

Law and Justice Interim Committee (LJIC)

Adopted
September 9, 2019

2019-2020

Purpose: To help the LJIC plan its interim and establish work priorities. When finalized, the work plan will provide guidance to the members, staff, and public on how the LJIC will conduct its business throughout the interim. It will serve as a blueprint that allows the LJIC to complete its work over the next 15 months.

Work Plan
for the 2019-
2020 Interim



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Introduction

This is the adopted work plan for the Law and Justice Interim Committee (LJIC) for the 2019-2020 interim. Included you will find:

- Background on the LJIC and its duties;
- A description of required and possible interim work topics and plans to address those topics; and
- A revised meeting schedule.

About the LJIC

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 give Montana's citizens an opportunity 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)¹, 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 DOC)²;
- the Gaming Advisory Council (attached to DOJ); and
- the Public Safety Officer Standards and Training (POST) Council (attached to DOJ until July 1, 2019, when it will be staffed by a bureau of the DOJ).

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

Committee Procedures and Public Participation

The LJIC is subject to the Legislative Council's Rules, Procedures, and Guidelines for Interim Committees. The rules and guidelines provide much of the structure and requirements for the interim's work, including public notice and participation requirements, parliamentary procedures, legislative reimbursement, and the use of

¹ Except for the Motor Vehicles Division, which will be overseen by the Transportation Interim Committee.

² Part of the HJ 31 study of the Montana Board of Crime Control could include a legal analysis of the board's authority and the legislative oversight responsibility before and after a 2017 change from an administratively attached entity of the DOJ to board attached to the DOC with staffing provided by that agency. For now, the board remains in the list of administratively attached entities under LJIC oversight.

staff. The Council also suggests that interim committees complete their work by September 15, 2020.

A 10-day advance public notice will be given for all meetings, and the public will be given an opportunity to comment on any matter that is within the jurisdiction of the committee during the meeting. The presiding officer may establish time limits for public comment, if necessary.

Meeting agendas, memos, links and other information can be found on the LJIC website: leg.mt.gov/committees/interim/2019ljic/. Interested persons may also sign up to receive electronic meeting notifications at leg.mt.gov/lyris-list/.

Proxy Votes

The Legislative Council's Rules, Procedures, and Guidelines also provide guidance on the use of proxy votes in interim committees. Generally, the use of proxies is discouraged. However, the document also states that: "[f]or the exercise of a proxy to be valid, the deputized member shall hold a written proxy from the absent member." Unless the LJIC approves a different proxy policy, the Legislative Council policy will apply.

During the June 28, 2019, organizational meeting, the LJIC adopted the Legislative Council policy. Written proxies will be given to the deputized member, the presiding officer, and staff.

How the LJIC Plans Its Work

Developing a Work Plan

The LJIC establishes its work plan at the beginning of the interim by discussing a draft of this document during the organizational meeting and finalizing the plan at the fall meeting, if needed. The work plan is a blueprint for the interim. The primary constraint limiting the committee's work during the interim is the number of issues that can be effectively addressed within the available time and resources of the committee members and its staff.

This 2019-2020 work plan sets priorities and outlines how and where the LJIC will allocate its time and resources. Staff will use decisions made at the organizational meeting in June to develop plans to complete the committee's work by the September 15, 2020, interim end date.

The work plan is a flexible document and can be adjusted by the LJIC later if additional issues arise that require the committee's attention.

Instructions

- 1) Review the potential topics, including assigned studies, statutory duties, and any member-suggested topics presented with this work plan or suggested during the committee's work session.
- 2) Prioritize the topics you want the LJIC to focus on this interim.
- 3) Select the FTE you wish to allocate to each of the topics in which you're interested. The proposed FTE and corresponding level of study may be adjusted by the LJIC. **The total allocation available is 1.0 FTE.** The options you chose should add up to no more than 1.0 FTE. Use the draft decision matrix to assist you with this process.

The Draft Decision Matrix

The attached LJIC Work Plan Decision Matrix, a separate document, is a way to look at the topics side by side and review time allocations to each topic. It is used in conjunction with this work plan.

