

# **LAW & JUSTICE INTERIM COMMITTEE**

*Draft Work Plan for the 2015-2016 Interim*

**For discussion on June 25, 2015**

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## INTRODUCTION AND OVERVIEW

The Law and Justice Interim Committee (the LJIC) is one of several interim committees established by law and required to meet in the months between regular legislative sessions. Interim committees provide oversight for the various state agencies, perform interim studies as needed and as assigned by the Legislative Council, and propose legislation for consideration at the next legislative session. The interim committees also provide an avenue for Montana's citizens to provide testimony about their experiences with state government.

The LJIC is responsible for monitoring the activities of the Office of the State Public Defender (OPD), the Department of Corrections (DOC), the Department of Justice (DOJ), and any entities attached to those agencies for administrative purposes. The administratively attached entities that the LJIC monitors are:

- the Board of Pardons and Parole (attached to DOC);
- the Board of Crime Control (attached to DOJ);
- the Gaming Advisory Council (attached to DOJ); and
- the Public Safety Officer Standards and Training (POST) Council (attached to DOJ).

The committee also serves as the liaison to the Judicial Branch.

The Legislative Council assigned one study to the LJIC for the 2015-2016 interim:

- Senate Joint Resolution No. 24, a study of sexual assault in Montana.

This work plan outlines the agency oversight and study duties assigned to the LJIC and proposes a meeting schedule from June 2015 to August 2016. Once revised and adopted by the LJIC, the work plan will serve as a general "road map" of the committee's priorities for the interim. The work plan includes:

- a matrix to help the committee determine the level of involvement it would like to have in its oversight duties and the interim studies. The matrix begins on page 6.
- a discussion of other law and justice-related studies being undertaken this interim that will affect the work of the LJIC and its staff, beginning on page 4; and
- a proposed schedule of activities for each committee meeting, beginning on page 9.

The LJIC members should be prepared to discuss and revise the work plan at its organizational meeting. Staff will then revise the plan as needed, and the committee can adopt the final plan at its second meeting.

## AGENCY OVERSIGHT

Agency monitoring duties are set out in section 5-5-215, MCA, and are discussed below. The LJIC should perform these duties for each of the agencies assigned to it.

### Rule Review

The LJIC's staff attorney routinely reviews and summarizes the administrative rulemaking notices

for the agencies monitored by the committee and will provide members with information on this process. Staff pays particular attention to any rules considered to be out of compliance with legislative intent or with the rulemaking process set out in law. The Montana Administrative Procedure Act (MAPA) allows interim committees to:

- obtain an agency's rulemaking records to review them for compliance;
- submit written recommendations to the agency for the adoption, amendment, or rejection of a rule;
- require that a rulemaking hearing be held;
- participate in proceedings; and
- review the conduct of administrative proceedings.

Action Item: The LJIC should decide the level of involvement it would like to have in the rule review process, using the matrix provided on page 6.

#### Program Monitoring, Required Reports, and Advisory Councils

The LJIC is required to monitor the operations of the agencies under its jurisdiction and should give specific attention to:

- identifying issues likely to require further legislative action;
- identifying opportunities to improve existing laws that govern an agency's operation and programs;
- determining whether the experiences Montanans have had with an agency can be improved through legislative action; and
- reviewing proposed agency legislation.

In addition to program monitoring, certain statutes require agencies under the jurisdiction of the LJIC to present to the committee or the Legislature reports on various topics. As part of its agency monitoring work, the LJIC must review the required reports to determine if the next Legislature should retain or eliminate any of these reports. The same review must be performed for advisory councils or commissions under the committee's jurisdiction.

A list of the required reports and the various advisory councils and commissions can be found on pages 12 and 13 of this work plan.

#### Review of Draft Legislation

Using the procedures set out in the Joint Rules, the LJIC should review legislative proposals from the agencies for the 2017 legislative session. This review typically happens in the late spring or early summer of the final year of the interim. Interim committees may then authorize legislative staff to draft the agencies' legislation. The review and authorization process *is not* an endorsement by the LJIC of the agency proposals. Instead, this process allows staff to get an early start on drafting bills so their time is free after the November elections to work on bills for the newly elected legislators. Agency bills drafted as a result of this process must be pre-introduced before the next legislative session and will be among the first bills heard by the new Legislature.

Action Item: The LJIC should decide the level of involvement it would like to have in agency oversight duties, using the matrix provided on page 6.

