

Summary of Commission on Sentencing Actions and Directions  
from September 20, 2016 Meeting

The numbers in the list below correspond to the Justice Reinvestment Policy Options considered by the commission at the September 2016 meeting. Commission actions related to the recommendations from the Statute Review Subcommittee are listed at the end of this document.

1. Establish use of pretrial risk assessment tools and supervision.
  - a. **The commission voted to amend LCj001 and to request it as a commission bill for the 2017 Legislative Session.**
    - i. Amend the pretrial grant program draft language in Section 1 to require localities to use a validated risk assessment.
    - ii. Amend Section 3 (46-9-109) to add “validated” to the pretrial risk assessment tool that a court could use when determining if a defendant should be released or detained.
2. Revamp the presentence investigation report so that it is less time-intensive and more structured and objective and encourages the use of evidence-based practices in sentencing.
  - a. **The commission voted to amend LCj002 and to request it as a commission bill for the 2017 Legislative Session. The commission will review the bill again at the October 2016 meeting to ensure the amendments meet its intent.**
    - i. Amend Section 1, subsection (1)(a)(ii) to allow extra time for victim input, if needed.
    - ii. Amend Section 2, new subsection (2), to limit probation and parole officer sentencing recommendations in PSIs to treatment or service recommendations for the offender based on the results of a risk and needs assessment.
    - iii. Add a requirement for the Department of Corrections to validate its risk assessment tool regularly (See Policy Option 20).
    - iv. Add a requirement for the Department of Corrections staff to receive ongoing training in risk assessment and evidence-based practices. (See Policy Option 21).
3. Eliminate mandatory minimum jail sentences for second offense driving with a suspended license and third offense petty theft.
  - a. **The commission requested staff draft language to implement this policy option with direction provided by Commissioner Ohman, Senator Hansen, and Judge Gustafson.** See also subcommittee recommendations on page 5.

4. Reclassify traffic offenses, other than driving under the influence, as civil or citation-only offenses.
  - a. **The Statute Review Subcommittee recommended in August that the full commission should request legislation based on SB 90 (2015), which included revisions to certain traffic offenses. The full commission reviewed a draft bill based on SB 90 and requested a list of the traffic statutes involved. It also requested staff draft language to implement this policy option with direction provided by Commissioner Ohman, Senator Hansen, and Judge Gustafson. See also subcommittee recommendations on page 5.**
5. Support the creation and expansion of deferred prosecution programs.
  - a. **The commission voted to amend LCj001 and to request it as a commission bill for the 2017 Legislative Session. See Policy Option #1 for amendment details.**
6. Expand eligibility criteria for problem-solving courts.
  - a. **The commission voted to send a letter of support for the work of the Drug Court Advisory Committee of the Judicial Branch, which will pursue drug court legislation in 2017.**
7. Focus prison and community corrections space on those who are most likely to reoffend.
  - a. **The commission did not take action on LCj007 and will review the draft again in October.**
8. Require prerelease centers to deliver more intensive evidence-based programs and treatment within a shorter time period to reduce recidivism and serve more people.
  - a. **The commission did not take action on LCj007 and will review the draft again in October.**
9. License and adopt evidence-based standards for treatment facilities serving people in the criminal-justice system.
  - a. **The commission did not take action on LCj009 and will review the draft again in October.**
10. Fund access to behavioral health treatment and programs to reduce recidivism for people on community supervision. (LCj10A)
  - a. **The commission directed staff to revise LCj10A to create a certification program for behavioral health peer support specialists rather than a license for mental health peer support specialists. The amendments are to be based in part on CSG suggestions and in part on additional information provided by**

**Commissioner Gibbs and Senator Hansen. The commission will review the draft in October.**

11. Focus supervision resources on people who are most likely to reoffend. (LCj011)
  - a. **The commission requested CSG work with Commissioner Ohman, Commissioner Guzynski, Commissioner Jennie Hansen, and Mark Murphy to revise the draft, which will be reviewed in October.**
  
12. Explore increasing access to tribal resources for tribal members who are in the state criminal justice system.
  - a. **The commission voted to amend LCj012 and to request it as a commission bill for the 2017 Legislative Session.**
    - i. Remove the term “enrolled” from the study request to keep the study as broad in nature as possible.
  
