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LAW AND JUSTICE INTERIM COMMITTEE
67th Montana Legislature

SENATE MEMBERS

Bryce Bennett
John Esp
Steve Fitzpatrick
Jen Gross
Keith Regier
Diane Sands

HOUSE MEMBERS

Robert Farris-Olsen
Frank Fleming
Kathy Kelker
Casey Knudsen
Jasmine Krotkov
Barry Usher

COMMITTEE STAFF

Julianne Burkhardt - Attorney
Laura Sherley - Secretary
Rachel Weiss - Research
Analyst

MINUTES LOG

January 28, 2020

8:02 AM

Room 102, State Capitol

Please note: This document is a Minutes Log and provides annotation 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 recording 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 the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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MEMBERS PRESENT

Rep. Barry Usher, Chair (R)
Sen. Jen Gross, Vice Chair (D)
Sen. John Esp (R)
Rep. Robert Farris-Olsen (D)
Rep. Frank Fleming (R)
Rep. Kathy Kelker (D)
Rep. Casey Knudsen (R)
Rep. Jasmine Krotkov (D)

Sen. Keith Regier (R)
Sen. Diane Sands (D)

MEMBERS EXCUSED

Sen. Bryce Bennett (D)
Sen. Steve Fitzpatrick (R)

STAFF PRESENT

Julianne Burkhardt, Attorney
Veronica Sullivan, Secretary
Rachel Weiss, Research Analyst

COMMITTEE ACTIONS

The Law and Justice Interim committee voted to request draft bills to:

- eliminate the violent offender registry;
- revise the public nature of the sex offender registry;
- allow tier one sex offenders to be removed from the registry earlier;
- reestablish a law that membership in a sex offender treatment association is an acceptable qualification for individuals who performs risk evaluations on sex offenders; and
- establish a compensation program for wrongfully convicted individuals.

AGENCY OVERSIGHT: CORRECTIONAL PROGRAM CHECKLIST (CPC) OVERVIEW AND REVIEW OF SEX OFFENDER TREATMENT PROGRAM CPC RESULTS

08:04:45 Reginald Michael, Director of the Montana Department of Corrections (DOC)
08:05:31 Rachel Weiss, Research Analyst, LSD (**Exhibit 16**)
08:09:40 Carrie Sullivan, Senior Research Associate, University of Cincinnati Corrections Institute (UCCI)
08:14:09 Sen. Bennett arrived.

Committee Questions/Committee Discussion

08:18:57 Rep. Usher asked Ms. Sullivan what is the length of time for the services to be provided.
08:31:01 Sen. Sands asked Ms. Sullivan if the method is effective culturally.
08:50:44 Rep. Kelker asked Ms. Sullivan about training for jobs working with offenders.
08:53:27 Sen. Sands commented on cognitive understanding.
09:06:47 Rep. Kelker asked Ms. Sullivan about using video observation.
09:11:40 Sen. Sands asked Ms. Wimmer if contracted employees were being trained.
09:12:21 Sen. Sands asked Ms. Wimmer about continuity of the contracts.
09:14:49 Sen. Sands asked Ms. Sullivan about community-level services and resources.
09:16:14 Sen. Sands asked Ms. Sullivan about parole and probation officers and training
09:16:55 Rep. Kelker asked Ms. Sullivan about the responses from the community.

09:19:04 Sen. Gross asked Ms. Sullivan about recidivism rates.
09:21:49 Sen. Regier asked Ms. Sullivan about training.
09:22:52 Sen. Regier asked Ms. Sullivan a follow up about the focus of the program.
09:23:29 Sen. Regier asked Ms. Sullivan about grants and community funds.
09:24:45 Sen. Regier asked Ms. Sullivan if funding was through the DOJ.
09:25:43 Ms. Sullivan continued with her presentation.
09:41:17 Rep. Usher asked Ms. Sullivan about the average scores.
09:42:56 Sen. Regier asked Ms. Sullivan what was meant by staff values.

Committee Questions/Committee Discussion

09:56:59 Rep. Usher asked Ms. Sullivan about contracts and costs.
09:58:20 Erika Wimmer, Program Compliance Specialist, DOC
10:07:50 Sen. Sands asked Ms. Sullivan about the correctional program checklist (CPC).
10:14:35 Rep. Usher asked Ms. Sullivan about the assessments.
10:15:09 Ms. Wimmer
10:19:47 Sen. Sands asked Ms. Wimmer about a request line.
10:28:14 Sen. Sands asked Ms. Sullivan about program development and recommendations.