#### OTHER CRIMINAL JUSTICE STUDIES AND ONGOING ISSUES OF LJIC MEMBER INTEREST

Typically, the LJIC members want to receive periodic written or oral updates on topics that were the subject of recent legislation or recent LJIC attention, or on issues that may emerge during the interim. In the past interim, the LJIC received updates on the status of the Office of the Public Defender and a reentry task force operated by the Department of Corrections. It also had briefings on the National Instant Criminal Background Check System, revisions to South Dakota's criminal justice system, and several other topics.

This interim, there are plenty of issues the LJIC could choose to designate committee time to study. However, given the number and extent of other criminal justice studies created by bill and assigned to legislative staff to study, the LJIC will have limited staff resources to direct to ongoing issues of interest. As a result, the staff will work closely with the presiding officer and LJIC to prioritize what issues of interest should be covered and in what manner. The committee should also avoid duplicating study topics that are undertaken as part of these other study efforts. A list of possible issues is provided on page 8.

The other criminal justice studies created by bill are:

- SB 224 - Commission to study criminal justice system;
- HB 430 - Interim judicial redistricting commission; and
- HB 627 - Task force to study the office of public defender.

The HB 627 Task Force is required by law to coordinate meetings with the LJIC. This requirement means that, at a minimum, the LJIC should listen to periodic updates from task force members or staff about the task force's work.

Individual members of the committee may seek additional information on issues that fall under the jurisdiction of the LJIC. These issues may be raised by constituents, may be emerging problems or solutions in Montana or other states, or may be of interest to a particular member. If the committee chooses not to pursue information on a topic, the individual committee member may submit a research request. Under rules adopted by the Legislative Council, a staff member may provide up to 16 hours of research for a request that is not included in a committee's work plan unless the presiding officer of the interim committee approves additional research time. Due to the extensive criminal justice work required this interim, committee staff will have limited time to use for individual member research requests. These requests may have to be assigned to other legislative staff or put on hold until time allows for further research.

Action Item: Discuss topics and determine what activity, if any, the LJIC wishes to pursue for that topic. Determine if there are other topics to add. (This process is often repeated throughout the interim as new issues emerge.)

#### MEETING SCHEDULE

The following meeting dates are a tentative schedule for the interim. It proposes 9 meeting days,

including the organizational meeting. If the LJIC forms a subcommittee, money must be allocated from the budget to cover these costs, and the number of meeting days for the full committee may be reduced.

Proposed meeting schedule

- June 26, 2015 - organizational meeting
- Monday/Tuesday, September 28-29, 2015
- Monday, December 14, 2015
- Monday, February 22, 2016 (optional added day on February 23, if necessary)
- Monday, April 11, 2016
- Monday, June 28, 2016
- Monday, August 29, 2016

Committee members may change the dates or number of meetings as their schedules and the budget allow to better reflect their needs for the interim and any changing priorities as the interim progresses. However, because LJIC members are also assigned to other interim committees and LJIC shares staff with other commissions and committees, the LJIC must be careful when scheduling and rescheduling meetings to reduce conflicts with other interim commitments.

Suggested activities for each meeting can be found on page 9.

TIME ALLOCATION

The LJIC Work Plan Decision Matrix in Appendix A on page 6 provides a list of the LJIC's duties, along with options for the level of involvement that committee members would like to have with each topic. The options marked with asterisks would result in the following breakdown of committee time, assuming 63 hours of meeting time (9 meeting days x 7 meeting hours).

Item	Description	Time Allocation
SJ 24 Study	Study sexual assault in Montana	40% (25 hours)
Statutory Oversight	Agency overviews and monitoring, required reports and councils/commissions, rule review, legislation review	30% (19 hours)
Other issues determined by committee	See Appendix B on page 8	30% (19 hours)

