



PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

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
Veronica Sullivan - Secretary
Rachel Weiss - Research
Analyst

MINUTES LOG

May 29, 2020
8:00 AM

Video Conference Call

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.

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>. From the home page, select the "Committees" drop down menu at the top, then select Administrative or Interim, and the appropriate committee. The written minutes log can be located by expanding the accordion menu for the date of the meeting. Links to the audio/video files can be located by selecting the Video/Audio button on the same page, then the "past/current recordings" button. From there, use the calendar to select the date of the meeting you wish to view/listen to. The written Minutes Log, along with links to 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.

Members Present:

Rep. Barry Usher, Chair (R)
Sen. Jen Gross, Vice Chair (D)
Sen. John Esp (R)
Rep. Robert Farris-Olsen (D)
Sen. Steve Fitzpatrick (R)
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 Absent:

Sen. Bryce Bennett (D)

Staff Present:

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

Committee Business Summary

The LJIC voted to send a letter to the Department of Corrections with questions related to the Departments COVID-19 responses.

PRETRIAL DECISION MAKING AND DETENTION CENTER POPULATIONS ROUNDTABLE**Detention Center Populations -- National and Missoula Work**

08:08:03 Bria Gillum, Criminal Justice Program Officer, MacArthur Foundation.
08:08:38 Amber Widgery, Senior Policy Specialist, Criminal Justice Program, National Conference of State Legislatures.
08:09:19 Dr. Todd Clear, Rutgers University.
08:10:10 Robin Wosje, Senior Program Manager, The Justice Management Institute.
08:10:36 Ms. Gillum started her presentation (Exhibit 1).

Committee Questions

08:32:11 Rep. Fleming asked Ms. Gillum about the length and the amount of the Missoula award.
08:34:30 Rep. Fleming asked Ms. Gillum about the review process for the Foundation.
08:35:56 Rep. Usher asked Ms. Gillum about dates on the slides.
08:36:00 Rep. Usher asked Ms. Gillum to clarify the power point on retention numbers.
08:37:17 Sen. Sands asked Ms. Gillum about the involvement with Native tribes.
08:40:22 Sen. Sands asked Ms. Gillum about their partnerships.
08:41:19 Rep. Kelker asked Ms. Gillum about recidivism data and diversion.
08:42:17 Rep. Kelker asked Ms. Gillum about what levels of behavioral health do people who are diverted from jail receive.
08:44:05 Rep. Kelker asked Ms. Gillum about trained staff for behavioral health.

National Overview of Pretrial Release Decision making

08:46:00 Ms. Widgery started her presentation (Exhibit 2).

Jail Data, Risk Assessment, and Local Research

09:13:45 Mr. Clear started his presentation (Exhibit 3).

Successes in Smaller Jurisdictions -- Criminal Justice Coordinating Councils (CJCC)

09:59:08 Ms. Wosje started her presentation (Exhibit 4)

BREAK (Reconvened from break at 10:30 a.m.)

Committee Discussion/ Committee Questions

- 10:32:32 Sen. Sands asked the panel about costs and funding.
- 10:49:51 Rep. Kelker asked the panel about treatment for young adult offenders.
- 10:56:03 Rep. Kelker asked about risk assessments done on young offenders.
- 11:01:21 Sen. Gross asked the panel about public safety assessments.
- 11:09:30 Sen. Gross asked the panel about when there will be more data on the public safety assessment.
- 11:13:09 Sen. Gross asked the panel about pretrial decisions and how those are made.
- 11:20:46 Rep. Fleming asked Dr. Clear about violent crime offenders and recidivism.
- 11:29:45 Rep. Kelker asked the panel about victims of domestic violence and the treatment for the offenders when released.
- 11:33:45 Rep. Kelker asked the panel if there is a need for more laws pertaining to victims of domestic violence.
- 11:36:09 Rep. Kelker asked the panel about reduced sentences.
- 11:46:25 Rep. Kelker asked the panel about CJCC meetings.
- 11:51:33 Sen. Sands asked Dr. Clear about the collection timelines for statistical data.
- 11:55:17 Sen. Gross asked the panel about what the PSA tool calculates and what other assessment tools are used in pretrial decisions.

Public comment on pretrial decision making and detention center topics

- 12:02:21 Laurie Little Dog, Self (Exhibit 5).
- 12:05:58 May Simmons, Self.
- 12:11:23 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association.
- 12:14:56 Clemente Arciga, Self.

LUNCH (Reconvened at 1:00 p.m.)

HJ 36 STUDY OF COMPENSATION FOR WRONGFULLY CONVICTED INDIVIDUALS: COMMITTEE DISCUSSION WITH STAKEHOLDERS AND WORK SESSION ON DRAFTLEGISLATION (HJ36-1)

- 13:01:48 Sen. Gross asked for a point of personal privilege.
- 13:04:16 Julianne Burkhardt, Legislative Services Division (LSD), Staff Attorney, introduced the panel. (Exhibit 6).
- 13:14:07 Michelle Feldman, State Campaigns Director, Innocence Project.
- 13:18:55 Amy Sings in the Timber, Executive Director, Montana Innocence Project. (Exhibit 7) (Exhibit 8) (Exhibit 9) (Exhibit 10).
- 13:19:38 Patrick Webb, Director of Grassroots Operations, Americans for Prosperity Montana.
- 13:22:52 Eric Bryson, Executive Director, Montana Association of Counties. (Exhibit 11)
- 13:26:51 Cory Swanson, Montana County Attorneys Association.
- 13:32:38 Stephanie Robles, Assistant Attorney General, Montana Department of Justice.

