONTANA 59620-1706  
(406) 444-3064

### LEGISLATORS

SEN. CYNTHIA WOLKEN - CHAIR  
SEN. KRISTIN HANSEN - VICE CHAIR  
REP. MATTHEW MONFORTON  
REP. MARGARET MacDONALD

### PUBLIC MEMBERS

HON. INGRID GUSTAFSON  
MIKE BATISTA  
DEREK GIBBS  
DAN GUZYNSKI  
JENNIE HANSEN  
ROXANNE KLINGENSMITH

### PUBLIC MEMBERS

LEANN MONTES  
PETER OHMAN  
MARY ANN RIES  
MAJEL RUSSELL  
DONNA WHITT

### COMMITTEE STAFF

RACHEL WEISS, RESEARCH ANALYST  
JULIANNE BURKHARDT, ATTORNEY  
KATYA GROVER, SECRETARY

## MINUTES

September 20, 2016  
Room 152, Capitol Building  
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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### **COMMISSION MEMBERS PRESENT**

SEN. CYNTHIA WOLKEN - CHAIR  
SEN. KRISTIN HANSEN - VICE CHAIR  
REP. MARGARET "MARGIE" MacDONALD (via phone)  
HON. INGRID GUSTAFSON  
DEREK GIBBS  
JENNIE HANSEN  
ROXANNE KLINGENSMITH  
LEANN MONTES  
PETER OHMAN  
MARY ANN RIES  
MAJEL RUSSELL  
DONNA WHITT

### **COMMISSION MEMBERS EXCUSED**

REP. MATTHEW MONFORTON  
MIKE BATISTA  
DAN GUZYNSKI

## **STAFF PRESENT**

RACHEL WEISS, Research Analyst  
JULIANNE BURKHARDT, Attorney  
KATYA GROVER, Committee Secretary

## **VISITORS' LIST (Attachment 1)**

## **AGENDA (Attachment 2)**

## **COMMISSION ACTION**

The commission

- Voted to amend and approve LCj001, LCj002, LCj003, and LCj012 as commission bills with further review of LCj002 and LCj003 needed in October.
- Amended LCj013 to keep requirement for Board of Pardons and Parole office to be in Deer Lodge.
- Requested a letter of support for a bill draft being drafted for the Drug Court Advisory Committee.
- Requested staff to draft additional bills for the October 19 meeting.

## **CALL TO ORDER and ROLL CALL**

- 00:00:02 Sen. Wolken called the commission to order at 8:30 a.m. The commission secretary called roll. **(Attachment 3)**  
Rep. Monforton was excused and left his proxy with Sen. Hansen.  
**(Attachment 4)**  
Chad Parker, Assistant Attorney General, Prosecution Services Bureau, Montana Department of Justice, participated in the meeting on behalf of Commissioner Guzynski.
- 00:00:47 Sen. Wolken spoke about the agenda.

## **REPORT ON FOCUS GROUPS HELD WITH CRIME VICTIMS AND VICTIMS ADVOCATES**

Grace Call, Council of State Governments Justice Center (CSG)  
Erin Lambert, YWCA Billings  
Robin Turner, Montana Coalition Against Domestic & Sexual Violence  
Jamie Rogers, Department of Corrections

The panelists introduced themselves.

- 00:02:20 Ms. Call  
00:03:00 Ms. Lambert  
00:03:46 Ms. Turner  
00:06:07 Ms. Rogers
- 00:07:23 Ms. Call opened the presentation about victims and victim advocacy in Montana: slides 1-2. **(Exhibit 1)** The panelists alternated presenting. The presentation slides referred to by each panelist are listed below with the panelist's name and a time stamp.
- 00:08:56 Ms. Rogers: slide 3.  
00:11:13 Ms. Call: slide 4.

00:11:54 Ms. Rogers: slide 5.  
 00:15:12 Ms. Lambert: slide 6.  
 00:18:55 Ms. Call: slides 7-11.  
 00:24:18 Ms. Turner: slide 12.  
 00:27:13 Ms. Rogers: slides 13-15.  
 00:31:37 Ms. Turner: slides 16-17.  
 00:34:59 Ms. Call: slide 17.  
 00:35:39 Ms. Turner: slides 16-18.  
 00:39:26 Ms. Call: slides 19-23.  
 00:45:13 Ms. Turner: slide 24.  
 00:49:00 Ms. Rogers: slide 24.  
 00:50:24 Ms. Lambert: slides 25-26.  
 00:55:47 Ms. Call: slide 27.  
 00:56:19 Ms. Lambert: slides 28-30.  
 01:00:55 Ms. Turner talked about risk assessment and provided concluding remarks.  
 01:03:24 Ms. Rogers also provided concluding remarks.  
 01:06:02 Ms. Call concluded the presentation and offered to answer questions.