Potential Work Plan Topics

Work plan topics include study resolutions enacted by the 2019 Legislature and assigned to committees by the Legislative Council. It also includes statutorily assigned responsibilities and study topics suggested by legislators. Each is discussed further in this section.

Study Resolutions assigned to the LJIC by the Legislative Council

The Legislative Council assigned four studies to the LJIC for the 2019-2020 interim:

- HJ 31: Study Montana Board of Crime Control
- HJ 36: Study compensation for wrongfully convicted
- HJ 43: Study post-conviction procedures and DNA evidence
- SJ 19: Study sex offender and violent offender registries

Options for committee involved in each study are expressed in staff hours (or FTE), with most studies having 3-4 options ranging from a full-blown, involved study to no action.

House Joint Resolution No. 31: Study Montana Board of Crime Control – Sponsor: Rep. Bill Mercer – Poll Rank: 14 of 27

Study Background: In 2017, the Legislature changed the structure and staffing of the Board of Crime Control (MBCC). Prior to the 2017 legislation, the board was attached to the Department of Justice for administrative purposes only. Now it is attached to the Department of Corrections, which maintains a bureau to provide staff support to the Board. The resolution requests an interim committee study the basis for the transfer, the board's performance before and after the transfer, and if the current structure and staffing of the board meets the intent of the legislation and allows the board to be effective in controlling crime.

| Option A | Option B | Option C | Option D |
|---|---|---|-------------------------|
| | Selected June 28 | | |
| <p>0.35 FTE</p> <ul style="list-style-type: none"> ◦ Option B ◦ Staff attend MBCC meetings as possible ◦ Staff gather and analyze data relating to grants, including applications for funding, allocations before/after transfer, and performance evaluations of grantees ◦ Additional panels on topics specified by the committee <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Final report ◦ Staff papers ◦ Legislation | <p>0.25 FTE</p> <ul style="list-style-type: none"> ◦ Option C ◦ Staff paper on current structure and functions of MBCC, existing number and functions of MBCC staff ◦ Staff paper on structure of other states' crime prevention planning agencies ◦ <u>Staff attend MBCC meetings as possible</u> ◦ Stakeholder panels: MBCC grant decision-making/<u>data</u>, board and staff roles/authority <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Staff papers ◦ Study summary ◦ Legislation | <p>0.05 FTE</p> <ul style="list-style-type: none"> ◦ Legislative history of MBCC and 2017 transfer ◦ Legal analysis of Board's authority and legislative oversight before/after transfer ◦ Stakeholder panel to discuss MBCC's work and performance before/after transfer <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Staff analyses, papers ◦ Legislation | <p>No Action</p> |

House Joint Resolution No. 36: Study Compensation for Wrongfully Convicted Persons – Rep. Joel Krautter – Poll Rank: 16 of 27

Study Background: When released and upon reentry into society, wrongfully convicted individuals face unique challenges related to reentry and might require services, such as housing, health care, transportation, and employment assistance. Although Montana has a statute to provide educational aid to exonerated individuals, the statute has not been funded nor are there other types of required assistance. This study could explore options related to appropriate compensation for these individuals, including the type of compensation, eligibility requirements, application and adjudication processes, the entity to administer the compensation, any additional services or compensation, and the sources of funding for the claims. The study could review plans developed in other states, by the federal government, and in the District of Columbia for models.

| Option A | Option B | Option C | Option D |
|----------|---|--|-------------------------|
| | | Selected June 28 | |
| | <p>0.15 FTE</p> <ul style="list-style-type: none"> ◦ Option C ◦ Legislative history of existing educational aid statute ◦ Staff paper on existing educational aid statute, summary of other states models ◦ Estimates of potential costs with various compensation amounts and structures <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Staff papers ◦ Legislation | <p>.02 FTE</p> <p>Panel discussion(s) to review:</p> <ul style="list-style-type: none"> ◦ post-exoneration experiences of individuals who were wrongfully convicted ◦ number and unique needs of individuals reentering society after a wrongful conviction ◦ ideas for reentry assistance and compensation types, including models from other states <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Legislation | <p>No Action</p> |