Break (Reconvened at 10:41 am)

10:41:54 Ms. Sullivan continued with presentation (**Exhibit 17**).
10:48:06 Sen. Gross asked Ms. Sullivan a question about scores on quality assurance.

Committee Questions/Committee Discussion

10:48:35 Rep. Kelker asked Ms. Sullivan about what kinds of educational background leadership positions require.
10:49:48 Rep. Kelker asked Ms. Sullivan about staff.
10:50:23 Sen. Sands asked Ms. Wimmer about the assessment program timeline.
10:51:37 Sen. Sands asked Ms. Wimmer about previous programming work.
10:52:56 Sen. Sands asked Ms. Sullivan about the assessments and funding.
10:54:16 Sen. Sands asked a follow up to Director Michael about funding.
10:55:29 Sen. Sands asked Director Michael what the plan for the contracting is moving forward.
10:57:15 Rep. Kelker asked Ms. Sullivan about programs and resources.

Public Comment

11:04:01 Amy Tenney, CEO of Boyd Andrew Community Services
11:07:38 Andy Hudak, Montana Sex Offender Treatment Association (MSOTA)
11:16:06 Laurie Little Dog, self
11:18:50 Connie Winner, Clinical Services Administrator, DOC, continued with the presentation.

SJ 19 STUDY OF SEXUAL AND VIOLENT OFFENDER REGISTRIES: OVERVIEW OF RISK ASSESSMENT AND PSYCHOSEXUAL EVALUATIONS IN MONTANA

11:24:36 Dr. Bowman Smelko, PsyD, American Board of Professional Psychology (ABPP) (**Exhibit 18**)

Committee Questions/Committee Discussion

11:46:24 Sen. Gross asked Dr. Smelko about the risk assessment scoring.
12:14:22 Sen. Sands asked Dr. Smelko about the evaluations of assessments.
12:16:31 Sen. Sands asked Dr. Smelko about the tier system.

Public Comment

12:17:43 Andy Hudak, MSOTA
12:20:47 Janee Weber, self
12:23:49 Madison Mattioli, Montana Department of Justice
12:26:33 Rep. Usher asked Ms. Mattioli what SORNA stands for.

LUNCH (Reconvened at 13:30 pm)

SJ 19 STUDY OF THE SEXUAL AND VIOLENT OFFENDER REGISTRIES: USE OF PSYCHOSEXUAL EVALUATION RESULTS IN SENTENCING

13:30:44 Steven Haddon, County Attorney, Jefferson County
13:32:11 Rachel Weiss (**Exhibit 19**)
13:40:27 Jennifer Streano, Region 2 (Missoula) Deputy Public Defender
13:51:19 Judge Mike Menahan, 1st Judicial District (Lewis and Clark and Broadwater Counties)

Public Comment

14:07:26 Andy Hudak, MSOTA
14:10:18 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association
14:11:06 Jackie Jones, Montana County Attorneys Association
14:11:52 Janee Weber, self
14:12:31 Rep. Fleming asked Judge Menahan about the changes made to the presentence investigation reports.
14:14:01 Rep. Kelker asked Judge Menahan about the presentence report.
14:20:55 Rep. Krotkov asked Ms. Streano about the tiers on the registry.
14:22:42 Rep. Krotkov asked Ms. Streano about the tiers on the registry and the offenses.
14:24:09 Madison Mattioli, DOJ
14:25:42 Sen. Regier asked Judge Menahan what options do they have to do these evaluations of the registry.

OVERVIEW OF THE CRIMINAL JUSTICE COORDINATING COUNCIL IN LEWIS AND CLARK COUNTY

14:35:48 Judge Menahan (**Exhibit 20**)
14:45:25 Kellie McBride, Director of Criminal Justice Services, Lewis and Clark County

Public Comment

14:54:32 Marty Lambert, Gallatin County Attorney
14:58:07 Janee Weber, self

Committee Questions/Committee Discussion

14:59:32 Rep. Usher asked Ms. McBride how many criminal justice coordinating councils (CJCC) there are nationally.

15:03:55 Rep. Usher asked Ms. McBride how the CJCC coordinates with the pretrial program.
15:07:01 Rep. Fleming asked Ms. McBride about the technical assistance received from The Arnold Foundation.

