



Law and Justice Interim Committee

64th Montana Legislature

SENATE MEMBERS

SCOTT SALES--Chair
DIANE SANDS--Vice Chair
DOUG KARY
SUE MALEK
MARY SHEEHY MOE
NELS SWANDAL

HOUSE MEMBERS

JENNY ECK
ELLIE BOLDMAN HILL
SARAH LASZLOFFY
STEVE LAVIN
DALE MORTENSEN
CAROLYN PEASE-LOPEZ

COMMITTEE STAFF

RACHEL WEISS, Lead Staff
JULIANNE BURKHARDT, Staff Attorney
LAURA SHERLEY, Secretary

MINUTES LOG

August 22, 2016
Room 102, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. SCOTT SALES, Chair
SEN. DIANE SANDS, Vice Chair

SEN. DOUG KARY
SEN. SUE MALEK
SEN. MARY SHEEHY MOE
SEN. NELSON SWANDAL

REP. JENNY ECK
REP. ELLIE BOLDMAN HILL
REP. SARAH LASZLOFFY
REP. CAROLYN PEASE-LOPEZ

COMMITTEE MEMBERS EXCUSED

REP. STEVE LAVIN
REP. DALE MORTENSEN

STAFF PRESENT

RACHEL WEISS, Lead Staff
HELEN THIGPEN, Staff Attorney
LAURA SHERLEY, Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

The committee:

- approved a motion to draft a committee bill to revise incest laws;
- approved a motion that LCij01 become a committee bill;
- approved a motion that LCij2b become a committee bill;
- approved a motion that LCij03 become a committee bill;
- approved a motion that LCij04 become a committee bill;
- approved a motion that LCij05 become a committee bill; and
- approved a motion that LCij06 become a committee bill.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Sales called the meeting to order at 9:59 a.m. The committee secretary took roll call ([Attachment 3](#)).

AGENCY UPDATE: INTRODUCTION OF CHIEF ADMINISTRATOR FOR THE OFFICE OF THE STATE PUBLIC DEFENDER -- Richard 'Fritz' Gillespie, Chairman of the Public Defender Commission

00:00:50 Mr. Gillespie

00:01:33 Scott Cruse, Chief Administrator, Office of the State Public Defender

Questions from the committee

00:02:32 Sen. Sands asked Mr. Cruse to describe his position and the duties he will handle.

Public comment

None

COMMITTEE ISSUE: FINAL UPDATE ON OTHER CRIMINAL-JUSTICE INTERIM STUDY ENTITIES -- Rachel Weiss, Research Analyst, Legislative Services Division (LSD)

00:05:32 Ms. Weiss

Questions from the committee

00:07:20 Sen. Moe asked Ms. Weiss if the Judicial Redistricting Commission's decision to deny recommendation of the six proposals indicated a need for additional judges.

00:08:32 Sen. Kary asked if the Judicial Redistricting Commission was funded through the legislative body and asked for clarification of the commission work.

00:08:52 Sen. Kary asked if the Judicial Redistricting Commission had a final report of their findings. Ms. Weiss responded that she would deliver a copy of the final report to him by the end of the day.

- 00:09:15 Sen. Kary asked Ms. Weiss when the Judicial Redistricting Commission last met and if there was a report from the final meeting.
- 00:09:32 Sen. Swandal commented on the Judicial Redistricting Commission's work, final decision, and final report.

Public comment

- 00:10:07 Patricia Grubb, Bozeman, discussed her proposed policy changes that she will recommend to the Commission on Sentencing at their August 29, 2016 meeting ([Exhibit 1](#)).