Commission Questions

01:06:17 Commissioner Gibbs asked how extensively the Batterer's Intervention Programs (BIPs) are used in Montana.  
 01:07:06 Commissioner Gibbs asked whether there is one specific model of a BIP that is used predominantly.  
 01:08:03 Commissioner Gibbs asked how many BIPs are used in Montana.

**MONTANA JUSTICE REINVESTMENT INITIATIVE POLICY OPTIONS**

01:09:16 Sen. Wolken opened the commission discussion of the Montana justice reinvestment initiative policy options.  
 01:10:31 Karen Chung, CSG, provided an overview and introductory remarks for the Montana Justice Reinvestment Initiative Policy Options **(Exhibit 2) (Exhibit 3)**: slides 1-5 of Exhibit 2.  
Note: Exhibit 3 is an Appendix that describes projected financial impacts for each policy option. During the discussion, the commissioners and CSG staff rotated between the Montana Justice Reinvestment Initiative Policy Options and the Appendix.

**Bill Draft LCj001: Revising Criminal Justice Laws**

01:18:32 Sen. Wolken introduced the policy option associated with LCj001. **(Exhibit 4)**  
 01:19:02 Ms. Chung: slide 6 of Exhibit 2.

Commission Discussion

01:19:46 Sen. Wolken  
 01:19:59 Sen. Hansen  
 01:20:16 Ms. Chung  
 01:22:02 Commissioner Ohman  
 01:22:34 Carl Reynolds, CSG  
 01:23:10 Commissioner Ohman

01:24:07 Mr. Reynolds  
01:25:29 Commissioner Hansen  
01:26:20 Mr. Reynolds

**Bill Draft LCj002: Revising Presentence Investigation Laws**

01:27:55 Ms. Chung: slide 7 of Exhibit 2 and LCj002. **(Exhibit 5)**

Commission Discussion

01:29:33 Commissioner Ries  
01:30:28 Mr. Reynolds  
01:30:55 Sen. Hansen  
01:31:33 Judge Gustafson  
01:32:19 Sen. Wolken  
01:33:09 Judge Gustafson  
01:34:03 Commissioner Hansen  
01:34:49 Commissioner Ries  
01:36:04 Sen. Wolken  
01:38:22 Judge Gustafson  
01:39:37 Commissioner Ohman  
01:40:14 Mr. Parker  
01:42:35 Commissioner Gibbs  
01:43:27 Commissioner Klingensmith  
01:43:58 Sen. Hansen  
01:44:32 Mr. Reynolds

**Statute Review Subcommittee Recommendations to the Commission on Sentencing:  
LCj003, LCSC02, LCSC03**

01:45:56 Sen. Wolken opened discussion on the subcommittee recommendations.  
01:46:47 Ms. Weiss provided a summary of the recommendations **(Exhibit 6)**. The recommendations were reflected in three bill drafts. LCj003 **(Exhibit 7)** covers the following subcommittee recommendation in the following order: 2, 3, 7, 4, 1, 8, 9. LCSC02 **(Exhibit 8)** reflects recommendation 5. And LCSC03 **(Exhibit 9)** reflects recommendation 6.

Commission Discussion

01:55:36 Sen. Wolken talked about the subcommittee recommendations 1, 2, and 3.  
01:57:44 Commissioner Ohman talked about the subcommittee recommendation 3.  
01:58:36 Sen. Hansen talked about the subcommittee recommendation 4.  
01:59:58 Sen. Wolken talked about the subcommittee recommendation 7.  
02:01:03 Commissioner Ohman talked about the subcommittee recommendation 7.  
02:01:37 Sen. Wolken talked about the subcommittee recommendation 8.  
02:01:55 Commissioner Ohman talked about the subcommittee recommendation 8.  
02:02:59 Sen. Wolken talked about the subcommittee recommendation 9.  
02:03:59 Sen. Hansen  
02:05:27 Judge Gustafson  
02:08:33 Sen. Wolken  
02:08:47 Commissioner Russell  
02:09:47 Mr. Parker

02:12:57 Commissioner Gibbs

**BREAK** (reconvened at 11:00 a.m.)

02:30:38 Sen. Wolken called commission back to order.

02:31:43 Julianne Burkhardt, Staff Attorney, LSD, talked about the subcommittee recommendation 5 (see Exhibit 8).

02:34:58 Ms. Burkhardt talked about the subcommittee recommendation 6 (see Exhibit 9).

