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67th Legislature

1	JOINT RESOLUTION NO
2	INTRODUCED BY
3	(Primary Sponsor)
4	A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5	MONTANA REQUESTING AN INTERIM STUDY OF PRETRIAL DIVERSION PROGRAMS AND
6	PRESENTENCE DIVERSION AGREEMENTS.
7	
8	WHEREAS, a presentence diversion agreement allows a defendant and a prosecutor to agree to
9	suspend the prosecution for a criminal offense on entry of a guilty plea if the defendant abides by certain terms
10	in the agreement; and
11	WHEREAS, the terms of a pretrial diversion program or a presentence diversion agreement typically
12	will require that the defendant obtain a chemical dependency evaluation and complete the recommended
13	treatment as well as comply with other accountability measures or required programs based on the individual's
14	needs; and
15	WHEREAS, if the defendant successfully completes the terms of the pretrial diversion program or the
16	presentence diversion agreement, the criminal charge or charges against the person can be dismissed and will
17	not appear on the person's criminal history; and
18	WHEREAS, if the defendant does not successfully complete the terms of the pretrial diversion program
19	or the presentence diversion agreement, the defendant will face court proceedings for the criminal offense or
20	offenses; and
21	WHEREAS, eligible defendants in pretrial diversion programs or presentence diversion agreements will
22	typically include low-risk, low-need defendants charged with possession of illegal drugs or drug-related offenses
23	and who need addiction services and treatment and not incarceration; and
24	WHEREAS, involvement in the criminal justice system and a criminal conviction can have lasting
25	negative impacts on a person years after the offense; and
26	WHEREAS, presentence diversion agreements are used to divert low-risk, low-need individuals from
27	the criminal justice system; and
28	WHEREAS, the crimes are directly related to the defendant's abuse of drugs, alcohol, or both; and



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1	WHEREAS, a pretrial diversion program or a presentence diversion agreement can allow a defendant
2	to obtain and complete treatment outside of a secure facility; and
3	WHEREAS, increasing access to pretrial diversion programs and presentence diversion agreements
4	for certain defendants could reduce caseloads for prosecutors, public defenders, judges, and the Department of
5	Corrections, while also prioritizing jail and prison bed space for other offenders; and
6	WHEREAS, intervening early through pretrial diversion programs and presentence diversion
7	agreements and providing treatment for underlying addiction issues will create cost savings for the criminal
8	justice system and improve outcomes for offenders.
9	
10	NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
11	THE STATE OF MONTANA:
12	That the Legislative Council be requested to designate an appropriate interim committee or statutory
13	committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study how to establish
14	pretrial diversion programs and a uniform presentence diversion agreement in the state.
15	BE IT FURTHER RESOLVED, that the study should:
16	(1) identify Montana jurisdictions that currently operate a pretrial diversion program or a presentence
17	diversion agreement and examine the structure, scope, funding, eligibility criteria, and procedures for those
18	programs;
19	(2) review national best practices for pretrial diversion programs and presentence diversion
20	agreements;
21	(3) examine pretrial diversion programs and presentence diversion agreements in other states,
22	including their structure, scope, funding, eligibility criteria, and procedures;
23	(4) review existing Montana statutes that create or support opportunities for individuals to be diverted
24	from the criminal justice system; and
25	(5) review the available funding sources for pretrial diversion programs or presentence diversion
26	agreements and the cost shift and savings realized through a pretrial diversion program or a presentence
27	diversion agreement that diverts people from the criminal justice system and into treatment and addiction
28	services.



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1	BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
2	presented to and reviewed by an appropriate committee designated by the Legislative Council.
3	BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
4	requirements, be concluded prior to September 15, 2022.
5	BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
6	comments, or recommendations of the appropriate committee, be reported to the 68th Legislature.
7	- END -

Legislative Services Division