

HOUSE JOINT RESOLUTION NO. 15

INTRODUCED BY JUNEAU, JAYNE, BIXBY, SMALL-EASTMAN, CAMPBELL, WANZENRIED

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO REVIEW ISSUES RELATED TO SENTENCING PRACTICES AND THE DISPROPORTIONATE REPRESENTATION OF MINORITIES IN THE CRIMINAL JUSTICE AND CORRECTIONS SYSTEMS.

WHEREAS, Indians and other minorities in Montana are disproportionately overrepresented in the criminal justice system compared to their representation in the general population; and

WHEREAS, there are numerous points of discretion in the criminal justice and corrections system that need to be reviewed for causes behind racial disparity in sentencing, including 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, and differences in probation and parole revocations; and

WHEREAS, Indians represent over 7.5% of the overall population of Montana, yet Indian females represent 17% and Indian males represent 14.4% of the overall 2004 state adult offender population, including prison, intensive supervision parole, prerelease, and probation; and

WHEREAS, the numbers incarcerated in state prisons are even more disproportionate -- 27.2% of incarcerated females and 16.8% of incarcerated males are Indian -- and those rates have remained consistent for at least 20 years; and

WHEREAS, Indian youth are also disproportionately overrepresented in the Youth Court system, representing 12% to 18% of arrests, referrals to juvenile court, secure detention, petition filings, delinquent findings, probation placement, and secure confinement, and in the juvenile corrections systems, ranging from 20% at the Pine Hills Youth Correctional Facility for boys and up to 50% at the Riverside Youth Correctional Facility for girls; and

WHEREAS, two-thirds of Indians in Montana live on reservations under federal jurisdiction, and the Indian adults and youth who are in federal prisons or under federal supervision are not reflected in the state statistics, which further exacerbates and distorts the magnitude of the disproportionality.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE

STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to ~~study the lack of equity in the treatment of adult and youth minorities in criminal justice and sentencing practices in Montana~~ DETERMINE STUDY THE REASONS, INCLUDING 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, AND DIFFERENCES IN PROBATION AND PAROLE REVOCATIONS, WHY THERE IS A DISPROPORTIONATE NUMBER OF ADULT AND YOUTH MINORITY PERSONS IN THE CRIMINAL JUSTICE SYSTEM IN MONTANA.

BE IT FURTHER RESOLVED, that the committee make recommendations for the criminal justice and corrections systems and the Judiciary to alleviate any disparate treatment of minorities.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature, EACH TRIBAL GOVERNMENT LOCATED ON THE SEVEN MONTANA RESERVATIONS AND TO THE LITTLE SHELL BAND OF CHIPPEWA, THE GOVERNOR, THE MONTANA CONGRESSIONAL DELEGATION, AND THE BUREAU OF INDIAN AFFAIRS OF THE UNITED STATES DEPARTMENT OF THE INTERIOR.

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