**Public Comment on LCj001, LCj002, LCj003, LCSC02, and LCSC03**

02:39:28 Patricia Grubb talked about suggested amendments to LCj001. **(Exhibit 10)** Deb

02:45:23 Matteucci, Executive Director, Montana Board of Crime Control, commented on LCj001. Ms. Matteucci noted that policy numbers 1 and 5 (see Exhibit 2), as well as the crisis intervention team (CIT) training, could be combined and delivered as one package for jail diversion or crisis intervention. Ms. Matteucci emphasized that counties that create a program like this generally need all of those pieces for a diversion program to be successful and so creating a package of a grant-funded program maybe something to consider. Ms. Matteucci addressed a point and made recommendations about the number of communities that could be served as a grant administrator agency. Ms. Matteucci also made a comment on Batterer's Intervention Programs.

02:47:29 Mark Murphy, Montana County Attorneys' Association (MCAA), Montana Police Protective Association (MPPA), Montana Association of Chiefs of Police (MACOP), spoke on the monetary component of the bill drafts considered so far and on following through with funding programs authorized by the legislature. Mr. Murphy expressed his concern that some pieces of the legislation may result in pushing costs on the local government units.

**Bill Draft LCj006: Revising Drug Treatment Court Laws**

02:52:39 Ms. Weiss summarized LCj006.

02:53:10 Judge Gustafson elaborated on slide 11 of Exhibit 2. Judge Gustafson said that the Drug Court Advisory Committee should handle the bill draft. **(Exhibit 11)**

**Bill Draft LCj007: Generally Revising Laws Related to Community Corrections Facilities**

02:54:22 Ms. Chung summarized the bill draft **(Exhibit 12)** and elaborated on slides 12-13 of Exhibit 2.

02:56:58 Mr. Reynolds elaborated further on LCj007.

**Commission Discussion**

03:04:27 Sen. Hansen

03:04:47 Mr. Reynolds

03:05:21 Sen. Hansen

03:05:29 Mr. Reynolds

03:05:38 Sen. Hansen

03:06:00 Mr. Reynolds

03:06:27 Sen. Hansen

03:06:33 Mr. Reynolds

03:06:46 Commissioner Gibbs  
03:07:06 Mr. Reynolds  
03:07:25 Commissioner Gibbs  
03:07:41 Mr. Reynolds  
03:08:04 Sheriff Whitt  
03:08:32 Mr. Reynolds  
03:08:45 Sen. Hansen  
03:09:30 Ms. Chung  
03:09:59 Mr. Reynolds  
03:10:11 Sen. Hansen  
03:10:36 Mr. Reynolds  
03:10:51 Sen. Hansen  
03:11:09 Mr. Reynolds

#### **Public Comment on LCj007**

03:12:29 Dave Armstrong, CEO, Alternatives Incorporated, talked about concerns regarding contracts in general and the length of contracts specifically.  
03:16:17 Steve Cape, Montana Coalition For Safety and Justice, talked about issues associated with contracting, including out clauses.  
03:18:38 Amy Tenney, CEO, Boyd Andrew Community Services, talked about subsection (7)(c) of Section 3 on page 14 of LCj007 (see Exhibit 12).  
03:21:01 Erin McGowan, Montana Community Corrections Association, talked about the necessity to capture data properly so that informed decisions could be made.  
03:23:46 Mike Thatcher, CFO, Community, Counseling and Correctional Services, said that this bill draft has several serious problems and talked about those issues and possible solutions.  
03:29:16 Mark Murphy, Montana County Attorneys' Association (MCAA), Montana Police Protective Association (MPPA), Montana Association of Chiefs of Police (MACOP), spoke about methamphetamine treatment. Mr. Murphy pointed out that it takes a substantial amount of time and effort for the prerelease centers to fund housing to offenders but bills associated with those programs never made it out of the committees in the two previous legislative sessions.

#### **Commission Discussion of LCj007 and of Public Comment**

03:31:41 Commissioner Gibbs  
03:32:10 Mr. Reynolds  
03:32:57 Commissioner Klingensmith  
03:35:27 Commissioner Hansen  
03:36:53 Mr. Reynolds  
03:38:07 Loraine Wodnik, Deputy Director, Montana Department of Corrections

#### **Bill Draft LCj009: License and Adopt Evidence-Based Standards for Treatment Facilities**

03:42:34 Ms. Weiss provided clarification about the bill drafts that were sent to the commissioners via mail and those bill drafts that were written afterwards. Ms. Weiss distributed copies of LCj009 to the commission members. **(Exhibit 13)**  
03:43:36 Sen. Wolken announced lunch recess.

**LUNCH** (reconvened at 12:50 p.m.)

**Bill Draft LCj009: License and Adopt Evidence-Based Standards for Treatment Facilities -**  
**CONTINUED**

04:16:26 Sen. Wolken called the commission back to order.  
04:17:12 Ms. Weiss elaborated on the content of slide 14 of Exhibit 2.

