



Commission on Sentencing

64th Montana Legislature

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

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SEN. KRISTIN HANSEN - VICE CHAIR
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REP. MARGARET MacDONALD

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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

MINUTES

November 17, 2015
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.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the "Exhibits" is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. CYNTHIA WOLKEN - CHAIR
SEN. KRISTIN HANSEN - VICE CHAIR

REP. MATTHEW MONFORTON
REP. MARGARET "MARGIE" MacDONALD

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JENNIE HANSEN
ROXANNE KLINGENSMITH
LEANN MONTES
PETER OHMAN
MARY ANN RIES
MAJEL RUSSELL
DONNA WHITT

STAFF PRESENT

RACHEL WEISS, RESEARCH ANALYST
JULIANNE BURKHARDT, ATTORNEY
NADINE SPENCER, COMMITTEE SECRETARY

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

CALL TO ORDER and ROLL CALL

- 00:00:01 Sen. Wolken called the meeting to order at 8:01 a.m. The secretary called the roll. ([Attachment 3](#))
- 00:00:56 Sen. Wolken welcomed Council members. She said the first public comment period is scheduled for the afternoon, but comments can be made before lunch for anyone who needs to leave.

COUNCIL OF STATE GOVERNMENTS (CSG) JUSTICE CENTER KICKOFF PRESENTATION

- 00:01:28 Carl Reynolds, senior legal and policy advisor, Council of State Governments (CSG) Justice Center, introduced the CSG staff.
- 00:03:37 Mr. Reynolds presented a PowerPoint presentation on justice reinvestment. ([EXHIBIT 1](#))

Commission Questions

- 00:21:55 Commissioner Klingensmith asked if CSG's stakeholder group includes people who are incarcerated.
- 00:23:09 Sen. Wolken said bond setting and pre-trial risk assessments will be discussed at a future meeting.

RISK AND NEEDS ASSESSMENTS

- 00:23:52 Steve Allen, senior policy advisor, CSG, provided his background information.
- 00:27:10 Mr. Allen gave a PowerPoint presentation on risk assessment. ([EXHIBIT 2](#))

Commission Questions

- 01:03:21 Commissioner Batista asked Mr. Allen what he thinks is the best design for a correctional system to address addiction problems.
- 01:09:46 Rep. MacDonald verified that the PowerPoint presentation will be on the legislature's website.
- 01:10:05 Commissioner Klingensmith asked Mr. Allen if the CSG uses Adverse Childhood Experiences (ACE) as part of its assessment tools.

- 01:12:24 Commissioner Russell asked Mr. Allen if the goal is to do a risk assessment in order to have an appropriate sentence or to do a risk assessment after sentencing in order to determine a treatment plan.
- 01:14:03 Jennie Hansen, probation and parole officer, Montana Department of Corrections (DOC), provided information on Montana's risk and needs assessments. She said Montana adopted the University of Cincinnati's Women's Risk and Needs Assessment (WRNA) in 2009. In 2012, the DOC adopted the Ohio Risk Assessment System (ORAS). In Montana it is called the Montana Offender Reentry and Risk Assessment (MORRA) for male offenders. In 2016, the juvenile system will adopt the Ohio Youth Assessment System. She said Montana is also using other assessment tools.

Commission Questions

- 01:21:45 Commissioner Gusynski asked Ms. Hansen if assessments can be done before someone is sentenced as part of the Pre-sentence Investigation Report (PSI).
- 01:24:03 Sen. Hansen asked Ms. Hansen how to prevent a risk assessment from adding additional paperwork for a probation or parole officer and if other paperwork can be eliminated.
- 01:28:19 Commissioner Batista also responded to Sen. Hansen's question.
- 01:29:13 Commissioner Russell asked Ms. Hansen if the DOC can change a condition of a probation after a risk assessment is done.
- 01:30:45 Commissioner Gustafson asked Ms. Hansen if there has been any discussion of a pilot program to test combining the MORRA with the PSI.
- 01:33:53 Commissioner Russell asked Ms. Hansen if some of the information on the risk assessment is self-reported by the offender.
- 01:35:08 Commissioner Russell asked Ms. Hansen how people with mental health issues or those without a support system are factored into the risk assessment when self-reporting.
- 01:36:42 Megan Coy, bureau chief, Programs and Facilities - Probation and Parole Division, DOC, discussed how the DOC is using risk assessments and provided information on next steps.
- 01:58:05 Dave Armstrong, CEO, Alternatives Inc., gave a PowerPoint presentation ([EXHIBIT 3](#)) on the Montana Community Corrections Association and re-entry strategies for returning offenders to the community including the assessments used by community corrections providers.

