

STUDY AND WORK PLAN PROPOSAL

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For the
Law and Justice Interim Committee
June 2005

I. INTRODUCTION

What is a study plan? A study plan is a blue print for how the Law and Justice Interim Committee (LJIC) will approach its work during the interim. A study plan also assists the public and all of the stakeholders to plan for offering their testimony. Finally, a study plan is a working document, subject to change by the LJIC.

How is the study plan prepared and changed? This document starts as a staff proposal based on the legislative poll results ranking each study in order of priority and on the Legislative Council's decisions and guidance. However, this plan is subject to change by action of the LJIC. It is important that the LJIC adjust this proposal to reflect its own goals and expectations. It is also important that, once adjusted, the study plan be formally adopted by a majority vote of the LJIC. Formal adoption of the study plan means that if there is to be deviation from the plan, that deviation must be approved by a majority vote of the LJIC membership.

How are committee resources allocated in a study plan? Staff and committee member time and the budget allocated to the LJIC to perform its tasks during the interim are finite resources. This study plan summarizes the LJIC's responsibilities and proposes how these finite resources may be allocated to fulfill those responsibilities. In considering how best to allocate these resources, there are a few things that LJIC members should keep in mind. First, if the LJIC increases the priority of one activity, the LJIC must also decrease the priorities of other activities accordingly. (See Part IV: Allocation of Resources.) Second, if

the LJIC adjusts the study plan priorities and the allocation of resources, then the major agenda items shown in the work plan (Part V) will also need to be altered accordingly. Finally, the meeting dates proposed in the work plan have been selected to avoid conflicting with meeting dates selected by other statutory or interim committees. However, tentative work schedules are clearly subject to change. If meeting dates must be changed, prompt notice will be given to all members, to the public, and to the stakeholders. If a meeting date creates a conflict for staff secretarial support, then the Legislative Services Division will have to contract for secretarial support.

II. OVERVIEW OF RESPONSIBILITIES

- A. Agency oversight
- B. Conduct assigned studies
- C. Follow-up on session issues
- D. Identify and study any emerging issues
- E. Coordinate with other interim committees as appropriate

III. DETAIL OF RESPONSIBILITIES

- A. Agency oversight
 - (1) Assigned agencies:
 - Department of Justice;
 - Department of Corrections; and
 - Judicial Branch.
 - (2) Statutory responsibility to conduct:
 - administrative rule review;
 - draft legislation review;
 - program evaluation; and
 - monitoring.

NOTE: Although a portion of each meeting (public comment) will provide an opportunity for agencies to raise issues for the LJIC's consideration and for the LJIC to discuss rule review matters raised by staff, this study

plan proposes that agency overviews be presented at the organizational meeting on July 26, 2005, and that agencies present their bill draft requests and detailed explanations at the LJIC's last two meetings (in June and August 2006).

B. Conduct assigned studies

(1) **SJR 6:** Study of legal services for low and moderate income Montanans. The Legislature ranked this study 10th out of 22 requested studies. The following is a list of the tasks identified in the study resolution. After each bullet point is a list of the methods by which staff proposes to fulfill the study task.

- identify and examine scope of unmet needs;
 - *review the legal needs study done by Equal Justice Task Force of MT Bar Assoc.*
 - *receive testimony by stakeholders*
 - *panel presentations and roundtables*
 - *committee questions*

- identify what changes are needed in state law to facilitate the delivery of civil legal services to moderate and low income Montanans;
 - *staff analysis and report*
 - *round table and/or panel presentations*
 - *committee instructions*

- review funding sources, costs, and options;
 - *interviews with stakeholders*
 - *limited survey with help of stakeholders*
 - *staff analysis and report (LFD)*
 - *staff report on other states*

- recommend alternatives to direct representation by attorneys;
 - *invited guest testimony*
 - *panel presentations*
 - *round table discussions*
 - *committee questions, discussion, direction*
 - *staff report, if appropriate and time allows*

- review court's involvement and role;
 - *invited guest testimony*
 - *staff report, if appropriate and time allows*

- review how youth court recidivism may be reduced through referrals to needed legal services; and
 - *invited guest testimony*
 - *staff report if appropriate and time allows*
- any other aspect of access to justice for low-income Montanan's that is determined appropriate.
 - *committee direction and instructions to staff*

NOTE: Although this study plan proposes that the SJR 6 study be conducted as a full study and as the top priority, it is important to note that only 35% of the resources available would be dedicated to this study because of the LJIC's other assignments. Thus, the staff reports and analysis in support of this study cannot be as comprehensive as may otherwise be desirable.