Commission Discussion

04:19:57 Sen. Hansen  
04:20:18 Ms. Weiss

**Bill Draft LCj10A: Providing for Regulation and Licensure of Mental Health Peer Support**  
**Specialists**

04:21:02 Sen. Wolken introduced the discussion of LCj10A. **(Exhibit 14) (Exhibit 15)**  
04:21:33 Ms. Chung provided the background information regarding the policy option  
reflected in LCj10A: slide 15 of Exhibit 2.  
04:24:56 Ms. Weiss provided an overview of LCj10A.

Commission Discussion

04:28:41 Ms. Chung  
04:29:03 Sen. Hansen  
04:29:32 Ms. Weiss  
04:29:49 Sen. Hansen  
04:32:53 Commissioner Gibbs  
04:38:07 Commissioner Russell  
04:39:57 Sen. Wolken

**Bill Draft LCj011: Revising Laws Related to Supervision of Probationers and of**  
**Defendants Serving a Deferred or Suspended Sentence**

04:40:30 Mr. Reynolds discussed slide 16 of Exhibit 2. **(Exhibit 16)**

Commission Discussion

04:44:43 Commissioner Hansen  
04:45:45 Mr. Reynolds  
04:46:09 Commissioner Hansen  
04:46:38 Mr. Reynolds  
04:46:58 Commissioner Ries  
04:47:34 Mr. Reynolds  
04:47:41 Judge Gustafson  
04:48:33 Mr. Reynolds  
04:48:37 Judge Gustafson  
04:48:46 Mr. Reynolds  
04:49:24 Judge Gustafson  
04:49:41 Mr. Reynolds  
04:50:37 Mr. Parker  
04:51:32 Mr. Reynolds  
04:51:37 Mr. Parker

04:51:53 Ms. Chung  
 04:52:11 Mr. Parker  
 04:52:32 Mr. Reynolds  
 04:53:31 Mr. Parker  
 04:54:14 Mr. Reynolds  
 04:54:43 Mr. Parker  
 04:55:07 Sen. Wolken  
 04:55:41 Commissioner Hansen  
 04:56:13 Commissioner Russell  
 04:57:50 Sen. Wolken  
 04:58:34 Sen. Hansen  
 05:00:02 Commissioner Ries  
 05:01:00 Sen. Wolken  
 05:01:35 Commissioner Hansen  
 05:02:20 Mr. Reynolds  
 05:05:43 Sen. Wolken  
 05:06:08 Mr. Reynolds

**Bill Draft LCj012: Requesting an Interim Study to Explore Increasing Access to Tribal Resources for Tribal Members Who Are Involved in the Criminal Justice System**

05:06:33 Sen. Wolken introduced the discussion of LCj012.  
 05:07:00 Ms. Weiss summarized the bill draft ([Exhibit 17](#)) and elaborated on the content of slide 17 of Exhibit 2.

Commission Discussion

05:10:39 Commissioner Montes  
 05:11:40 Ms. Weiss

**Bill Draft LCj013: Generally Revising Laws Related to the Board of Pardons and Parole**

05:12:22 Sen. Wolken introduced the discussion of LCj013.  
 05:12:29 Mr. Reynolds summarized the bill draft ([Exhibit 18](#)) and elaborated on the content of slides 18-19 of Exhibit 2.  
 05:16:42 Ms. Chung elaborated further on LCj013.

Commission Discussion

05:17:35 Commissioner Russell  
 05:19:00 Sen. Wolken  
 05:19:10 Mr. Reynolds  
 05:19:56 Grace Call  
 05:20:50 Commissioner Russell  
 05:22:12 Rep. MacDonald  
 05:22:38 Mr. Reynolds  
 05:23:02 Rep. MacDonald  
 05:23:14 Mr. Reynolds



**Policy Option: Improve Access to Housing for People Reentering the Community**

05:23:49 Ms. Call talked about the policy option reflected on slide 20 of Exhibit 2 and page 9 of Exhibit 3.

**Commission Discussion**

05:25:21 Sen. Wolken  
05:26:10 Rep. MacDonald

**Bill Draft LCj016: Generally Revising the Crime Victims Compensation Act**

05:27:07 Mr. Reynolds summarized the bill draft ([Exhibit 19](#)) and elaborated on the content of slide 21 of Exhibit 2.

**Commission Discussion**

05:29:00 Sen. Wolken  
05:29:09 Ms. Call  
05:29:24 Sen. Wolken  
05:29:46 Commissioner Russell  
05:30:11 Ms. Call

**Policy Option: Improve the Quality of and Access to Batterer's Intervention Programs**

05:31:00 Sen. Wolken introduced the discussion of this policy option.  
05:31:32 Ms. Call talked about the policy option reflected on slide 22 of Exhibit 2.

**Commission Discussion**

05:32:17 Sen. Wolken  
05:32:37 Ms. Chung  
05:33:12 Loraine Wodnik, Deputy Director, DOC

**Policy Option #18 (A): Create a Centralized, Interagency Oversight Body to Guide and Track the Implementation of Justice Reinvestment Legislation**

05:33:47 Ms. Chung talked about the policy option reflected on slides 23-24 of Exhibit 2 and page 11 of Exhibit 3.