13. Modernize the parole board and the parole decision-making process to ensure that the board’s decisions are informed, consistent, and sustainable.
  - a. **The commission amended the draft to keep the current statutory requirement that the board’s principal office be in Deer Lodge.**
  - b. **The commission requested staff revise the draft with CSG, Senator Hansen, and Commission Russell to address several commissioner concerns including:**
    - i. **Qualifications for board members;**
    - ii. **Compensation for board members;**
    - iii. **The timeline for the board to adopt administrative rules related to parole guidelines;**
    - iv. **Consistency with LCj011 in certain definitions related to community supervision of probationers and parolees; and**
    - v. **The use of hearings officers.**
  - c. **The commission will review the draft in October.**
  
14. Limit the term of incarceration for technical violations of conditions of probation and parole.
  - a. **The commission will review in October the two drafts that would implement this policy option.** See Policy Options #11 and #13 for amendment details.
  
15. Improve access to housing for people reentering the community.
  - a. **The commission requested a bill draft implementing this policy option to be available for its review in October and that the language be drafted in coordination with Representative MacDonald.**
    - i. Possible models for draft language include HB 137 (2015), HB 25 (2015), and HB 237 (2013).

16. Expand eligibility for crime victim compensation benefits.
- a. **The commission did not take action on LCj007 and will review the draft again in October. The commission directed staff to research the reason for two different definitions in the bill for the terms “family member” and “partner”. They also requested more information about what agency, if any, is responsible currently for crime scene cleanup.**
17. Improve the quality of and access to batterer’s intervention programs.
- a. **The commission requested a draft bill implementing this option to be available for its review in October. The commission also directed staff to distribute research identifying Montana statutes that require anger management programs for certain offenders.**
18. Create a centralized, interagency oversight body to guide and track the implementation of justice reinvestment legislation.
- a. **The commission requested a draft bill implementing this option to be available for its review in October. The draft bill would also include language to implement Policy Options 19, 22, and 23.**
19. Require the Montana Department of Corrections to report annual data on the impact of implementing justice reinvestment legislation.
- a. **The commission requested a draft bill implementing this option to be available for its review in October. The draft bill would also include language to implement Policy Options 18, 22, and 23.**
20. Require the Department of Corrections to regularly validate its risk assessment tool.
- a. **The commission voted to amend LCj002 to include this policy option and to request LCj002 as a commission bill for the 2017 Legislative Session. The commission will review the bill again at the October 2016 meeting to ensure the amendments meet its intent. See Policy Option #2 for amendment details.**
21. Require the Department of Corrections staff to receive ongoing training in risk assessment and evidence-based practices.
- a. **The commission voted to amend LCj002 to include this policy option and to request LCj002 as a commission bill for the 2017 Legislative Session. The commission will review the bill again at the October 2016 meeting to ensure the amendments meet its intent. See Policy Option #2 for amendment details.**

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.
  - a. **The commission requested a draft bill implementing this option to be available for its review in October. The draft bill would also include language to implement Policy Options 18, 19, and 23.**
  
23. Require that the Department of Corrections' probation and parole interventions and incentives grid follow evidence-based practices.
  - a. **The commission requested a draft bill implementing this option to be available for its review in October. The draft bill would also include language to implement Policy Options 18, 19, and 22.**

Subcommittee recommendations to the full commission

- a. **The commission voted to create a committee bill (LCj003) for the 2017 Legislative Session that will incorporate the following subcommittee recommendations: 1, 2, 3, 4, 8, and 9.**
- b. **In October, the commission will review additional bill draft language to implement the following subcommittee recommendations: 5, 6, and 7. Staff will work with Commissioner Ohman, Judge Gustafson, and Senator Hansen to draft the language. See also Policy Options 3 and 4.**