

## Legislative Update

*Law and Justice Related Legislation Enacted in 2019*

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The 2017 Legislature considered numerous bills related to law and justice topics. This paper provides a summary of legislation enacted in these topic areas, excluding any provisions in HB 2. Although a bill might fit more than one topic area, this summary lists each bill only once.

Text of each bill can be found at the legislative website (<https://leg.mt.gov/>), along with hearing audio/visual files and other information about the bill.

### Civil Procedure

**HB 615** Modernizes claim and delivery law. Confirms that Uniform Commercial Code Revised Article Nine remedies are available in a claim and delivery action.

### Corrections

**HB 369** Creates a Criminal Justice Oversight Council. Eliminates the Multiagency Reentry Task Force.

**HB 463** Revises laws on supervision of certain probationers or defendants serving a deferred or suspended sentence. Revises laws related to termination of a deferred or suspended sentence. Revises procedures related to conditional discharge of supervision.

**HB 763** Provides a state policy on restrictive housing. Creates requirements for restrictive housing units. Creates specific requirements for youth facilities. Requires step-down programs. Requires notification when an offender is released to the community directly from restrictive housing.

**SB 36** Provides exceptions to mandatory inmate savings.

**SB 37** Revises laws related to recording of parole board hearings.

**SB 62** Revises inmate welfare fund laws to include Pine Hills.

### Crimes and Criminal Procedure

**HB 46** Revises or eliminates statutory references to Article II, section 36, of Montana Constitution (Marsy's Law).

**HB 47** Revises criminal records laws. Revises when an arrestee must be photographed and fingerprinted. Eliminates when photographs and fingerprints must be returned to an individual.

- HB 54** Revises laws relating to missing persons reports. Requires all law enforcement authorities to accept a report.
- HB 73** Revises laws related to classification of certain public defender employees.
- HB 89** Revises public defender fees to provide that fees must be paid to the public defender for deposit in the general fund.
- HB 117** Revises laws related to eligibility for public defender services. Allows the public defender to file a motion to rescind appointment for failure to provide financial documentation.
- HB 173** Provides that students in a public or nonpublic school are not able to provide consent in a school setting.
- HB 192** Revises laws related to privacy in communications.
- HB 228** Revises privacy in communications law to reflect Montana Supreme Court decisions. Clarifies the intent requirement by removing the prima facie clause.
- HB 233** Revises laws relating to guilty pleas. Eliminates right to appeal to the Montana Supreme Court for certain motions made in lower courts to withdraw guilty pleas.
- HB 257** Allows information collected by unmanned aerial vehicle investigating motor vehicle crash scene to be admitted into evidence or to obtain search warrants.
- HB 282** Revises who may consent to sexual intercourse or contact. Provides that a participant in an alternative adolescent residential or outdoor program cannot provide consent to a worker in the program. Provides that a person undergoing psychotherapy cannot provide consent to the psychotherapist.
- HB 334** Revises criminal intent laws regarding exploitation of an older person, an incapacitated person, or a developmentally disabled person.
- HB 421** Revises laws regarding crimes. Revises theft crime to increase penalties for offenders who use an emergency exit in a theft crime. Revises disorderly conduct crime.
- HB 439** Revises laws related to misrepresented services animals. Defines types of animals allowed as service animals. Allows certain questions to be asked of person accompanied by a service animal. Requires the service animal

to be under the handler's control. Creates misdemeanor offense of misrepresentation of a service animal.