**Policy Option #18 (B): Require the Montana Department of Corrections to Report Annual Data on the Impact of Implementing Justice Reinvestment Legislation**

05:34:52 Ms. Chung talked about the policy option reflected on slides 23-24 of Exhibit 2 and page 11 of Exhibit 3.

**Policy Option #18 (C): Require the Department of Corrections to Regularly Validate its Risk Assessment Tool**

05:35:35 Ms. Chung talked about the policy option reflected on slides 23-24 of Exhibit 2 and page 12 of Exhibit 3.

**Policy Option #18 (D): Require the Department of Corrections Staff to Receive Ongoing Training in Risk Assessment and Evidence-based Practices**

05:36:06 Ms. Chung talked about the policy option reflected on slides 23-24 of Exhibit 2 and page 12 of Exhibit 3.

**Policy Option #18 (E): Establish Program Standards and Authorize the Quality Assurance Unit Within the Department of Corrections to Evaluate State-funded Programs and Enforce the Program Standards**

05:37:16 Ms. Chung talked about the policy option reflected on slides 23-24 of Exhibit 2 and pages 12-13 of Exhibit 3.

**Policy Option #18 (F): Require That the Department of Corrections' Probation and Parole Interventions and Incentives Grid Follow Evidence-based Practices**

05:38:30 Ms. Chung talked about the policy option reflected on slides 23-24 of Exhibit 2 and page 13 of Exhibit 3.

**PUBLIC COMMENT ON POLICY OPTIONS DISCUSSION AND DRAFT LANGUAGE FOR LEGISLATION**

05:39:28 Steve Cape, Montana Coalition for Safety and Justice, spoke in support of the idea of LCj10A. Mr. Cape elaborated on the peer support programs and provided his suggestions on how to run these programs effectively. Mr. Cape also expressed his support of LCj011.

05:45:16 Robert Howe, Good Neighbors Missoula, spoke in full support of LCj10A.

05:47:19 Craig Thomas, retired executive director, Board of Pardons and Parole, spoke on LCj003 and some of the technical issues he saw in this bill draft. Mr. Thomas talked about the makeup of the parole board and expressed his support for having full-time parole board members. Mr. Thomas also made a recommendation to put the stricken language back into the bill draft regarding Deer Lodge as a primary location for the offices.

05:54:57 Erin McGowan, Montana Community Corrections Association, spoke in support of the policy option # 18 (see Exhibit 2). Ms. McGowan also said that MCCA encourages that the oversight body discussed in policy option # 18 have representation from both the prerelease and treatment sides of community corrections providers.

05:55:43 Mark Murphy, Montana County Attorneys' Association (MCAA), Montana Police Protective Association (MPPA), Montana Association of Chiefs of Police (MACOP), commented on LCj10A and spoke in support of Sen. Hansen's comments regarding this bill draft. Mr. Murphy also offered his recommendations regarding LCj011 and commented on LCj012.

06:01:43 Mary Wellbank, commented on LCj003 in general and on the persistent felony offender repeal specifically.

**BREAK** (reconvened at 2:57 p.m.)

## **COMMISSION WORK SESSION**

### **Commission Discussion and Possible Action on Next Steps**

06:20:34 Sen. Wolken explained the procedure for voting on bill drafts.

### **Work Session on LCj001**

#### **Motion**

06:22:13 Sen. Hansen moved to approve LCj001 as a commission bill.

#### **Discussion on the Motion**

06:22:26 Sen. Hansen

06:24:23 Sen. Wolken

06:24:38 Sen. Hansen

06:24:49 Sen. Wolken

06:25:09 Ms. Weiss

06:26:13 Sen. Hansen

#### **Discussion on the Motion**

06:26:30 Judge Gustafson

06:28:28 Sheriff Whitt

06:30:13 Mr. Reynolds

06:30:37 Sen. Wolken

06:31:24 Sheriff Whitt

06:31:52 Sen. Wolken

06:31:57 Ms. Chung

06:32:07 Sheriff Whitt

06:32:16 Sen. Hansen

06:33:54 Sheriff Whitt

#### **Vote**

06:34:14 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

### **Work Session on LCj002**

#### **Motion**

06:34:47 Sen. Hansen moved to approve LCj002 as a commission bill.

#### **Motion to Amend**

06:35:12 Commissioner Hansen moved to amend LCj002 so that section 2, subsection 2, refers to making recommendations based on the assessment.

#### **Discussion on the Motion to Amend**

06:36:06 Judge Gustafson

06:37:14 Sen. Wolken

#### **Vote**

06:37:13 The motion to amend passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

### **Motion to Amend**

06:37:44 Sen. Hansen moved to amend LCj002, section 1, subsection 1 (ii) to replace "Unless additional information is required under subsections" with "Unless additional information is required, or time for victim input is required, under subsections".