House Joint Resolution No. 43: Study of Post-Conviction Procedures and DNA Evidence – Rep. Gordon Pierson, Jr. – Poll Rank: 13 of 27

Study Background: Montana currently has a post-conviction relief structure operated through the judicial system. Statute also allows for certain reviews when DNA evidence is discovered. Other states have instituted task forces or commissions to investigate the circumstances of a post-conviction case, the admission of new evidence, and the strength of the original trial evidence. The study could also review types of evidence allowed in post-conviction hearings, as well as any perceived or real biases towards or against certain types of evidence.

| Option A | Option B | Option C | Option D |
|--|---|--|-------------------------|
| | | Selected June 28 | |
| <p>0.4 FTE</p> <ul style="list-style-type: none"> ◦ Option B ◦ Expand analysis to DNA collection and retention statutes and best practices related to DNA use <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Final report ◦ Legislation | <p>0.30 FTE</p> <ul style="list-style-type: none"> ◦ Option C ◦ Staff papers on evidence types and admissibility in criminal cases; post-conviction models used in other states ◦ Additional panel discussions <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Legislation | <p>0.15 FTE</p> <ul style="list-style-type: none"> ◦ Staff paper on Montana processes and legal standards used for post-conviction appeals ◦ 1-2 panel discussions with stakeholders on other states' models, Montana's system strengths/weaknesses, and stakeholders' experiences with system <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Staff paper ◦ Legislation | <p>No Action</p> |

Senate Joint Resolution No. 19: Study Sex Offender and Violent Offender Registries – Sen. Diane Sands – Poll Rank: 10 of 27

Study Background: Montana's Sexual and Violent Offender Registry (SVOR) was enacted in 1989 as a registry for sexual offenders. It has been revised and expanded in the subsequent years to provide public information on other types of offenders and to require assignment of a risk level to an offender. Montana is currently out of compliance with federal law on offender registries in part because the state classifies sex offenders by the risk of reoffense rather than the type of crime for which the person was convicted. The LJIC has discussed the SVOR, but has not conducted an in-depth review of the registry.

| Option A | Option B | Option C | Option D |
|---|--|--|-------------------------|
| | Selected June 28 | | |
| <p>0.45 FTE</p> <ul style="list-style-type: none"> ◦ Option B ◦ Staff review of research on recidivism reduction, effectiveness of tier-based classification systems, and national best practices for sex offender management ◦ 1-2 panels on LJIC suggested topics <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Final report ◦ Legislation | <p>0.25 FTE</p> <ul style="list-style-type: none"> ◦ Option C ◦ Staff papers on removal process and assessment/treatment, 1-2 other LJIC requested topics ◦ 1-2 panels on LJIC suggested topics (existing assessment, treatment, management of sex offenders, community education, or victim services) <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Final report ◦ Legislation | <p>0.2 FTE</p> <ul style="list-style-type: none"> ◦ Staff paper(s) on existing statutory structure, both federal and state ◦ Legal review of case law governing sentencing, registration, monitoring of sex offenders ◦ 1-2 panel discussions on possible changes to registry, elements to retain <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Legislation | <p>No Action</p> |

Statutory Duties and Obligations

The LJIC is assigned other responsibilities from several statutory sources, including the main one, section 5-5-215, MCA. That section sets out the general duties of all interim committees:

