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**LAW AND JUSTICE INTERIM COMMITTEE**  
**67th Montana Legislature**

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**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**

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

**MINUTES LOG**

September 14, 2020

8:00 AM

Room 152 and 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.

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

**ROLL CALL**

**Members Present:**

Rep. Barry Usher, Chair (R)  
Sen. Jen Gross, Vice Chair (D)

Rep. Robert Farris-Olsen (D)  
Rep. Frank Fleming (R)  
Rep. Kathy Kelker (D)  
Rep. Jasmine Krotkov (D)  
Sen. John Esp (R)  
Sen. Keith Regier (R)  
Sen. Diane Sands (D)

**Members Excused:**

Sen. Bryce Bennett (D)  
Sen. Steve Fitzpatrick (R)  
Rep. Casey Knudsen (R)

**Staff Present:**

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

**COMMITTEE BUSINESS SUMMARY**

The Law and Justice Interim Committee voted:

- to authorize drafting of the Judicial Branch and Department of Justice legislative proposals for the 2021 session;
- to authorize drafting of the Criminal Justice Oversight Council legislative proposals; and
- to allow the DOJ to have a bill draft to clean up HB 640, if wanted.

The LJIC voted to forward the following bills to the 2021 Legislature as committee bills:

- HJ31-1: Revise structure and staffing of Board of Crime Control;
- HJ31-2: Revise duties of Board of Crime Control to remove requirement to hear appeals of POST Council decisions;
- HJ31-3: Revise membership of the Board of Crime Control;
- HJ36-1: Establish compensation program for wrongfully convicted individuals;
- SJ19-1C: Revise laws related to sex offender evaluations and treatment; and
- SJ19-6A: Provide for automatic removal from the violent offender registry after 10 years; vacate convictions for failure to register after 10 year.

**RESEARCH DIVISION UPDATE: 2021 SESSION PLANNING, BILL HISTORIES, REPORTS TO THE LEGISLATURE**

08:07:11 Sonja Nowakowski, Research Director, Legislative Services Division (LSD)  
([Exhibit 1](#)) ([Exhibit 2](#)) ([Exhibit 3](#))

**AGENCY OVERSIGHT: UPDATE FROM THE DEPARTMENT OF CORRECTIONS**

08:24:27 Reginald Michael, Director, Department of Corrections (DOC) ([Exhibit 4](#))

**Committee questions**

08:45:15 Sen. Regier asked Director Michael to define an email credit and why there is a cost to inmates to send emails.  
08:49:32 Sen. Sands asked for an update on PREA and if there is an annual PREA report.  
08:53:10 Sen. Sands asked if the department had any plans for facility expansion or any planned facility costs.  
08:57:42 Rep. Kelker asked if the use of computer apps would provide easier and less expensive forms of communication between inmates and families.  
09:01:46 Rep. Kelker asked about the capacity of the Department of Corrections IT staff.  
09:04:26 Sen. Regier asked for an update on the mail issue in the DOC facilities.

**Public comment**

09:06:47 Benton Little Dog, self  
09:07:45 Josh Butterfly, Project Open Doors  
09:18:31 Laurie Little Dog, self

09:26:28 Micah Braidedhair, , self  
09:30:45 Barbara Satrom, self  
09:33:31 Cheryl Lau, self

### **Committee comments and questions**

09:40:11 Committee discussion on the public comment process.  
09:42:39 Sen. Sands asked if there is place for people to submit complaints on DOC. Ms. Little Dog and Rep. Usher responded to the question.

### **Public comment**

09:45:43 May Simmons, self  
09:48:04 Clemente Arciga, Welcome Home Missoula  
09:51:08 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association  
09:55:51 Janee Weber, Montana State Council on Judicial Accountability

### **BREAK**

## **AGENCY OVERSIGHT: AUTHORIZE DRAFTING OF AGENCY AND JUDICIAL BRANCH BILLS**

### **Judicial Branch**

10:07:00 Beth McLaughlin, Court Administrator ([Exhibit 5](#))

### **Committee questions**

10:11:01 Rep. Kelker asked how much it costs to add a judge at the local level and about the process of adding a judge.

### **Committee action**

#### **Motion**

10:15:09 Sen. Sands moved to authorize the drafting of the Judicial Branch bill draft requests.

#### **Vote**

10:15:35 The motion passed on a 11-0 unanimous voice vote. Sen. Bennett was excused with no proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.

### **Department of Justice**

10:18:09 Liz Bangerter, Department of Justice ([Exhibit 6](#))

### **Committee questions and comments**

10:22:01 Rep. Kelker commented on drafting bills.

### **Committee action**

#### **Motion**

10:22:41 Sen. Sands moved to authorize drafting of the Department of Justice bill draft requests.

### **Discussion on the motion**

10:22:50 Sen. Regier asked Ms. Bangerter to clarify the proposed medical coroner statute language changes.  
10:24:56 Sen. Regier asked if there is a surplus in the amount of money from the blood draw account in the DUI funding laws revision.

**Vote**

10:25:46 The motion passed on a unanimous voice vote. Sen. Bennett was excused with no proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.