### **Vote**

06:38:11 The motion to amend passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

### **Motion**

06:38:26 Sen. Hansen moved to approve LCj002 as twice amended.

### **Vote**

06:38:37 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

### **Work Session on LCj003**

#### **Motion**

06:39:02 Sen. Hansen moved to approve LCj003 as a commission bill.  
Sen. Hansen noted that the commission has extensive amendments to this bill draft and, thus, it is uncertain whether the commission will be able to take a final executive action on it because the commission will have to work with Ms. Burkhardt on the language to revise sections pertaining the criminal possession of drugs.

#### **Discussion on the Motion**

06:39:39 Sen. Wolken

06:39:41 Ms. Weiss

#### **Motion Withdrawn**

06:39:58 With no objections from the commission, Sen. Hansen withdrew the motion but said that there should be a further discussion of the bill draft and possibly a motion.

#### **Commission Discussion**

The commission members discussed LCj003 and decided that Judge Gustafson, Commissioner Ohman, and Sen. Hansen will work with Ms. Burkhardt on the language for the final bill draft for LCj003 that will be presented at the October meeting.

06:40:10 Ms. Weiss

06:40:40 Ms. Burkhardt

06:41:18 Judge Gustafson

06:41:53 Sen. Wolken

06:42:15 Commissioner Ries

06:47:54 Sen. Wolken

06:49:26 Ms. Weiss

06:50:29 Sen. Wolken

06:50:48 Sen. Hansen

06:51:24 Ms. Burkhardt

06:51:46 Sen. Hansen indicated that the following motions she will be making will be based on the bill draft (see Exhibit 7) and the applicable sections from the recommendations of the Statute Review Subcommittee (see Exhibit 6).

**Motion**

06:52:06 Sen. Hansen moved that LCj003 include the Statute Review Subcommittee recommended revisions to 46-18-201 (recommendation #1), which eliminates the "doors" into the community corrections facilities, provides opportunity for in-patient DOC treatment, and provides credit for the jail time served.

**Discussion on the Motion**

06:52:42 Commissioner Gibbs

06:52:56 Sen. Wolken

06:53:13 Mr. Reynolds

**Vote**

06:53:45 The motion passed on a voice vote, 11-1, with Sen. Wolken, Sen. Hansen, Rep. MacDonald, Judge Gustafson, Commissioner Hansen, Commissioner Klingensmith, Commissioner Montes, Commissioner Ohman, Commissioner Ries, Commissioner Russell, and Sheriff Whitt voting 'yes' and Commissioner Gibbs voting 'no'. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

**Motion**

06:54:16 Sen. Hansen moved that LCj003 include the Statute Review Subcommittee recommendation #2, which revises the criminal endangerment statute to provide that a high blood alcohol content alone is not sufficient to support a criminal endangerment charge.

**Vote**

06:54:39 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

**Motion**

06:54:51 Sen. Hansen moved that LCj003 include the Statute Review Subcommittee recommendation #3, which revises 45-5-214(3) (Assault with bodily fluid) to remove the reference to district court jurisdiction over a violation of this section by a minor.

**Vote**

06:55:13 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

**Motion**

06:55:21 Sen. Hansen moved that LCj003 include the Statute Review Subcommittee recommendation #4 to repeal the persistent felony offender statutory structure.

**Vote**

06:55:37 The motion passed on a roll call vote, 11-2. ([Attachment 5](#))

**Motion**

06:56:46 Sen. Hansen moved that LCj003 include the Statute Review Subcommittee recommendation #8 to revise 46-18-204(1)(a) to allow a dismissal after a deferred imposition of sentence in cases where the defendant does not go to trial but pleads nolo contendere or pleads guilty.

**Vote**

06:57:34 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

**Motion**

06:58:06 Sen. Hansen moved that LCj003 include the Statute Review Subcommittee recommendation #9, which repeals statutory references to "drug information courses" or "drug education courses," including in 45-9-208, 45-10-108, and 61-8-732.

**Discussion on the Motion**

06:58:37 Sen. Wolken

06:59:18 Commissioner Russell

06:59:53 Commissioner Gibbs

**Vote**

07:00:50 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

07:01:27 Sen. Hansen noted that at this point the commission is done working with the pink sheet entitled "Statute Review Subcommittee Recommendations to the Commission on Sentencing" (see Exhibit 6).

07:03:05 Sen. Hansen referred commission's attention to the document entitled "Next Steps and/or Possible Bill Draft Amendments Discussed During Presentations - September 20, 2016" ([Exhibit 20](#)), which contains other recommendations that could be considered as part of LCj003.