APPENDIX A: LJIC WORK PLAN DECISION MATRIX

Agency Oversight		
Rule Review: Decide the level of involvement the LJIC would like to have in administrative rule review		
	<p><u>Moderate Involvement*</u></p> <ul style="list-style-type: none"> <li>• Receive brief rule report prior to each meeting</li> <li>• Legal staff will note issues of concern</li> <li>• Review in committee topics that legislators flag as important or of concern or that a committee member has asked to be placed on the agenda</li> </ul>	
Program Monitoring, Reports, Advisory Councils: Decide the level of agency oversight and review the LJIC would like to provide		
<p><u>Minimal Involvement</u></p> <ul style="list-style-type: none"> <li>• Initial introduction presentation by agency</li> <li>• Receive copy of any required report</li> <li>• Brief written summary by staff of advisory councils and commissions and follow up as committee desires</li> </ul>	<p><u>Moderate Involvement*</u></p> <ul style="list-style-type: none"> <li>• All of minimal involvement AND</li> <li>• Agency presentation of required report, if possible</li> <li>• Receive an agency update from officials as needed or requested</li> <li>• Receive additional updates based on topics identified by members</li> </ul>	<p><u>Significant Involvement</u></p> <ul style="list-style-type: none"> <li>• All of minimal involvement AND</li> <li>• Receive an agency update from officials each meeting</li> <li>• Receive additional updates based on topics identified by members</li> <li>• Additional presentations by advisory councils and commissions to determine the recommendation to be made to the Legislature</li> </ul>
Legislation Review: Decide the level of oversight and review of agency legislation		
<p><u>Minimal Involvement</u></p> <ul style="list-style-type: none"> <li>• Receive written summaries of proposed agency bills; authorize predrafting of bills</li> </ul>	<p><u>Moderate Involvement*</u></p> <ul style="list-style-type: none"> <li>• Hear agency presentation on proposed agency bills; authorize predrafting of bills</li> </ul>	

Interim Studies: Discuss the assigned study and proposed study plan. Determine the amount of committee time to devote to the study

SJ 24: Study sexual assault in Montana

Option A: Minimal

- Staff research into selected issues from the study resolution
- Staff meetings with stakeholders
- Limited committee time dedicated to selected issues from the study resolution

Deliverables

- Background briefing papers on selected topics identified in the study resolution
- Final report with findings; public comment on report
- Follow up activities as requested by the committee, including draft legislation if desired

Option B: Significant\*

- Committee and staff time dedicated to all issues from the study resolution
- Staff attendance at relevant stakeholder meetings, as needed
- Additional items as identified by the committee

Deliverables

- Background briefing papers on selected topics identified in the study resolution or by the committee
- Individual and/or panel presentations on topics identified in the study resolution and as further identified by members
- Draft legislation
- Final report

## APPENDIX B: Topics for LJIC Consideration

The table on page 5 provides 19 hours of committee time to be allocated to topics chosen by the members. This is approximately 30% of the committee's workload. If the committee wishes to devote more or less time to these issues, the percentages listed in the table would need to be reallocated accordingly.

If a topic is not selected by the committee to include in the work plan, an individual member may pursue the topic as an information request. Staff may work on an information request for up to 16 hours. After that amount of time is expended, further time can be granted by the committee's presiding officer or by the committee if it chooses to amend its work plan to include the topic.

Committee activities related to the following topics could include presentations, staff briefing papers, or other items as requested by the committee.

Topic	Reason	Suggested Activity (if any)	Date
HB 627 Task Force on Public Defender Operations	Task Force is required by law to coordinate with LJIC	Regular updates from task force staff	September 2015 and ongoing
SB 224 Commission on Sentencing	The Commission is required to consider a broad range of criminal justice issues in which the LJIC has interest and oversight	Updates from commission members/staff as requested by LJIC	September 2015 and as requested
Implementation of HB 28 (A/V recording of parole board hearings/meetings)	HB 28 was requested by the 2013-2014 LJIC	Updates as requested from Board and Board staff	After October 2015 effective date
Committee topics?			

## APPENDIX C: Meeting Plan Summary

The following is a tentative schedule of committee activities for each of the meetings planned for the 2015-2016 interim.

Date	Activity	Tasks/Policy Decisions
June 25, 2015	<ul style="list-style-type: none"> <li>▶ Organizational</li>   <li>▶ Agency Monitoring</li>   <li>▶ SJ 24 Study</li> </ul>	<ul style="list-style-type: none"> <li>• Review, amend work plan, adopt if possible</li> <li>• Review, adopt meeting dates</li> <li>• Elect officers</li>   <li>• Agency introductions</li> <li>• Rule review overview</li> <li>• Reentry task force report</li>   <li>• Review state sexual assault statutes, DOJ update on HB 75 and agreement oversight</li> <li>• Review, adopt study plan</li> </ul>
September 2015	<ul style="list-style-type: none"> <li>▶ Organizational</li>   <li>▶ Agency Monitoring</li>   <li>▶ SJ 24 Study</li>   <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Adopt amended work plan, if needed</li>   <li>• Domestic Violence Fatality Review Commission report</li> <li>• Rule review as necessary</li> <li>• Agency presentations/introductions as necessary</li>   <li>• Additional review of sexual assault laws, updates from DOJ, as needed</li> <li>• Staff papers, stakeholder presentations on policies, procedures, practices guiding investigation/prosecution of sexual assault cases</li> <li>• Staff papers, stakeholder presentations on jurisdictional challenges</li> <li>• Staff papers, stakeholder presentations on data-collection/information-sharing challenges</li>   <li>• Update on HB 627 Task Force on Public Defender Operations</li> <li>• Updates on committee topics as requested</li> </ul>