(2) **SJR 40:** Study the delivery of county attorney services. This study ranked 20th out of 22 studies. The Legislative Council recommends that this study be fulfilled as a staff "white paper" and not conducted as a full study. The resolution requests the following:

- review "the various means by which prosecution services and county civil legal services are being provided by county attorneys in Montana counties";
 - *legislative research and staff paper*
- review "the costs associated with the provision of prosecution services and civil legal services by county attorneys in Montana counties";
 - *legislative research and staff paper*
 - *targeted survey of cross-section of counties*
- identify what "changes in state law" may be necessary "to facilitate the provision of prosecution services and civil legal services throughout the state";
 - *staff analysis and report*
- "review the funding sources currently available to address the provision of prosecution needs and county civil legal services needs";
 - *staff analysis and report*

- determine "the level of public funding required to provide consistent, uniform, and professional prosecution services to the criminal justice system and civil legal advice to elected county officials";
 - *public testimony*
 - *round table discussion*
 - *committee action*
- address "any other aspect of the administration of prosecution services and county civil legal services by county attorneys for Montanans that is determined to be appropriate"; and
 - *committee discussions and actions*
- "include a specific list of options, including the option of no action, to be considered for recommendation to the 60th Legislature".
 - *committee final recommendations and report*

NOTE: This study plan proposes that the SJR 40 study be a staff analysis with a report to the LJIC in March 2006. The LJIC would then decide on the next course of action with committee work being conducted at the LJIC's last two meetings (in June and August). However, to help staff identify the key issues, analyze the nature of the problems, and flesh-out the policy questions, this study plan also proposes that background information be presented to the LJIC through panel presentations and a round table discussion at the LJIC's 2nd meeting (in September 2005). This would require that the committee conduct a two-day meeting -- one day being devoted to the SJR 6 study and one day being devoted to the SJR 40 study.

(3) **HJR 15: Sentencing equity study.** This study was ranked 15th out of 22 requested studies. The HJR 15 resolution requests that the appropriate interim committee (or that appropriate staff resources be allocated to) study disparities between minority enrollees in the criminal justice system and Caucasian enrollees with regard to:

- quality of counsel;
- arrest rates;
- detention in jail versus release on bail;
- the various uses of plea agreements and trials;
- rates of conviction;
- sentencing patterns;

- opportunities for effective treatment;
- rates of incarceration;
- rates in receiving deferred or suspended sentences and in granting of parole;
- differences in parole and parole revocations;
- rates of recidivism; and
- the transition from prison to post-prison life.

NOTE: Much of the data required to conduct the analysis requested in this study is not centrally collected, if collected at all. Thus, the Legislative Council (and this study plan) recommends a limited staff "white paper" that would:

- identify what data should be collected and how it should be reported to eventually fulfill the objectives outlined in HJR 15; and
- estimate the costs for developing that capacity.
- This staff paper would be presented to the LJIC in May 2006.

NOTE: This study could be contracted out if the LJIC desires to either receive more than a limited staff report or to reduce the resources allocated to the report.

C. Follow-up on session issues

- (1) The Montana Public Defender Act (SB 146) provides that the LJIC:
- monitor the audit findings for Missoula, Cascade, Lewis & Clark, Flathead, Gallatin, and Yellowstone Counties on "actual costs" for "public defender services"; and
 - request legislation to adjust (if necessary) entitlement share reductions for those counties based on audit findings and input from all parties.

NOTE: The study plan proposes that regular progress reports be made to the LJIC and that these would occur during 5 of the 11 meeting days for the LJIC.

- (2) Receive a report on any performance audit done on any prerelease center, regional prison, or private prison - HB 2 footnote narrative

NOTE: This study plan proposes little to no committee resources be allocated to this activity. If an audit is conducted, copies of the audit would be provided to each LJIC member.

D. Identify and examine emerging issues

The LJIC is directed by law to exercise its own initiative to:

- identify law and justice issues likely to require legislative attention in the next session;
- improve existing law through analysis of problems experienced with the application of the law by an assigned agency; and
- provide a forum for feedback from the state's citizens regarding the operation of assigned agencies.

NOTE: This study plan allocates little to no committee resources to study emerging issues beyond the issues already covered in the study resolutions assigned to the LJIC.