SJ 24: REVIEW OF RECENT MONTANA SUPREME COURT RULING CONCERNING INCEST STATUTE (SECTION 45-5-507, MCA)

- 00:15:32 Helen Thigpen, LSD Staff Attorney ([Exhibit 2](#))

Questions from the committee

- 00:18:51 Sen. Malek asked if the statute reads differently for a stepchild versus a biological child.
- 00:19:40 Sen. Malek asked for clarification of the term 'ancestor' in the statute.
- 00:20:15 Sen. Malek asked if incest is defined similarly in other states.
- 00:20:32 Rep. Hill asked Ms. Weiss if there is a draft of potential bill language regarding the incest statute. Ms. Weiss handed out a draft of a potential amendment ([Exhibit 3](#)).
- 00:21:49 Rep. Eck asked Ms. Weiss to clarify the term 'half-blood' in the incest bill draft.
- 00:22:15 Rep. Eck asked Ms. Weiss if the term 'half-blood' definition language was similar anywhere else in statute.
- 00:22:30 Sen. Sands asked Ms. Weiss and Sen. Swandal if there was also an issue in the Supreme Court ruling regarding the victim and drug use.

MOTION

- 00:23:22 Rep. Hill moved to draft a committee bill to revise the incest laws.

DISCUSSION ON THE MOTION

- 00:23:47 Sen. Sales asked Sen. Swandal his opinion on the suggested incest laws language amendment.
- 00:24:45 Sen. Moe committed on the reasons why the language may have been left out of the statute and recommended that the committee research before moving to amend the language.
- 00:25:30 Sen. Malek commented on the Supreme Court ruling in the incest case and requested that the incest statute be clarified.
- 00:27:26 Sen. Kary recommended not forwarding the bill as a committee bill.

VOTE

- 00:27:48 The motion passed on a voice vote 6-4, with Sen. Sands, Kary, Sales, and Moe voting 'no'.

Public comment

- 00:28:41 Andy Hudak, Montana Sex Offender Treatment Association, commented on the use of the term 'ancestors' in the incest statute.

SJ 24: REVIEW OF PRELIMINARY DRAFT LEGISLATION

Overview of draft legislation and committee questions -- committee members and staff

LCIj01 -- Revision of consent definition; create aggravated SIWOC crime

00:29:10 Ms. Weiss ([Exhibit 4](#))

LCIj02b -- Unlawful distribution of sexual images or recordings (incorporated into 45-8-213, MCA)

00:30:40 Ms. Weiss ([Exhibit 5](#))

LCIj03 -- Revision of mandatory minimums for statutory rape; 18 year olds do not have to register as sex offenders

00:30:58 Ms. Weiss ([Exhibit 6](#))

LCIj04 -- Revise statute of limitations for sex crimes perpetrated against victims under the age of 18

00:31:40 Ms. Weiss ([Exhibit 7](#))

LCIj05 -- Revise juvenile sex offender registry requirements

00:32:08 Ms. Weiss ([Exhibit 8](#))

LCIj06 -- Revise sexual assault and parental rights laws

00:32:55 Ms. Weiss ([Exhibit 9](#))

Questions from the committee

00:33:41 Rep. Eck asked Ms. Weiss to clarify the changes to LCIj01.

00:34:44 Sen. Sands asked Ms. Weiss about the fiscal impacts of LCIj01 if passed.

00:35:40 Sen. Sands asked Sen. Swandal if LCIj01 may save the state money if passed.

00:36:58 Sen. Sands commented on the successful prosecution of offenders if LCIj01 is passed.

00:37:46 Sen. Malek asked the committee staff to define the draft language of 'children' in LCIj01 on page 25. Ms. Thigpen reported she would follow up with an answer.

00:38:30 Sen. Sands reminded the committee that the bill drafts will be heard by the 2017 Legislature and will have further public comment.

00:39:30 Ms. Thigpen answered Sen. Malek's question regarding the definition of 'children' in the bill draft.

Public comment on the drafts

00:39:50 Andy Hudak, Montana Sex Offender Treatment Association

00:52:02 Deb Matteucci, Executive Director, Board of Crime Control

00:53:59 Robin Turner, Montana Coalition Against Domestic and Sexual Violence

01:01:41 SK Rossi, Director of Public Policy, American Civil Liberties Union of Montana

01:03:25 Andy Hudak, Montana Sex Offender Treatment Association

PUBLIC COMMENT ON ANY ITEM WITHIN LJIC JURISDICTION BUT NOT ON THIS AGENDA

01:05:50 Patti Jacques ([Exhibit 10](#))([Exhibit 11](#))

COMMITTEE WORK SESSION

SJ 24 study of sexual assault

01:18:00 Ms. Weiss reminded the committee that if they chose to forward any of the bill drafts to the 2017 legislature, the committee staff would work with the sponsor if there are any changes required during the drafting edit process.

