



A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF PRETRIAL DIVERSION PROGRAMS AND PRESENTENCE DIVERSION AGREEMENTS.

WHEREAS, a presentence diversion agreement allows a defendant and a prosecutor to agree to suspend the prosecution for a criminal offense on entry of a guilty plea if the defendant abides by certain terms in the agreement; and

WHEREAS, the terms of a pretrial diversion program or a presentence diversion agreement typically will require that the defendant obtain a chemical dependency evaluation and complete the recommended treatment as well as comply with other accountability measures or required programs based on the individual's needs; and

WHEREAS, if the defendant successfully completes the terms of the pretrial diversion program or the presentence diversion agreement, the criminal charge or charges against the person can be dismissed and will not appear on the person's criminal history; and

WHEREAS, if the defendant does not successfully complete the terms of the pretrial diversion program or the presentence diversion agreement, the defendant will face court proceedings for the criminal offense or offenses; and

WHEREAS, eligible defendants in pretrial diversion programs or presentence diversion agreements will typically include low-risk, low-need defendants charged with possession of illegal drugs or drug-related offenses and who need addiction services and treatment and not incarceration; and

WHEREAS, involvement in the criminal justice system and a criminal conviction can have lasting negative impacts on a person years after the offense; and

WHEREAS, presentence diversion agreements are used to divert low-risk, low-need individuals from

the criminal justice system; and

WHEREAS, the crimes are directly related to the defendant's abuse of drugs, alcohol, or both; and

WHEREAS, a pretrial diversion program or a presentence diversion agreement can allow a defendant to obtain and complete treatment outside of a secure facility; and

WHEREAS, increasing access to pretrial diversion programs and presentence diversion agreements for certain defendants could reduce caseloads for prosecutors, public defenders, judges, and the Department of Corrections, while also prioritizing jail and prison bed space for other offenders; and

WHEREAS, intervening early through pretrial diversion programs and presentence diversion agreements and providing treatment for underlying addiction issues will create cost savings for the criminal justice system and improve outcomes for offenders.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study how to establish pretrial diversion programs and a uniform presentence diversion agreement in the state.

BE IT FURTHER RESOLVED, that the study should:

- (1) identify Montana jurisdictions that currently operate a pretrial diversion program or a presentence diversion agreement and examine the structure, scope, funding, eligibility criteria, and procedures for those programs;
- (2) review national best practices for pretrial diversion programs and presentence diversion agreements;
- (3) examine pretrial diversion programs and presentence diversion agreements in other states, including their structure, scope, funding, eligibility criteria, and procedures;
- (4) review existing Montana statutes that create or support opportunities for individuals to be diverted from the criminal justice system; and
- (5) review the available funding sources for pretrial diversion programs or presentence diversion agreements and the cost shift and savings realized through a pretrial diversion program or a presentence

diversion agreement that diverts people from the criminal justice system and into treatment and addiction services.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2022.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 68th Legislature.

- END -

I hereby certify that the within bill,  
HJ 34, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

HOUSE JOINT RESOLUTION NO. 34

INTRODUCED BY B. USHER, S. BERGLEE, A. BUCKLEY, J. CARLSON, J. GILLETTE, D. HAWK, J. HINKLE,  
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