E. Coordination with other interim committees

(1) Regarding the SJR 37 study of child protective services, the Legislative Council requested that the LJIC "work with" the CFHHS interim committee "on issues that may fall within the LJIC's subject matter jurisdiction". SJR 37 requests an examination of:

- the entire system;
- the effectiveness of centralized intake;
- the availability of prevention services and mediation;
- the child's voice in the process;
- the desired level of community involvement; and
- the potential reallocation of resources to provide safety and permanency "at the forefront".

NOTE: This study plan proposes that coordination between the LJIC and CFHHS interim committee occur at the staff level, but that the LJIC review and comment on the CFHHS study plan, that the LJIC receive regular updates on CFHHS activities related to SJR 37, and that the LJIC be consulted when the CFHHS is formulating its final recommendations.

(2) The SJR 38 study of identity theft was assigned to the Economic Affairs Interim Committee. The study is to examine:

- the scope of the state's authority to regulate in this area;
- consumer protection and prosecution;
- the criteria businesses should use to protect information;
- victim restitution and what processes might be needed for cross-jurisdictional authority;
- the education of consumers and businesses;
- what tools are available to regulators and law enforcement; and
- government records and privacy rights versus the public's right to know.

NOTE: This study plan proposes little to no LJIC resources be spent on coordination with the EAC on the identity theft study. However, staff would present updates on EAC activities, as appropriate.

IV. ALLOCATION OF RESOURCES

The following table is a starting point for the LJIC to discuss its study priorities. The table simply provides a means of prioritizing the allocation of resources to one activity in relation to the other activities. The intent is to provide guidance to staff. The columns showing hours and meeting days are not intended to be taken literally. They are offered only to provide perspective on what the percentage allocation in the boxed column could translate to in terms of time. The LJIC may increase or decrease resource allocations. It may also recommend to the Legislative Council that an assigned study not be done at all so that more resources may be dedicated to an assignment with higher priority. However, in adjusting the time allocations, the LJIC should keep in mind that resources are finite. No more than the total resource available may be allocated.

Study/Activity		Percentage allocation of total resources	If the interim were only 1 day	Relative number of meeting days focusing on study (not actual)
SJR 6	Study of legal services for moderate and low-income Montanans	35%	2.8 hrs	4 days
SJR 40	Study of county attorney services <i>(less than a full study, but more than a staff white paper report)</i>	25%	2 hrs	3 days
HJR 15	Study of sentencing equity <i>(limited staff white paper)</i>	15%	1.2 hrs	1.5 days
Follow-up	SB 146 - Public Defender Act	10%	50 min	1 day
Statutory	Agency monitoring	10%	50 min	1 day
SJR 37	Coordination with CFHHS on child protective services <i>(requested by Legislative Council)</i>	5%	20 min	.5 day
SJR 38	Coordination with EAC on identify theft	very minimal staff or committee time dedicated to these activities		
Follow-up	Any performance audit re: Dept. of Corrections facilities			
Statutory	Emerging issues			
TOTAL	AVAILABLE RESOURCES	100%	8 hr day	11 mtg days
		<i>*of total staff & committee hours available</i>	<i>*for illustration purposes only</i>	<i>*3 LJIC mtgs would have to be two-day mtgs</i>

V. PROPOSED WORK PLAN
Subject to change according to LJIC action

Meeting Date	Location	Major Agenda Items/Themes
<p>Mtg #1 Tues July 26, 2005</p>	<p>Room 102 State Capitol</p>	<ul style="list-style-type: none"> - Organizational Meeting - Overviews - Prioritize work - Adopt study plan
<p>Mtg #2 (2 days) Wed. & Thurs. Sept. 21-22, 2005</p>	<p>Room 102 State Capitol</p>	<p><u>Information gathering phase</u></p> <p><u>Day 1:</u> SJR 6- Legal Services for Low Income Study -- staff background report -- panel presentations, round table discussion</p> <p>SB 146: Progress report on Public Defender Commission activities and legislative audit (<i>Legislative Audit Division to be preparing to contract the audit work, identifying what is to be audited</i>)</p> <p><u>Day 2:</u> SJR 40 - County Attorney Services Study -- staff background report -- panel presentations, round table discussion</p> <p>SJR 37: Update on CFHHS (child protection study plan) Committee discussion and development of recommendations for the CFHHS to consider</p>
<p>Mtg. #3 Thurs. Nov. 17, 2005</p>	<p>Room 102 State Capitol</p>	<p><u>Identify and analyze issues</u></p> <p>SJR 6- Legal Services for Low Income: -- staff analysis and report -- guest speakers</p>
<p>Mtg. #4 Thurs. Jan. 19, 2006</p>	<p>Room 102 State Capitol</p>	<p><u>Identify policy goals and options</u></p> <p>SJR 6 - Legal Services for Low Income -- committee discussion and work session</p> <p>SB 146: Progress report on Public Defender Commission activities and legislative audit (<i>Contract for audits to be awarded by Jan. 15</i>)</p> <p>SJR 37: Update on CFHHS (child protection study plan)</p>
<p>Mtg. #5 Thurs. March 23, 2006</p>	<p>Room 102 State Capitol</p>	<p><u>Analyze options, select one option for further consideration</u></p> <p>SJR 6- Legal Services for Low Income: -- staff analysis of approved options -- committee discussion and further action</p> <p>SJR 40 - County Attorney Services: -- Receive Staff Report and Analysis -- Testimony and Discussion -- Select option for further development</p>