1. **Conduct interim studies** as assigned. The committee may recommend to the Legislative Council that a study be assigned to another committee or not be conducted.
2. **Review administrative rules** of the agencies assigned to the LJIC for oversight. A list of those agencies is on page 4 of this document.
3. **Review legislation** proposed by the agencies and the Judicial Branch. Bills requested by an individual member of the Legislature are not subject to this requirement. The review and authorization process *is not* an endorsement by the LJIC of the agency proposals.
4. **Complete additional statutory duties** including receiving certain reports required by other statutes to be given to the LJIC.
5. **Monitor the operation of the agencies assigned to the LJIC** with specific attention to the following:
 - a. identification of issues likely to require future legislative attention;
 - b. opportunities to improve existing law through the analysis of problems; and
 - c. experiences of Montana's citizens with the operation of the agency that may be amenable to improvement through legislative action.
6. **(Committee driven)**: Prepare bills and resolutions that, in the committee's opinion, the welfare of the state may require for presentation to the next regular session.
7. **(Committee driven)**: Compile, analyze, and furnish information bearing upon the committee's assignment and relevant to existing or prospective legislation that the committee determines to be pertinent to the adequate completion of its work.

The LJIC is also required by section 5-5-226, MCA, to act as the liaison with the judiciary. In this capacity, the committee gets updates from court members and staff, receives statutorily required reports, and reviews the Judicial Branch's requested legislation.

Other statutes require agencies to report information to the LJIC. Those reports are listed on page 14 of this document.

| Statutory Duties and Obligations | | | |
|--|---|--|--|
| | Option A | Option B | Option C |
| Monitor Agency Operations* | <p>0.25 to 0.3 FTE</p> <ul style="list-style-type: none"> ◦ Option B ◦ Receive agency update at most meetings if possible ◦ Committee field trip to a site or agency selected by the LJIC ◦ Field trip could be held in conjunction with an off-site meeting | <p>0.20 FTE</p> <ul style="list-style-type: none"> ◦ Option C ◦ Staff attends Helena-area agency meetings and presentations as possible, focusing on issues or topics raised by LJIC members or during meetings (<u>priority to MBCC meetings</u>) ◦ Additional research into aspects of selected programs or agencies, as requested ◦ Panel discussion or speakers during LJIC meeting to further address the program or agency <p>Deliverables:</p> <ul style="list-style-type: none"> ◦ Written summaries of research and monitoring activities ◦ Legislation | <p>0.05 FTE</p> <ul style="list-style-type: none"> ◦ Introductory presentation by agency at 1st or 2nd meeting ◦ Follow up presentations as requested by LJIC ◦ Limited monitoring or research into aspects of a program or agency (if LJIC chooses) |
| Agency Monitoring: Required Reports | | <p>0.01 FTE</p> <ul style="list-style-type: none"> ◦ Option C ◦ Agency presents report during LJIC meeting ◦ Follow-up information or presentations provided upon request | <p>0.005 FTE (shared with advisory councils)</p> <ul style="list-style-type: none"> ◦ Receive written staff overview of required reports at fall 2019 meeting ◦ Receive copy of required report |

| Statutory Duties and Obligations | | | |
|--|-----------------|---|---|
| | Option A | Option B | Option C |
| Agency Monitoring: Advisory Councils (if requested) | | <p>0.01 FTE</p> <ul style="list-style-type: none"> ◦ Option C ◦ Direct staff to provide written summary of a specific council or commission, including duties, functions, and operations ◦ Agency presentation on work of the council or commission ◦ Add 0.01 FTE for <i>each</i> selected entity | <p>0.005 FTE (shared with required reports)</p> <ul style="list-style-type: none"> ◦ Receive written staff overview of advisory councils and commissions at fall 2019 meeting |
| Review Administrative Rules | | <p>0.1 FTE</p> <ul style="list-style-type: none"> ◦ Legal staff monitors agency adoption of rules, provides LJIC brief rule report prior to each meeting ◦ Staff will note issues of concern ◦ LJIC may flag rules as important or of concern and may ask that additional information be provided | |
| Review Agency Legislation | | <p>0.005 FTE</p> <ul style="list-style-type: none"> ◦ Committee reviews proposals from the agencies and the Judicial Branch in early summer 2020; may authorize staff to draft legislation for preintroduction | |