- HB 543** Revises laws related to misdemeanor expungement. Clarifies that expungement can cover multiple misdemeanors. Revises provisions related to presumption criteria, expungement procedure, victim notification, and court orders.
- HB 549** Revises child sex trafficking laws. Includes child sex trafficking in the definition of "child abuse and neglect". Ensures child victim is eligible to receive access to specialized services.
- HB 590** Revises criminal procedure related to sexual offenses. Provides procedure for defendant to move for interview of a child victim of a sexual offense. Provides for a hearing and for reasonable accommodations for the child.
- HB 640** Revises laws related to childhood sexual abuse. Revises the statute of limitations for civil liability for childhood sexual abuse. Revises the types of crimes considered childhood sexual abuse for the purposes of civil liability. Revises definitions of "sexual abuse" and "sexual exploitation" for the purpose of child abuse and neglect proceedings. Revises laws related to reporting of suspected child sexual abuse or exploitation. Requires county attorneys and attorney general to provide certain reports. Revises retention laws for certain confidential records. Provides a felony penalty for failure to report child sexual abuse or sexual exploitation. Revises the criminal statute of limitations for sex offenses involving child victims.
- HB 749** Revises human trafficking laws to provide requirements for massage therapy businesses.
- SB 3** Revises laws related to interim oversight of the office of public defender to clarify that the Law and Justice Interim Committee has oversight authority.
- SB 84** Revises laws related to psychosexual evaluations of criminal defendants. Requires the court to select the evaluator. Clarifies payment of costs.
- SB 88** Revises laws related to term "crime of violence".
- SB 114** Revises stalking and order of protection laws, including penalties and definitions.
- SB 147** Revises human trafficking and sex crimes laws. Revises offense of prostitution. Revises penalties for promotion of prostitution. Revises definition of "crime of violence". Provides that consent is not a defense to human trafficking charges.

- SB 155** Revises mandatory minimums for certain sexual offenses when the victim is a child.
- SB 213** Revises laws regarding photographing evidence in theft cases.
- SB 261** Revises consent laws to limit when certain people are capable of consent to sexual contact.
- SB 324** Revises definition of "abuse" in the Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act to include causing personal degradation by publishing or distributing certain photographs.

#### Estates and Trusts

- HB 461** Revises the Uniform Powers of Appointment Act. Allows for reappointment of appointive property to permissible appointees. Protects property from unexercised general or nongeneral power from powerholder's creditors.
- SB 205** Prevents abusers of vulnerable adults from benefitting financially.
- SB 225** Revises probate laws generally.

#### Family Law and Minors

- HB 268** Revises conciliation laws. Allows for a stay of a dissolution, legal separation, or annulment proceeding to allow parties to explore reconciliation.
- HB 274** Allows either party to a marriage to restore the party's original name in a dissolution proceeding.
- HB 283** Corrects cross-referencing errors in the Uniform Child Custody Jurisdiction and Enforcement Act.
- HB 347** Revises laws related to grandparents' rights.
- HB 591** Revises laws related to paternity tests. Updates terminology to reflect availability of buccal swab testing in lieu of a blood draw.
- SB 40** Requires the Office of Public Instruction to create and maintain electronic photograph repository for law enforcement use.
- SB 132** Creates a student safety accountability act. Limits when students may consent to sexual activity. Prohibits job assistance for school employees, contractors, or agents who have engaged in sexual misconduct with students.

- SB 255** Revises persons who may prepare a declaration of marriage. Requires the Office of Vital Records to prepare a standard form.
- SB 262** Restricts when DNA samples from minors may be collected by a peace officer.
- SB 289** Provides pregnant women seeking assistance with substance use disorder a safe harbor from prosecution.

#### Guns and Weapons

- HB 145** Removes requirement to notify local law enforcement when a concealed weapon permit holder moves to a different city or county
- HB 155** Prohibiting local government restrictions regarding knives. Repealing ban on switchblade knives.
- HB 322** Removes requirement to provide social security number on concealed weapons permit application.
- HB 357** Revises concealed carry laws to secure the right to keep and bear arms and to prevent a patchwork of restrictions by local governments across the state. Provides that a local government may not regulate the carrying of concealed weapons. Provides that the act must be submitted to the electors of Montana.

