

May 2018

Law and Justice Interim Committee  
Rachel Weiss, Research Analyst

# IMPLEMENTATION OF CRIMINAL JUSTICE SYSTEM LEGISLATION

## Background

The 2017 Legislature enacted numerous bills that revised the criminal justice system laws. Given the broad reach of the revisions, the commitment of state general fund money to implement several of the new programs, and several provisions in the bills that require specific reports or oversight, members of the Law and Justice Interim Committee (LJIC) indicated a strong interest in monitoring the implementation and results of the legislation during the 2017-2018 interim. Similar reports have been or will be provided to the LJIC as the interim continues and as additional changes are made or effects become known. These reports do not replace any required agency reports or requested updates. Instead, they are tools to provide background to LJIC members in preparation for updates from agency or branch staff during LJIC meetings.

## Office of State Public Defender

House Bill 77 required the director of the Department of Administration to hire a director for the Office of State Public Defender (OPD). In mid-March, the department announced that Rhonda Schaffer had been hired and would start as OPD director in late March. Previously, Schaffer worked in the Office of Budget and Program Planning, at a Helena-area nonprofit, and with the Department of Corrections.

The OPD also submitted a notice of a mid-March public hearing for several administrative rule revisions it intends to make as a result of revisions made by the 2017 Legislature. The rules revised include those governing how the OPD determines if a person is indigent, defines “income” and “substantial hardship,” and determines reasonable compensation. After the hearing the OPD published the final version of the rules on April 3.

## Behavioral Health Peer Support Specialists

The Board of Behavioral Health was required by Senate Bill 62 to adopt rules to establish a certification process for behavioral health peer support specialists. A peer support specialist has personal experience with a behavioral health disorder and uses that experience to offer mentoring, guidance, and advocacy to individuals who also have a behavioral health disorder. The term “behavioral health disorder” includes either a chemical dependency issue or a mental health disorder, or both.

The Board adopted final rules in February after taking comments on the proposed rules during a fall 2017 hearing. The rules covered a wide range of topics, including application and renewal processes and fees, how peer support specialists will be supervised, a code of ethics, what military training and experience can be counted towards certification, and continuing education standards.

According to Department of Public Health and Human Services staff, the department will pay for peer support specialist services under its federal block grant for chemical dependency treatment. Although the department will not reimburse for peer support services under its federal block grant for mental health services, that would be a future goal.

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## Judicial Branch

The Office of Court Administrator (OCA) and the five counties selected to pilot a pretrial program for felony defendants continue to implement that program. Although the advisory committee and staff hoped to launch the program in Lewis and Clark County and continue the rollout to the other four counties in February, complications with the web-based case management system used to conduct the assessment and collect data slowed the launch. Another complication was ensuring that the staff hired by the OCA to conduct risk assessments for all counties were properly certified to access criminal record histories for defendants. As of late March, the staff trainings were complete, and the challenges with the case management system had been resolved. As of early May, Butte-Silver Bow, Lake, and Lewis and Clark Counties had launched the pilot program. Missoula and Yellowstone Counties are planning for late May and mid-June launches, respectively. Additional information will be available during the LJIC's scheduled July meeting.

## Department of Corrections

Senate Bill 65 authorized the Board of Crime Control to create a supportive housing grant program, which was funded with a \$400,000 appropriation from the 2017 Legislature. The Board received four proposals for funding from cities and counties. All the proposals were initially approved for funding, though one proposal was later withdrawn by the local government. The three remaining successful recipients are the City of Billings, Missoula County, and Ravalli County.

The Criminal Justice Oversight Council, which is tasked with overseeing and coordinating the implementation of the Commission on Sentencing bills, continues to meet. After former senator Cynthia Wolken became the deputy director at the Department of Corrections, Senator Nate McConnell (D-Missoula) replaced her as one of the two senators on the council.

At a March meeting in Helena, the Council received data from the Council of State Governments Justice Center (CSG) about recent prison and jail population trends. Council members also learned about various challenges and next steps to continue the implementation process. Presentation slides from the meeting, including data, are available [here](#) and at the LJIC's website.

The 2017 Legislature made \$2 million of the Department of Corrections' funding contingent on lowering and maintaining the number of offenders (also called "jail holds") the department houses in county detention centers to 250 or less. When CSG presented data to the oversight council in March, it noted that the average daily jail hold number in July 2017 was 432. In January 2018, that average daily population was 204. In a May 2 snapshot, the department had 106 male jail holds and nearly 48 female offenders held by the counties.

## Workbook on Public Safety Data

The Council of State Governments Justice Center (the organization that provided technical assistance to the Commission on Sentencing) recently compiled and released compilations of state-specific public safety data for each of the 50 states. A link to the [Montana workbook](#) is available on the LJIC's website.

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