**Motion**

07:04:12 Sen. Hansen moved to include the provisions to eliminate mandatory minimum jail sentence for second offense driving with a suspended license and third offense petty theft in the LCj003 bill draft.

07:04:37 Ms. Weiss clarified the relationship between the handout and the LCj003 bill draft.

**Vote**

07:05:23 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

**Motion**

07:05:34 Sen. Hansen moved to adopt the provision to reclassify traffic offenses, other than driving under the influence, as civil or citation-only offenses in LCj003.

**Discussion on the Motion**

07:05:51 Sen. Hansen

07:06:54 Commissioner Ohman

**Motion Withdrawn**

07:07:14 With no objections from the commission, Sen. Hansen withdrew the motion.

07:07:37 Sen. Wolken said that this motion will be left for the next commission meeting for executive action when the exact traffic offenses associated with this provision will be determined.

**Work Session on Letter of Support for the Drug Court Advisory Committee**

07:08:06 Sen. Wolken opened the discussion for a possible letter to the Chief Justice from the Commission on Sentencing.

**Motion**

07:08:25 Judge Gustafson moved that the commission approves drafting of a letter of support to the Chief Justice for a bill draft related to eligibility criteria for problem-solving courts.

**Discussion on the Motion**

07:08:43 Ms. Weiss

07:08:59 Sen. Wolken

07:09:04 Ms. Weiss

**Vote**

07:08:57 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

**Work Session on LCj007 and LCj009**

07:09:38 Sen. Hansen noted that LCj007 is not ready for the executive action and will be left for the next Commission on Sentencing meeting.

07:10:45 Sen. Wolken said that the commission will take executive action on LCj009 during the next meeting as well.

**Work Session on LCj10A****Motion**

07:11:41 Sen. Hansen moved to approve LCj10A as a commission bill.

**Discussion on the Motion**

07:12:15 Sen. Wolken

### **Motion Withdrawn**

07:12:50 With no objections from the committee, Sen. Hansen withdrew the motion. Sen. Hansen and Commissioner Gibbs will work with the commission staff to prepare a revised version of LCj10A for executive action during the October meeting.

### **Work Session on LCj011**

The commission members decided that they agreed with the conceptual framework but that the wording of the bill draft still needed to be worked on. Commissioner Ohman, Mark Murphy (MCAA, MPPA, MACOP), and Commissioner Hansen will work with the commission staff on the language for LCj011.

07:13:24 Sen. Wolken  
07:14:02 Commissioner Ohman  
07:15:02 Sen. Wolken  
07:15:27 Sen. Hansen  
07:15:51 Commissioner Ohman  
07:15:56 Sen. Hansen  
07:16:11 Sen. Wolken

### **Work Session on LCj012**

#### **Motion**

07:16:23 Sen. Hansen moved to approve LCj012 as a commission bill, with the word "enrolled" stricken anywhere it is found before the word "tribal".

#### **Vote**

07:17:03 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

### **Work Session on LCj013**

#### **Motion**

07:17:16 Sen. Hansen moved to approve LCj013 as a commission bill.

#### **Discussion on the Motion**

07:17:35 Sen. Hansen  
07:20:42 Commissioner Russell  
07:21:28 Commissioner Ries  
07:21:50 Ms. Weiss

#### **Motion to Amend**

07:23:47 Rep. MacDonald moved to amend LCj013 to put the original language back in so that section 3(3) would read "The principal office of the board is in Deer Lodge."

#### **Discussion on the Motion to Amend**

07:24:10 Sen. Wolken  
07:25:20 Judge Gustafson



## **Vote**

07:25:36 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

## **Commission Discussion of Further Changes to LCj013**

Commission members provided their recommendations regarding changes to the bill draft.

07:25:55 Judge Gustafson said that it is necessary to make sure that one of the members of the board of pardons and parole would be an attorney.

07:27:15 Ms. Weiss explained how Judge Gustafson's request may have an effect on other sections of the bill draft.

07:28:41 Commissioner Hansen pointed out to the CSG staff to the discrepancies in how the term "hearing's officer" is defined.

07:29:29 Mr. Reynolds addressed Commissioner Hansen's point.

07:30:39 Sen. Hansen made two suggestions. The first suggestion was to add Section 1 (12) following Section 1 (11) on page 4 of the bill draft that would read "This initial pay band designation is subject to the approval of the next legislature." The second suggestion was to add a sentence at the end of Section 9 (3) that would read "The rules promulgated by the board are temporarily effective and do not become permanent until approved by the next legislature."

07:32:46 Ms. Weiss addressed Sen. Hansen's request.

07:33:14 Judge Gustafson made a suggestion to add a time line that writing administrative rules would adhere to.

07:33:38 Ms. Weiss referred commissioners to a transition schedule reflected in Section 17, starting on page 26 of the bill draft, as well as in Section 19 on pages 27 and 28.

