

Update on Law and Justice Interim Committee Activities

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Two Committee Bills

The Law and Justice Interim Committee (LJIC) is positioned to move forward on two committee bills:

LC0071 General Revision of Prosecution Services (SJR 40 study)
LC0072 Access to Civil Justice Act (SJR 6 study)

These bills are in the initial drafting stage. Thus, many details have yet to be worked out.

LC 0071 - General Revision of Prosecution Services

County Attorney Salaries

- *Statutory minimum.* The LJIC is proposing to change the statutory minimum salary for full-time county attorneys from \$50,000 to 75% of the salary set for a district judge. A district judge's salary is set statutorily under section 3-5-211, MCA, which provides that the salary be the average salary of a salary survey conducted of surrounding states. The survey is conducted every two years by the Department of Administration. Currently (for the FY 07 biennium), 75% of a district judge's salary is \$70,570. In all but 4 counties (Blaine, Deer Lodge, Jefferson, and Teton Countys) the county attorney salary is already above, at, or just slightly below this salary.
- *Add state health insurance factor.* Current statute provides that the state shall pay 50% of each county attorney's salary (based on the most recent information provided by the county to the Department of Justice for its budget request; and depending on actual legislative appropriations.) The LJIC's bill would provide that the state add a "health insurance factor" of \$3,600 annually, which is 50% of the state employer's health insurance premium for an unmarried state employee.
- *State share paid by increasing county entitlement share.* Currently, the Department of Justice pays the state's obligation of 50% of each county attorney's salary, which is set by each county's compensation board. The LJIC's bill would change the mechanics of how the state's obligation is paid by increasing, one time, each county's base entitlement share appropriation (calculated under section 15-1-121, MCA). The amount of the increase would be equal to the amount that the state is currently paying, plus the health insurance factor discussed above. Therefore, the state obligation for county attorney salaries would no longer be included in the Department of Justices' budget or subject to biennial appropriations. Each county's base entitlement share appropriation is automatically increased annually by a statutorily calculated growth factor. Thus, the county would simply become 100% responsible for the county attorney salary, but would have the increased base entitlement share, plus the annual growth factor to apply toward the county attorney's salary.

- *County compensation boards continue to set salary.* The LJIC bill would not change the role of county compensation boards, which set the county attorney salaries. Therefore, a county could pay a county attorney more than the minimum statutory salary and also increase a county attorney's salary by more than growth factor applied to the entitlement share.

State Crime Lab

The LJIC is planning to include in LC0071 the Department of Justice's budget proposal for the following:

- one additional FTE (\$65,230 in annual salary) for a Toxicology Scientist, which was recommended in an audit by the American Board of Forensic Toxicology.
- one additional FTE (\$65,230 in annual salary) for a scientist in the Impression/Latent Print section, which processes information about evidence used to prosecute cases. This section has a backlog of cases in excess of one year and could lose its accreditation if the FTE is not added.
- salary increases ranging from about 9% to 15% of salary (and costing an estimated \$150,000 annually) for all lab staff to bring salaries to at least the market rate for new hires, to the market mid-point for experienced staff, and to the market maximum for the lab's most experienced staff.

Prosecution Services Bureau

The LJIC is also planning to include in LC0071 four additional attorney FTE in the Prosecution Services Bureau. Two of the new FTE would be general prosecutors. The other two would specialize in child abuse and neglect cases, which are handled by the Child Protection Unit.

LC0072 - Access to Civil Justice Act

LC0072 is the result of work begun by the *Pro Se* Subcommittee of the LJIC, which was appointed to work on how to help self-represented litigants in civil matters have access justice. The bill, which will be further discussed by the full LJIC at its May 11-12 meeting in Helena, would:

- establish a self-help law program directed by the Supreme Court (or a designated commission) that would provide for the development and updating of:
 - (1) standard forms to be used in any of Montana's courts;
 - (2) information for clerks of court and volunteers about how to provide assistance to self-represented litigants without providing direct representation or practicing law without a license;
 - (3) curriculum and training materials for classes and clinics attended by self-represented litigants; and

(4) multimedia access (including website access) to forms, information, and resources available to self-represented litigants.

- require statewide coordination with other public and private entities (such as the non-profit Montana Legal Services Association (MLSA) and the state and local bar associations) working on access to justice issues.
- require data collection and a report to the legislature by the Supreme Court.
- provide funding from the state general fund for 3 to 4 FTE to implement the program.

Information about *pro bono* (no or reduced fee) attorney services and how they interact with self-help law programs will be discussed by the LJIC in at its May meeting. Thus, a *pro bono* component under the self-help law program could be added to the bill draft.

Site Visits

While meeting in Billings March 22-23, 2006, LJIC members toured the MLSA regional office, the Montana State Women's Prison, and the 13th Judicial District's Family Drug Court.

MLSA Visit

Members met with MLSA Executive Director Klaus Sitte and his staff in the Billings regional MLSA office. The members spoke with attorneys providing legal assistance to clients at or below 125% of federal poverty guidelines in the areas of family law, migrant farm worker employment and benefits, and consumer law matters. The director of the Yellowstone Area Bar Association's *pro bono* network also met with committee members, highlighting the importance of *pro bono* attorneys in assisting low-income Montanans with legal problems to access the courts. The visit focused on the MLSA's Self-Help Family Law Project, which is currently operating with MLSA grant money to assist low-income Montanans who cannot afford an attorney and must either represent themselves in court or secure *pro bono* legal assistance.

Montana Women's Prison

During its visit to the women's prison, the LJIC learned that the prison currently houses about 265 adult women, which means that it is running at about 70 beds over capacity. (Three women, rather than two, are bunked together in a typical cell. In some areas, 6 women are bunked in one room.) The prison is operated with 90 staff members (including contract personnel) and provides necessary medical and dental treatment, a "dog unit" where inmates learn how to train dogs for people with disabilities, and clinical services that include mental health counseling, family support, and physical wellness. There is also a maximum security unit where women who have violated certain standards of conduct are isolated in individual cells with only one hour a day outside their cells.

Visit to Family Drug Court

Several LJIC members visited the 13th Judicial District's Family Drug Court in Yellowstone County, which is headed by District Judge Susan Watters and handles cases where parents agree to follow a "road map" to recovery from drug abuse in order to retain parental rights. The

visit included a discussion with Judge Watters and the members of her treatment team. (The treatment team typically includes the probation officer, child protective services social workers, a court-appointed special advocate for the children, a public defender, mental health evaluator, and others appointed by the court). The LJIC members also observed the pre-court session team meeting on each of the court's cases and then the actual court session for each parent (a total of 13 parents and 28 children) under the court's jurisdiction.

Further Information

For further information about LJIC activities, please feel free to contact Sheri Heffelfinger at 444-3596, or visit the LJIC's web site accessible through <http://leg.state.mt.us>.

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