Commission Questions

- 02:15:20 Sen. Hansen asked what the career path is for a probation or parole officer and if their skills are targeted and used most effectively.
- 02:17:53 Kevin Olson, administrator, Probation and Parole Division, DOC, responded.
- 02:22:36 Sen. Wolken asked Mr. Allen if CSG will be looking at all of the assessment tools being used by the Montana Community Corrections Association to recommend a standardized tool across all program areas.
- 02:23:36 Sen. Wolken asked Mr. Reynolds to discuss the controversy surrounding the use of risk assessments at the time of sentencing.

- 02:26:18 Commissioner Gibbs asked Mr. Armstrong if Alternatives Inc. has statistics on its success rate for its community corrections facilities.
- 02:28:23 Recess
02:49:51 Reconvene
- 02:49:53 Rachel Weiss, research analyst, Legislative Services Division (LSD), explained the information Commission members received in their manilla folders.

BEHAVIORAL HEALTH AND SUBSTANCE USE PROGRAMMING

- 02:50:56 Mr. Allen, gave a PowerPoint presentation ([EXHIBIT 4](#)) on behavioral health and substance abuse programming.
- 03:13:58 Timothy Conley, PhD, Clinical and Research Consulting, presented information on substance use programs in Montana and recidivism data. ([EXHIBIT 5](#))
- 03:28:17 Jessica Conell, licensed addiction counselor, Montana State Prison, discussed treatment programs offered at the state prisons, barriers and continuity of care upon completion of a treatment program in prison prior to probation and parole, and how DOC is moving forward to address the gaps.

Commission Questions

- 03:37:34 Rep. MacDonald asked Ms. Conell if repeating treatment programs is a barrier to transition and treatment.
- 03:39:22 Sen. Hansen asked Ms. Conell if there is a solution to duplication of treatment ordered by community based providers, the DOC, judges, and the Board of Pardons and Parole.
- 03:41:17 Sen. Hansen asked Commissioner Gustafson about sharing treatment information with other entities before sentencing an offender.
- 03:44:16 Mr. Reynolds commented on sharing information.
- 03:45:21 Commissioner Klingensmith said problems regarding sharing information and data collection may be able to be taken care of within the system rather than through the legislative process.
- 03:46:12 Commissioner Gibbs asked Ms. Conell if offenders going through the Therapeutic Community Treatment Program are eligible for release back into the community.
- 03:47:34 Commissioner Gibbs asked if there is any discussion on utilizing justice reinvestment or access to recovery to provide ongoing long-term recovery services. Mr. Allen said there is.
- 03:51:43 Rep. MacDonald asked Ms. Conell if there is adequate staffing to provide offenders with required treatment and programs so they have the best outcome when moving back into the community.

- 03:53:45 Commissioner Hansen asked Mr. Allen and Commissioner Gustafson if a judgement requires an offender to have a chemical dependency or mental health evaluation and the offender follows the recommendations, could the recommendations be used to amend the conditions of the offender's probation or parole. Mr. Allen said from a treatment perspective it makes sense.
- 03:55:13 Sen. Wolken commented on why legislative action may be needed.
- 03:55:39 Commissioner Gustafson provided her comments.

UPDATE ON RECENT MENTAL HEALTH/JAIL DIVERSION GRANTS TO COUNTIES

- 03:58:01 Julie Prigmore, chief, Mental Health Services Bureau, Department of Health and Human Services (DPHHS), gave an update on efforts during the 2015 legislative session to invest in community based mental health services and how grants are helping jail diversion programs and the jail population. She provided an overview of county matching grants. (EXHIBIT 6)

Commission Questions

- 04:01:53 Sen. Wolken asked Ms. Prigmore what the total funding amount was from grants. Sen. Wolken said money from another mental health bill created emergency crisis detention beds resulting in lower admissions rates from counties to the state hospital.
- 04:03:08 Recess for lunch
- 05:32:26 Reconvene

MONTANA BOARD OF PARDONS AND PAROLE

- 05:33:05 Rep. MacDonald presented an overview of legislation pertaining to the Montana Board of Pardons and Parole. (EXHIBIT 7)
- 05:42:59 Mark Staples, presiding officer, Montana Board of Pardons and Parole, provided information about the Board.