Date	Activity	Tasks/Policy Decisions
December 2015	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li>   <li>▶ SJ 24 Study</li>   <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Update on HB 612: child abuse court diversion pilot project</li> <li>• Review of required reports briefing paper</li> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li>   <li>• Staff papers, stakeholder presentations on treatment of/resources for victims, treatment of offenders</li> <li>• Other information as requested</li>   <li>• Update on HB 627 Task Force on Public Defender Operations</li> <li>• Update on topics as requested</li> </ul>
February 2016	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li>   <li>▶ SJ 24 Study</li>   <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Required reports as necessary</li> <li>• Agency presentations as necessary/requested</li>   <li>• Panel presentations, public comment on gaps in procedures, alternatives to current process</li> <li>• Updates on topics as requested</li> <li>• Issue identification/policy direction</li>   <li>• Update on HB 627 Task Force on Public Defender Operations</li> <li>• Update on topics as requested</li> </ul>
April 2016	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li>   <li>▶ SJ 24 Study</li>   <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Required reports as necessary</li> <li>• Agency presentations as necessary/requested</li>   <li>• Presentations, papers as requested</li> <li>• Examine implications of possible policy changes or alternatives</li> <li>• Further refine policy issues and options</li>   <li>• Update on HB 627 Task Force on Public Defender Operations</li> <li>• Update on topics as requested</li> </ul>

Date	Activity	Tasks/Policy Decisions
June 2016	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li>   <li>▶ SJ 24 Study</li>   <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Required reports decision brief</li> <li>• Agency presentations as necessary/requested</li> <li>• Agency presentation of requested legislation</li>   <li>• Develop initial policy recommendations</li> <li>• Review of draft legislation or other materials, as needed</li> <li>• Further refine policy issues and options</li> <li>• Additional policy direction to staff, as needed</li>   <li>• Update on HB 627 Task Force on Public Defender Operations</li> <li>• Updates on topics as requested</li> <li>• Review of draft legislation to date, if any</li> </ul>
August 2016	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li>   <li>▶ SJ 24 Study</li>   <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• Final action on agency legislative requests</li> <li>• Final action on required report recommendations</li>   <li>• Final action on bill drafts or other study-related items</li>   <li>• Review/approval of draft final report or outline</li> <li>• Final action on nonstudy bill drafts</li> <li>• Update on HB 627 Task Force on Public Defender Operations</li> </ul>

## APPENDIX D: Required Reports

### Department of Justice

- Domestic Violence Fatality Review Commission - report to LJIC prior to each regular session (section 2-15-2017, MCA)

### Board of Crime Control

- Status and performance of restorative justice grant programs - annually to LJIC (Ch. 237, L. 2013)

### Department of Corrections

- Annual report from Multiagency Reentry Task Force -- annually to LJIC (Ch. 26, L. 2013)

### Board of Pardons and Parole

- Governor's Report on Executive Clemency -- before the start of a legislative session (section 46-23-316, MCA) -- The report is made by the Governor, but included in this section because of subject matter relevance.

### Judicial Branch

- Judicial Information Technology Status Report - annually to LJIC (section 3-1-702, MCA)
- Evaluation of out-of-home placements/programs/services of juveniles involved with youth probation - annually to LJIC (section 41-5-2003, MCA)
- Child abuse court diversion pilot project - report to LJIC (Ch. 376, L. 2015)

### Office of the State Public Defender

- Biennial report - each interim (section 47-1-105, MCA)

## APPENDIX E: Advisory Councils or Commissions

### Department of Justice

- Domestic Violence Fatality Review Commission (section 2-15-2017, MCA)
- Gaming Advisory Council (section 2-15-2021, MCA)
- Criminal Intelligence Information Advisory Council (section 44-5-501, MCA)
- Advisory Council on Concealed Weapons Permit Issues (section 45-8-329, MCA)

### Board of Crime Control

- None

### Department of Corrections

- None

### Board of Pardons and Parole

- None

### Judicial Branch

- Judicial Nomination Commission (section 3-1-1001, MCA)
- Judicial Standards Commission (section 3-1-1101, MCA)
- District Court Council (section 3-1-1602, MCA)
- The Judicial Branch also includes other Commissions and Boards established by the Supreme Court but not created by a specific statute. A list of those Commissions and Boards is available at: <http://courts.mt.gov/supreme/boards/default.mcp>

### Office of the State Public Defender

- None