Break (Reconvened at 15:20 pm)

General Public Comment

15:21:19 Rudy Stock, self (**Exhibit 21**) (**Exhibit 22**)
15:23:07 Benton Little Dog, self
15:26:41 Marsha Stock, self
15:30:16 Josie Cheetham, self (**Exhibit 23**)
15:38:43 Janee Weber, self (**Exhibit 24**) (**Exhibit 25**)
15:45:30 Amy Sings In The Timber, Director of the Montana Innocence Project (**Exhibit 26**) (**Exhibit 27**)
15:50:15 Patrick Webb, Americans for Prosperity Montana
15:52:14 Richard Shreves, self
15:55:03 Jeff Baker, self (**Exhibit 28**)
15:56:50 Laurie Little Dog, self (**Exhibit 29**)
16:01:32 SK Rossi, ACLU of Montana

COMMITTEE WORK SESSION

16:05:46 Ms. Weiss (**Exhibit 30**)

HJ 31: Board of Crime Control study

Committee Questions/Committee Discussion

16:08:36 Rep. Kelker discussed the existing prisoner issues board at DOC.
16:11:15 Sen. Gross discussed the prisoner issues board.
16:12:22 Rep. Kelker discussed checking with DOC about the board's effectiveness.
16:13:59 Sen. Esp discussed how the board responds to the issues raised during meetings.
16:15:19 Sen. Gross discussed a case manager position in the Probation and Parole Division of DOC.
16:16:20 Rep. Knudsen discussed looking into DOJ limiting volunteer deputy numbers.
16:17:32 Sen. Bennett discussed considering budgetary restrictions and supplementary appropriations.
16:18:36 Sen. Esp agreed.
16:19:07 Sen. Esp asked about the oversight role of the state employees in the Shelby prison.
16:19:51 Rep. Kelker discussed upcoming panels on reentry programs and probation and parole. (**Exhibit 31**).
16:21:54 Sen. Gross discussed hearing from constituents (Grantees) who deal with the Board of Crime Control and panel of law enforcement officers for SJ 19.
16:23:36 Rep. Kelker discussed getting a panel of grant recipients and asked who is being served and are they being served twice.
16:24:33 Rep. Kelker discussed the HJ 31 study of compensation of exonerees.
16:31:15 Ms. Weiss clarified duties of the legislative staff.
16:32:32 Sen. Esp discussed legislative process.

16:33:12 Committee discussion on including Appropriations members.

Motion

16:34:02 Rep. Kelker moved that legislative staff draft a bill on proper compensation of exonerated persons.

Discussion on the Motion

16:35:19 Committee discussion on the motion.

16:37:42 Sen. Regier asked for direction on the bill drafts.

16:39:52 Sen. Reiger asked about the bill draft.

Vote:

16:40:11 Motion passed by 11-1 voice vote. With Sen. Fitzpatrick voting yes by proxy and Sen. Esp voting no.

Committee Questions/Committee Discussion

16:41:22 Rep. Kelker discussed having Ms. Burkhardt to get more information on DNA testing for exonerees.

SJ 19: Study of Sexual and Violent Offender Registries

Motion

16:44:18 Sen. Sands moved that staff draft a bill to eliminate the violent offender registry.

Vote

16: 45:50 Motion passes on a unanimous voice vote, with Sen. Fitzpatrick voting yes by proxy.

Discussion

16:46:00 Rep. Usher discussed getting law enforcement panel to talk to the committee.

Motion

16:51:10 Sen. Sands moved that staff draft two bills draft. On the first bill, it would the sexual registry not public. On the second bill, allow tier one offenders to automatically be removed from the registry after 3 years.

Discussion on the Motion

16:52:35 Rep. Farris- Olson asked about the process of offenders getting off the registry.

16:54:26 Sen. Esp asked Ms. Weiss about bill drafting.

16:55:22 Committee discussion on the process.

Vote:

16:57:09 Motion passed by a 10-2 voice vote, with Rep. Usher and Sen. Bennett voting no and Sen. Fitzpatrick voting yes by proxy.

Motion

16:59:15 Sen. Regier moved to put MSOTA back into statute from HB 684.

Vote:

17:00:17 Motion passed by a 11-1 voice vote, with Rep. Kelker voting no and Sen. Fitzpatrick voting yes by proxy.

Committee Questions/Committee Discussion

17:00:46 Sen. Esp discussed hearing from the Department of Administration on the HJ 36 bill draft.

ADJOURN

17:04:05 With no further business before the committee, Rep. Usher adjourned the meeting at 5:00 pm.