07:34:29 Sen. Wolken asked for clarification from Judge Gustafson regarding the schedule.

07:34:36 Judge Gustafson elaborated further on her point.

07:34:51 Ms. Weiss addressed Judge Gustafson's point.

07:35:00 Sen. Hansen elaborated further on Judge Gustafson's request.

07:35:49 In further addressing Judge Gustafson's and Sen. Hansen's request, Ms. Weiss referred commissioners' attention to page 17 of the bill draft.

07:36:20 Sen. Hansen asked Ms. Weiss to outline all the dates contained in the LCj013 bill draft for the October meeting.

07:36:43 Commissioner Hansen referred to page 25 of the bill draft and suggested to make the language regarding filing reports of violation by the board of pardons and parole be consistent with the language as approved in LCj011.

## **Motion Withdrawn**

07:38:22 With no objections from the commission, Sen. Hansen withdrew the motion until this bill draft gets rewritten to be reconsidered in October.

07:38:35 Sen. Wolken concluded discussion of the LCj013 bill draft.

## **Work Session on Improving Access to Housing for People Reentering the Community**

07:39:05 Sen. Wolken asked the commission members whether they wanted CSG to produce a formal bill draft on which an executive action could be taken during the

October meeting (see Exhibit 20).  
07:39:44 Sen. Hansen requested that commission staff use HB 137 (2015) sponsored by Rep. Hill, HD 90, as a starting point.  
07:40:21 Rep. MacDonald expressed her strong support of this approach and also suggested using HB 25 (2015) sponsored by her.  
07:41:18 Sen. Wolken provided concluding remarks. Rep. MacDonald will work with the staff on the bill draft.

### **Work Session on LCj016**

#### **Motion**

07:41:48 Sen. Hansen moved to approve LCj016 as a commission bill.

#### **Commission Discussion**

07:42:00 Sen. Hansen  
07:42:34 Ms. Call  
07:46:19 Sen. Hansen  
07:47:26 Ms. Weiss

#### **Motion Withdrawn**

07:48:18 With no objections from the committee, Sen. Hansen withdrew the motion.  
07:48:49 Sen. Wolken said that LCj016 will be handled at the October meeting.

### **Work Session on Improving the Quality of and Access to Batterer's Intervention Programs**

07:49:19 Sen. Wolken said that the proposal #17 of Exhibit 20 needs to be reflected in a bill draft and asked Ms. Weiss whether it would be possible to draft a bill for the October meeting.  
07:49:54 Ms. Weiss addressed Sen. Wolken's request.

#### **Further Discussion of This Bill Draft.**

07:50:35 Commissioner Gibbs  
07:51:34 Sen. Wolken  
07:51:40 Sen. Hansen  
07:52:41 Ms. Weiss  
07:53:02 Commissioner Hansen

### **Further Work Session on LCj002**

#### **Motion**

07:53:46 Sen. Hansen moved to include proposal #20 (to require the Department of Corrections to regularly validate its risk assessment tool) and #21 (to require the Department of Corrections staff to receive ongoing training in risk assessment and evidence-based practices) in LCj002. (Exhibit 20)

#### **Discussion on the Motion**

07:54:32 Ms. Weiss

07:54:58 Sen. Hansen

**Vote**

07:55:18 The motion passed unanimously on a voice vote. Rep. Monforton, Director Batista, and Commissioner Guzynski were excused.

**Work Session on Proposals #18, 19, 22, and 23**

07:55:37 Sen. Wolken asked commission members what they would like to do with the following proposals reflected in Exhibit 20:

- #18 (create a centralized, interagency oversight body to guide and track the implementation of justice reinvestment legislation),
- #19 (require the Montana Department of Corrections to report annual data on the impact of implementing justice reinvestment legislation),
- #22 (establish program standards and authorize the quality assurance unit within the Department of Corrections to evaluate state-funded programs and enforce the program standards), and
- #23 (require that the Department of Corrections' probation and parole interventions and incentives grid follow evidence-based practices).

**Commission Discussion**

The outcome of the discussion was that the commission staff was directed to draft a bill draft that would incorporate the four proposals (18, 19, 22, and 23). This commission will take executive action on this bill draft during the October meeting.

07:56:16 Sen. Wolken  
07:56:53 Judge Gustafson  
07:57:24 Commissioner Hansen  
07:57:47 Sen. Wolken  
07:58:02 Sen. Hansen  
07:58:29 Ms. Chung  
07:59:10 Sen. Wolken  
07:59:29 Ms. Weiss  
08:00:11 Sen. Wolken  
08:00:23 Ms. Weiss  
08:00:56 Sen. Wolken

**ADJOURNMENT**

08:01:32 With no further business before the commission, Sen. Wolken announced adjournment at 4:38 p.m.