01:18:28 Sen. Moe asked Sen. Sales what the protocol is on sponsoring a committee bill.

MOTION

01:19:58 Sen. Sands moved to forward LC1j01 as a committee bill

DISCUSSION ON THE MOTION

01:20:25 Rep. Hill recommended that Sen. Sands sponsor the bill.

01:21:02 Sen. Sands agreed that she would sponsor the bill.

VOTE

01:21:18 The motion passed on a unanimous voice vote.

01:21:43 Rep. Hill commented she would like to move forward LC1j02b as a committee bill and offered to sponsor it.

MOTION

01:22:16 Sen. Sands moved to forward LC1j02b as a committee bill.

DISCUSSION ON THE MOTION

01:22:31 Sen. Moe asked Rep. Hill to clarify her concerns regarding LC1j02b.

01:24:20 Sen. Moe commented on consent and publishing compromising images.

VOTE

01:24:58 The motion passed on a 7-3 voice vote, with Sen. Kary, Sen. Swandal, and Rep. Laszloffy voting 'no'.

MOTION

01:25:27 Sen. Sands moved to forward LC1j03 as a committee bill.

DISCUSSION ON THE MOTION

01:25:32 Rep. Hill left the meeting at 10:24 a.m.

01:25:49 Sen. Sands asked Sen. Swandal to carry the bill.

01:26:41 Sen. Swandal declined to sponsor the bill individually but agreed to assist the committee member that agrees to sponsor it.

VOTE

01:27:15 The motion passed on an unanimous voice vote. Rep. Hill was not present.

01:27:20 Sen. Malek volunteered to carry the bill.

MOTION

01:27:50 Sen. Sands moved to forward LC1j04 as a committee bill.

VOTE

01:28:07 The motion passed on a 5-4 voice vote, with Sen. Swandal, Sales, Kary, and Rep. Laszloffy voting 'no'.

01:28:38 Rep. Eck deferred to Sen. Malek to carry LC1j04.

01:28:45 Sen. Malek declined to sponsor the bill.
01:29:20 Sen. Sands agreed to sponsor the bill.

MOTION

01:29:30 Sen. Sands moved to forward LC1j05 as a committee bill.

DISCUSSION ON THE MOTION

01:29:47 Sen. Sands commented on the importance of the bill.
01:30:22 Sen. Swandal voiced his agreement to sponsor the bill.

VOTE

01:30:27 The motion passed on a unanimous voice vote. Rep. Hill was not present.

MOTION

01:30:42 Sen. Sands moved to forward LC1j06 as a committee bill.

DISCUSSION ON THE MOTION

01:30:53 Rep. Hill returned to the meeting at 10:29 a.m.
01:30:55 Sen. Malek commented on the importance of the bill and agreed to carry the bill.

VOTE

01:32:02 The motion passed on a 9-1 voice vote, with Sen. Kary voting 'no'.
01:32:21 Sen. Sands voiced her appreciation of the committee staff and the public for their work and comments.
01:33:26 Sen. Sales asked the committee who would like to sponsor the incest bill LC1j99.
Rep. Eck volunteered to carry it.

Recommendations on required reports and advisory councils that should be kept in statute or eliminated

01:34:04 Rep. Eck requested an updated list of committee recommendations on required reports and advisory councils.
01:34:53 Ms. Weiss responded with the committee's previous actions related to the elimination of committee reports.
01:35:44 Sen. Swandal commented that the committee already made comments regarding their decisions on the elimination of required reports and advisory councils.
01:36:13 Sen. Sales recommended that the committee members make individual decisions on elimination of required reports and advisory councils.

Other items

01:36:36 Sen. Sands voiced her appreciation for the committee members work.
01:37:14 Sen. Sales expressed his appreciation to the committee as well.
01:37:36 Sen. Sales reminded the committee members to fill out committee staff evaluation forms.

ADJOURNMENT

01:38:04 With no more work before the committee, Sen. Sales adjourned the meeting at 11:37 a.m.

CI0106 624613xa.