13:33:23 Brett Dahl, Chief Risk Officer/ Division Administrator, Risk Management and Tort Defense Division, Department of Administration.

Committee Discussion/ Committee Questions

13:37:19 Rep. Kelker discussed hearing from the county attorneys on her bill draft.

13:40:21 Nanette Gilbertson discussed Rep. Kelker's bill draft.

13:42:00 Mr. Swanson continued with his discussion. (see Exhibit 8).

13:54:45 Sen. Regier asked Mr. Swanson about wrongful convictions and substituting a judge.

13:56:23 Sen. Regier asked Mr. Swanson about adding review committee provision in the bill.

13:58:48 Committee discussion with panelists on adding a clause about wrongful conviction to the bill.

14:09:02 Julianne Burkhardt clarified about the 'where-as' clauses.

14:11:34 Rep. Farris -Olsen asked Mr. Swanson about the violations and if they are civil or criminal.

14:15:32 Ms. Feldman clarified about overturning a wrongful conviction.

14:18:30 Sen. Regier asked Mr. Swanson and Ms. Burkhardt about wrongful convictions for multiple crimes.

14:20:33 Sen. Regier asked Mr. Swanson and Ms. Burkhardt a follow up about wrongful convictions.

14:21:24 Sen. Regier asked Mr. Swanson about serving time on a wrongful conviction.

14:24:02 Sen. Fitzpatrick asked Mr. Swanson about fair payment for the wrongfully convicted.

14:28:20 Sen. Fitzpatrick asked Mr. Bryson about how they review the value of the damages resulting from the wrongful conviction.

14:34:32 Amy Sings in the Timber discussed wrongful conviction compensation.

14:36:16 Sen. Esp discussed the offset provision in the bill.

14:42:44 Rep. Kelker discussed immunity for prosecutors.

14:46:31 Rep. Farris- Olsen discussed the exclusivity provision in the bill.

14:48:45 Rep. Kelker asked about paragraph on expungement.

14:55:15 Sen. Sands asked Ms. Feldman about attorney compensation.

15:02:29 Final comments from the panelists.

15:14:09 Rep. Farris- Olsen disclosed information about the wrongful convictions case in which he is involved in as an attorney.

15:17:48 BREAK

HJ 31 STUDY OF THE BOARD OF CRIME CONTROL (MBCC): REVIEW OF DRAFT BILL (HJ31-1)

15:32:38 Rachel Weiss, LSD, Research Analyst (Exhibit 12) (Exhibit 13) (Exhibit 14) (Exhibit 15).

Committee Questions

- 15:37:29 Sen. Regier asked Ms. Weiss if she could explain how the budget requests are administered.
- 15:39:38 Sen. Regier asked Ms. Weiss a follow up about hiring personnel.
- 15:40:53 Sen. Regier asked a follow-up about FTE.
- 15:44:44 Sen. Gross asked Sen. Regier a follow up about FTE.
- 15:46:28 Rep. Usher directed staff to work with Sen. Regier on one draft.
- 15:48:00 Rep. Fleming discussed the Department of Corrections receiving grant money and asked Ms. Weiss about appeals of decisions for the Public Safety Officers Standards and Training Council (POST Council).
- 15:49:31 Sen. Esp discussed the potential location change of the Montana Board of Crime Control (MBCC) looking at the FTE and the budget.
- 15:50:39 Ms. Weiss explained the bill.
- 15:53:47 Perry Johnson, POST Council.

Public Comment

- 15:56:35 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association.
- 15:57:13 May Simmons, Self.
- 15:58:35 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence.
- 16:02:04 Clemente Arciga, Self
- 16:05:50 Sen. Sands requested a bill changing the board's membership.
- 16:06:07 Committee discussion on the bill draft.

PUBLIC COMMENT ON ANY ITEM UNDER THE LJIC'S JURISDICTION BUT NOT ON THIS AGENDA

- 16:07:20 May Simmons, Self.
- 16:11:06 Sen. Sands asked about COVID-19 testing in Montana correctional facilities and getting a follow up from the Department of Corrections.
- 16:16:01 Rep. Krotkov asked if the committee could get someone from Crossroads Correctional Facility to come answer questions.
- 16:17:10 Laurie Little Dog, Self.

COMMITTEE WORK SESSION

- 16:23:54 Ms. Weiss discussed the upcoming meetings and questions discussed during the meeting today.
- 16:26:36 Rep. Kelker asked about parole eligibility.
- 16:29:59 Sen. Sands asked Ms. Weiss if the next meeting could include round table discussions.
- 16:31:51 Committee discussion on the round table for next meeting.
- 16:33:38 Sen. Gross discussed getting more information from the Department of Corrections based off Ms. Little Dog's questions.
- 16:35:39 Committee discussion on Sen. Gross's statements.

Motion

16:39:53 Sen. Gross moved that the committee authorize staff work with the presiding officers to draft a letter to the Department of Corrections requesting information regarding the plan to respond to COVID-19 and including a list of questions to which the committee would like a response.

Discussion on the Motion

16:41:23 Sen. Regier asked Sen. Gross about the list of questions.

16:42:33 Ms. Weiss clarified what she will be doing with the list.

16:43:43 Rep. Fleming asked about the departments previous responses.

16:45:17 Rep. Krotkov discussed specifying the plan.

Vote:

16:46:40 Motion passed by unanimous voice vote with those present.

ADJOURNMENT

4:55:05 With no further business before the committee, Rep Usher adjourned the meeting at 4:55 p.m.

Additional Handouts:

Public Comment received before and after the meeting