Commission Questions

- 05:56:02 Sen. Wolken asked Mr. Staples to explain the process for medical parole.
- 05:58:05 Commissioner Klingensmith asked Mr. Staples how Board members receive training to fulfill the requirement that they must have knowledge of American Indian culture and of problems and serious mental illness and recovery. (EXHIBIT 8)
- 06:00:14 Commissioner Klingensmith asked Mr. Staples about the hearing process and if decisions are made by the entire Board or only by Board members who are present at the hearing.
- 06:06:10 Commissioner Russell asked both Rep. MacDonald and Mr. Staples to expand on why the Board is a critical part of the system.
- 06:07:33 Rep. MacDonald
- 06:09:12 Mr. Staples

- 06:11:40 Sen. Hansen requested more information on medical parole and on how a determination is made on whether someone is eligible to have a hearing. She asked Mr. Staples how the Board would function with an additional two members.
- 06:14:21 Sen. Wolken said staff will follow up on collecting statistics for case load, medical parole, and statutory framework for parole.
- 06:14:43 Commissioner Gustafson asked Mr. Staples about the plan for someone who is granted parole.
- 06:16:56 Commissioner Russell asked if the Commission can be provided with a copy of the information the Board reviews when granting parole.

COMMUNITY SUPERVISION AND SWIFT AND CERTAIN SANCTIONS

- 06:18:35 Chris Fisher, senior policy advisor, CSG, provided some background information about himself.
- 06:20:30 Mr. Fisher gave a PowerPoint presentation on supervision and a system checklist to reduce recidivism. (EXHIBIT 9)
- 06:45:29 Kevin Olson, administrator, Probation and Parole Division, DOC, gave a presentation on swift and certain sanctions in Montana and provided a handout defining common terms. (EXHIBIT 10)

Commission Questions

- 06:58:21 Sen. Wolken asked Mr. Olson if he has any data on recidivism and if it has declined since implementing swift and certain sanctions.
- 06:59:38 Mr. Reynolds asked Mr. Olson how the state's probation authority, granted by statute, works.
- 07:01:31 Commissioner Hansen commented on intervention hearings and disciplinary hearings.
- 07:03:54 Sen. Wolken said during the meeting tomorrow the Commission will hear from local government and law enforcement officials on how capacity issues at the county jails affect their ability provide sanctions.
- 07:04:37 Mr. Fisher commented on capacity management as it relates to swift and certain punishment.
- 07:05:40 Commissioner Ohman asked Mr. Fisher how the Kansas statute giving an automatic discharge after 12 months works and if it is the case for all offenders.
- 07:06:55 Mr. Reynolds commented on the statute.
- 07:08:24 Mr. Olson commented on provisions in Montana's law that allows for early release.
- 07:10:01 Mr. Fisher said there were certain offenses in Kansas that were not eligible for automatic discharge.
- 07:10:22 Commissioner Guzynski asked Commissioner Hansen if Montana code allows a prosecutor to file a petition within 72 hours and hold someone while the petition is being filed.
- 07:11:21 Mr. Allen commented on the video clips that were shown as part of the CSG presentations.
- 07:12:30 Commissioner Ohman said the Commission may want to consider that the DOC has a time line in which to file a revocation.

07:13:59 Recess
07:31:50 Reconvene

PUBLIC COMMENT

07:33:01 Randy Knowles, community activist, Great Falls, said the DOC can help an offender become a better returning citizen by making sure they have their GED by the time they have completed their sentence. (EXHIBIT 11)

07:39:10 Erin McGowen, executive director, Montana Community Corrections Association, introduced herself and said she can be a reference and looks forward to working with the Commission.

07:40:51 Robert Shelton spoke about his experience in the Knights program a part of the Warm Springs Addiction Treatment and Change (WATCH) program.

07:49:24 Margaret English, retired social worker, spoke about privatized misdemeanor probation and its disincentive for offenders when they are charged a fee for certain services.

07:53:31 Anthony Valderrama, spoke about his experience in the WATCH program.

07:56:47 Albert Mcfarland, spoke about his experience in the WATCH program.

07:58:33 Ed Morris spoke about his experience in the WATCH program

08:02:26 Matthew Hoffman spoke about his experience in at the Nexus Treatment Center.

08:05:42 David Love spoke about his experience at the Nexus Treatment Center.

08:09:07 Mae Simmons, Lake County, talked about her experience as a convicted felon and the lack of community services in Lake County.

08:16:02 Dave Clark talked about his experience in the WATCH program.

08:20:02 Bill Grossman spoke about his experience in the WATCH program.

08:22:58 Katherine Jabs spoke about children charged with felonies and the juvenile system.

08:26:13 Carlita Gonzalez, Flathead Reservation, spoke about the lack of community services in her area and the ComCor corrections programs in Colorado Springs.

08:29:43 David Delsignore spoke about his experience in WATCH program.

08:35:37 Richard Kurt Stern spoke about his experience in WATCH program.

08:39:28 Nathan Steward about his experience at the Nexus Treatment Center.

ADJOURN

08:42:17 Sen. Wolken adjourned the meeting at 4:43 p.m.

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