Required Reports

Department of Justice

- Domestic Violence Fatality Review Commission report -- prior to each regular session
 - Authority: section 2-15-2017, MCA
- Statewide Public Safety Communications System report -- by September 1 each year
 - Authority: section 44-4-1606, MCA
- Montana False Claims Act report -- by February 15 of each year
 - Authority: section 17-8-416, MCA
- HB 640 report on prosecution of child sexual abuse cases -- by September 1 of each year
 - Authority: sec. 1, ch. 367, Laws of 2019 (HB 640)

Department of Corrections

- Montana Incentives and Interventions Grid (MIIG) report -- each biennium
 - Authority: section 46-23-1028, MCA
- Quality Assurance Unit correctional program evaluation results and deficiencies -- each interim
 - Authority: section 53-1-211, MCA
- Criminal Justice Oversight Council report -- as requested by the LJIC
 - Authority: sec. 1, ch. 404, Laws of 2019

Board of Crime Control

- Status and performance of restorative justice grant programs – annually
 - Authority: section 2-15-2013, MCA (will be recodified in Title 2, chapter 15, part 23)

Judicial Branch

- Report results of evaluations of out-of-home placements/programs/services of juveniles involved with youth probation
 - Authority: section 41-5-2003, MCA
- Participants and costs of pretrial program – annually in September
 - Authority: HB 2 (2019, page D-1)

Office of the State Public Defender

- Director's report -- each interim
 - Authority: section 47-1-125, MCA

Additional Topics for LJIC Discussion

Typically, the LJIC members allocate committee and staff time to receive information or updates on topics that were the subject of recent legislation or recent LJIC attention or issues that may emerge during the interim.

During the previous interim, the LJIC monitored the progress in implementing various criminal justice system changes made by the Legislature in 2017. Members also discussed criminal jurisdiction overlaps in Indian County, reviewed implementation of REAL ID, and were updated on the legal challenge to Marsy's Law. The committee also visited a treatment court, a youth detention facility, the Montana Women's Prison, and the Yellowstone County Detention Center during a committee meeting held in Billings

Due to the recent flurry of legislative activity in the criminal justice realm, there are numerous topics the LJIC could choose to designate committee time to study. Many of the issues will also overlap with the committee's routine agency oversight duties, so there is flexibility in terms of the committee's choice of what issues of interest should be covered and in what manner.

A list of possible issues and FTE allocations is provided as a part of the attached work plan decision matrix. The initial issue list was created from member ideas and staff suggestions. However, the committee is not limited to choices on that list. It is merely a selection of possibilities. Members should discuss and decide upon their actual priorities during the organizational meeting. If additional issues emerge over the course of the interim, the LJIC is free to revise the work plan to accommodate its changing needs.

Individual Member Research Requests

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.

Draft 2019-2020 LJIC Work Plan Timeline

The following meeting dates provide a tentative schedule for the interim. This work plan proposes 10 meeting days, including the organizational meeting. The LJIC was allocated approximately \$53,000 as an interim budget to cover committee members' salary, per diem, and travel reimbursements. 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. A more specific outline of potential tasks for each meeting will be tracked in a separate meeting chart.

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. Because meeting dates are subject to change, please refer to the LJIC's website (<https://leg.mt.gov/committees/interim/2019ljic/>) for the current meeting dates.

June 28, 2019

Organizational meeting.

- Interim work plan prioritization and other organizational tasks
- Selection of studies and topics

Sept. 9, 2019

1-day meeting.

- Adoption of final workplan
- Review of initial interim meeting chart
- Start studies and agency oversight

November 18-19, 2019

~~2~~-day 1-day meeting.

January 27-28, 2020

~~1~~-day 2-day meeting.

March 30-31, 2020

2-day meeting in Missoula.

- Develop draft recommendations

May 12, 2020

1-day meeting.

- Develop/discuss any draft recommendations
- Develop topics for final reports

July 13, 2020

1-day meeting.

- Revise/review draft study documents
- Review recommendations, proposed legislation
- Authorize agency bill draft requests

September 14, 2020

Final meeting.

- Final approval of recommendations, reports, proposed legislation
- Select bill sponsors
- Authorize agency bill draft requests