Meeting Date	Location	Major Agenda Items/Themes
Mtg. #6 (2 days) Thurs. & Fri. May 11-12 2006	Room 137 State Capitol	<p><u>Preliminary recommendations</u></p> <p><u>Day 1:</u> SJR 6 - Legal services for low income -- committee discussion, work session, action to adopt preliminary recommendations and request of any draft legislation</p> <p>SB 146 - Update: <i>Audit of county costs to be completed and reported to Audit Committee by April 30</i></p> <p><u>Day 2:</u> SJR 40 - County attorney services -- committee discussion, work session, action to adopt preliminary recommendations and any draft legislation</p> <p>HJR 15 - Receive sentencing equity staff report -- instructions to staff on next course of action</p> <p>SJR 37: Update/coordination with CFHHS (child protective services) review proposed recommendations, as time allows and if prepared</p>
Mtg. #7 (2 days) Thurs. & Fri. June 29-30, 2006	Room 102 State Capitol	<p><u>Further work on Committee recommendations and legislation</u></p> <p><u>Day 1</u></p> <p>SJR 6 - Legal Services for Low Income Montanans SJR 40 - County Attorney Services SB 146 - Public Defender Act legislation HJR 15 - Sentencing Equity</p> <p><u>Day 2</u></p> <p>Agency Legislation: Review and approval or disapproval of drafting requests for agency legislation</p> <p>SJR 37: Update/coordination with CFHHS (child protective services)</p> <p>SJR 38: Update on EAC action regarding identity theft study, proposed legislation</p>
Mtg. #8 Thurs. Aug. 31, 2006	Room 102 State Capitol	<p>Committee recommendations legislation: final approval</p> <p>Agency legislation: Final reviews and requests</p> <p>Finalize all other work: Approve draft of final report</p>

LAW AND JUSTICE INTERIM COMMITTEE: SUMMARY OF WORK PLAN PROPOSAL

*Note: The shaded blocks mean that the activity will be on the meeting agenda.
They do not indicate the amount of time that the activity will have on the meeting agenda.*

*The * indicates which meetings will be 2-day meetings.*

	#1 July 26, 2005 <i>organizational</i>	#2 *Sept. 21-22, 2005	#3 Nov. 17, 2005	#4 Jan. 19, 2006	#5 March 23, 2006	#6 *May 11-12, 2006	#7 *June 29-30, 2006	#8 Aug. 31, 2006
Rule review	overview	as needed	as needed	as needed	as needed	as needed	as needed	as needed
Review agency legislation	agency presentations							
Public comment	comments on study plan							
SJR 6 - Legal services for low income	set priorities, allocate time and resources	presentations background/discussion	identify and analyze issues	identify goals & options	analyze options	preliminary recommendations	further work/recommendations	finalize recommendations
SJR 40 - County attorney services		presentations background/discussion			staff report presented	preliminary recommendations	further work/recommendations (if needed)	finalize recommendations
HJR 15 - Sentencing equity study						staff report presented	further work/recommendations (if needed)	finalize recommendations
SB 146 - Public Defender Act implementation	progress report							
SJR 37- Work with CFHHS on child protective study	review study plan							
SJR 38 - Identity theft study by EAC	review the resolution							

LJIC Meeting Schedule 2005-2006 Interim	July 2005	August 2005
	Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
September 2005	October 2005	November 2005
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December 2005	January 2006	February 2006
Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28
March 2006	April 2006	May 2006
Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
June 2006	July 2006	August 2006
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September 2006	October 2006	November 2006
Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30