

HOUSE JOINT RESOLUTION NO. 5

INTRODUCED BY K. DUDIK

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4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5 MONTANA REQUESTING AN INTERIM STUDY OF DEFERRED PROSECUTION PROGRAMS; AND
6 REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

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8 WHEREAS, a deferred prosecution agreement allows a defendant and a prosecutor to agree to delay
9 the prosecution for a criminal offense if the defendant abides by certain terms in the agreement; and

10 WHEREAS, if the defendant successfully completes the terms of the agreement, the criminal charge
11 against the person can be dropped and will not appear on the person's criminal history; and

12 WHEREAS, a criminal conviction can have lasting effects on a person's housing and employment
13 prospects even years after the offense; and

14 WHEREAS, these agreements are often used to divert individuals charged with first-time or nonviolent
15 offenses from the criminal justice system; and

16 WHEREAS, many crimes relate directly to the defendant's use or abuse of drugs or alcohol; and

17 WHEREAS, deferred prosecution agreements can allow a defendant to obtain and complete treatment;
18 and

19 WHEREAS, Montana also has statutes allowing for pretrial diversion programs and deferred sentencing
20 arrangements; and

21 WHEREAS, in 2017, the Montana Legislature established a prosecution diversion grant program to
22 encourage local adoption of prosecution diversion programs but the program was not funded; and

23 WHEREAS, increasing access to diversion programs for certain defendants from the criminal justice
24 system could reduce caseloads for prosecutors, public defenders, and judges, while also prioritizing jail and
25 prison bed space for other offenders.

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27 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
28 STATE OF MONTANA:

29 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
30 section 5-5-217, MCA, or direct sufficient staff resources to study how to establish deferred prosecution programs



1 around the state and to encourage those currently in operation.

2 BE IT FURTHER RESOLVED, that the study should:

3 (1) identify current Montana jurisdictions that operate deferred prosecution programs and examine those
4 programs' structure, funding, eligibility criteria, and procedures;

5 (2) review national best practices for deferred prosecution programs;

6 (3) examine deferred prosecution programs in other states, including their structure, scope, and funding;

7 (4) review existing Montana statutes that create or support opportunities for individuals to be diverted from
8 the criminal justice system, including the prosecution diversion grant program established in 44-7-115, MCA, the
9 pretrial diversion agreement established in 46-16-130, MCA, and ability of a sentencing judge to defer imposition
10 of sentence as allowed by 46-18-201(1); and

11 (5) make recommendations to the next Legislature to encourage additional jurisdictions to establish
12 programs or to expand existing programs.

13 BE IT FURTHER RESOLVED, that the study should seek out the expertise and opinions of prosecuting
14 attorneys, the Department of Justice, criminal defense attorneys, the Office of State Public Defender, district court
15 judges, crime victims and their advocates, and other appropriate criminal-justice system stakeholders.

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

18 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
19 requirements, be concluded prior to September 15, 2020.

20 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
21 comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

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