#### Judges and Justices, Courts

- HB 110** Revises the pretrial program administered by the Office of Court Administrator. Includes misdemeanor defendants. Removes requirement for program to use a dangerousness or lethality assessment. Removes limitation on what type of entity may contract with a county to provide services.
- HB 111** Revises youth court laws concerning juvenile placement and parole supervision. Transfers parole supervision from Department of Corrections to the youth court. Provides for "conditional release" instead of parole for youth. Allows the establishment of a youth placement committee to be permissive rather than mandatory.
- HB 217** Removes suspension of a driver's license as a sentencing option for nonpayment of fines, fees, or restitution. Allows a person whose license has been suspended to be reinstated.
- HB 654** Revises laws for funding of treatment courts. Requires sellers of opioids to be licensed. Creates a treatment court support special revenue account for license fee proceeds. Allows the Court Administrator to administer the account to expand and extend treatment court capacity and quality.

- SB 26** Removes requirement for court to pay travel costs for prosecution witnesses.
- SB 43** Allows omnibus hearings to be conducted remotely.
- SB 85** Revises process to refer veterans to treatment court.
- SB 220** Revises misdemeanor probation laws to clarify that a local government may contract with a private entity for probation services.
- SB 223** Clarifies exemptions from judgment. Provides that rollover contributions are exempt from execution.
- SB 254** Revises procedure to select a chief municipal judge in a multi-judge city.

#### Law Enforcement

- HB 20** Revises laws related to the reporting of missing children. Requires reports to be filed in certain custodial interference cases.
- HB 21** Establishes "Hanna's Act". Authorizes the Department of Justice to assist with investigation of all missing persons cases. Requires the employment of a missing persons specialist.
- HB 71** Revises laws related to the deposit of funds in the medical examiner state special revenue account.
- HB 98** Revises peace officer standards and certification laws.
- HB 99** Revises laws related to education requirements for coroners.
- HB 150** Provides for tribal government participation in the 9-1-1 advisory council, planning activities, and distributions.
- HB 165** Establishes qualifications for elected or appointed sheriffs.
- HB 198** Allows the Department of Justice to active/deactivate the "blue alert" program when a peace officer is missing or when a credible threat to an officer exists.
- HB 348** Revises search powers of game wardens.
- SB 52** Revises laws on sexual assault evidence kits. Creates a process for kits to be collected, stored, and delivered to law enforcements. Requires patient consent and notifications. Creates timelines for delivery, testing, and

storage of kits. Requires Department of Justice to create statewide tracking system for kits.

**SB 312** Creates the Looping in Native Communities Network Grant Program. Creates the Missing Indigenous Persons Task Force. Provides a grant program and grant funds.

**SB 362** Revises the requirements of the 24/7 sobriety and drug monitoring program to remove the requirement for a pilot program and to allow discretion on the frequency and type of testing methods.

#### Mental Illness or Incapacity

**HB 660** Creates mobile crisis unit grant program administered by the Department of Public Health and Human Services.

**SB 30** Allows peer support services to be reimbursed under Medicaid.

#### Privacy

**HB 619** Allows Superintendent of Public Instruction to release student-level data to the Commissioner of Higher Education and the Department of Labor and Industry in certain circumstances.

**HB 745** Enacts student online personal information protection act. Protects students from certain marketing based on data gathered in relation to online educational activities.

**SB 286** Creates a procedure regarding microchip implantation, removal, and data transmission. Prohibits state and local government from requiring microchipping.

#### Miscellaneous

**HB 684** Implements provisions of HB 2, Section D, subcommittee on justice system. Creates special revenue accounts for pretrial diversion program and legislative committees and activities. Creates a public safety officer standards and training bureau in the Department of Justice. Removes the administrative attachment of the Public Safety Officer Standards and Training Council to the Department of Justice. Amends the definition of "telework" for certain employees. Revises the Working Interdisciplinary Network of Guardianship Stakeholders. Revises Department of Corrections' rulemaking authority regarding correctional facilities. Transfers funds.

**SB 300** Revises real property laws to protect real property rights. Prevents homeowners' associations from imposing more onerous restrictions on a property owner than those restrictions that existing when the property owner acquired the real property.