**COMMITTEE ISSUE: CRIMINAL JUSTICE OVERSIGHT COUNCIL (CJOC) AND JUSTICE REINVESTMENT UPDATE****PSA Update**

10:26:47 Ms. McLaughlin ([Exhibit 7](#))

**CJOC Update**

10:38:14 Rep. Lynch

10:45:30 Rep. Usher

**Public comment**

10:46:13 Laurie Little Dog, self

10:50:47 May Simmons, self

10:52:54 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association and Montana County Attorneys Association

10:55:28 Josh Butterfly, Project Open Doors

10:59:46 SK Rossi, ACLU of Montana

11:02:14 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)

**Committee questions**

11:04:13 Rep. Kelker asked Ms. McLaughlin if the counties use the Arnold Foundation Public Safety Assessment (PSA).

11:05:42 Rep. Kelker asked Ms. McLaughlin and Ms. Young if the Arnold Foundation PSA is a generalized assessment.

**Motion**

11:12:20 Sen. Sands moved to support the drafting of bills suggested by the Criminal Justice Oversight Council.

**Discussion on the motion**

11:14:37 Sen. Sands

**Vote**

11:15:16 The motion passed on a unanimous voice vote. Sen. Bennett was excused.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.

**AGENCY OVERSIGHT: HB 640 (2019) UPDATE**

11:16:31 Ole Olson, Assistant Attorney General, DOJ ([Exhibit 8](#)) ([Exhibit 9](#))

11:26:08 Scott Twito, Yellowstone County Attorney

**Public comment**

11:36:14 Kelsen Young, MCADSV

11:38:43 Nanette Gilbertson, Montana County Attorneys Association

**Committee questions**

11:43:17 Rep. Usher asked Mr. Olson for clarification on the department's legislative requests.

11:44:16 Rep. Kelker commented on the legislative intent of HB 640 (2019).  
11:48:40 Sen. Sands commented on the DOJ report (see Exhibit 9) and the importance of consist data and reporting and asked Mr. Olson to comment on data reporting.  
11:52:27 Sen. Regier asked Mr. Olson if unfounded or false claims are included in the case declined reporting.

#### **Motion**

11:53:45 Rep. Kelker moved to allow DOJ to provide information and ideas for potential legislation to make HB 640 less difficult to implement. Rep. Usher clarified the motion as to allow the DOJ to have a bill draft to clean up HB 640.

#### **Discussion on the motion**

11:54:34 Ms. Weiss  
11:55:06 Rep. Usher  
11:55:20 Ms. Weiss  
11:56:59 Rep. Usher asked Mr. Olson if he had any comment on the motion.

#### **Vote**

11:57:24 The motion passed on a unanimous voice vote. Sen. Bennett was excused with no proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.

#### **AGENCY OVERSIGHT: ADMINISTRATIVE RULE REVIEW**

11:57:52 Ms. Burkhardt ([Exhibit 10](#)) ([Exhibit 11](#)) ([Exhibit 12](#)) ([Exhibit 13](#))

#### **Committee questions**

12:00:48 Rep. Kelker asked for the administrative rule citations.

#### **LUNCH**

13:04:25 Ms. Weiss provided follow-up information on the potential bill draft available for DOJ to clean up HB 640.

#### **COMMITTEE ISSUE: PANEL ON PROBATION AND PAROLE SUPERVISION IN MONTANA**

13:05:55 SK Rossi, ACLU of Montana ([Exhibit 14](#)) ([Exhibit 15](#))  
13:11:10 Ben Boyce, self  
13:20:26 Kim Lahiff, Missoula Probation and Parole, DOC ([Exhibit 16](#)) ([Exhibit 17](#)) ([Exhibit 18](#)) ([Exhibit 19](#)) ([Exhibit 20](#)) ([Exhibit 21](#)) ([Exhibit 22](#)) ([Exhibit 23](#)) ([Exhibit 24](#))

#### **Public comment**

13:40:01 May Simmons, self  
13:42:35 Clemente Arciga, self  
13:46:06 Nanette Gilbertson, Montana County Attorneys Association

#### **Committee questions and comments**

13:51:36 Rep. Kelker asked Ms. Lahiff to comment on individualization in supervision case planning.  
13:55:04 Rep. Kelker asked Ms. Lahiff if good time credit can be awarded to an inmate for good behavior.  
13:57:44 Sen. Gross asked M. Rossi to comment on county attorney involvement in the probation and parole process.

- 14:01:23 Sen. Gross asked the panelists what the legislature can do to improve the probation and parole process.
- 14:05:35 Rep. Usher commented on the probation and parole process.

### **HJ 31 STUDY OF THE MONTANA BOARD OF CRIME CONTROL**

- 14:06:51 Ms. Weiss
- 14:07:12 Rep. Usher
- 14:07:41 Ms. Weiss reviewed the bill drafts. ([Exhibit 25](#)) ([Exhibit 26](#)) ([Exhibit 27](#))
- 14:09:06 Sen. Regier commented on HJ31-1 for the committee. (see Exhibit)
- 14:10:21 Rep. Usher commented on HJ31-2 for the committee. (see Exhibit)
- 14:11:11 Sen. Sands commented on HJ31-3 for the committee. (see Exhibit)

### **Committee questions and comments**

- 14:12:02 Sen. Regier asked Sen. Sands to clarify the funding that would be used to provide services and support to crime victims.
- 14:13:10 Sen. Regier asked Sen. Sands historically how much grant money has gone to support crime victims.

### **Public comment**

- 14:15:02 Kelsen Young, MCADSV

### **Committee questions**

- 14:19:20 Sen. Regier asked Sen. Sands if the one member who must represent individuals in HJ31-3 could be a family member of the individual. The question was redirected to Ms. Weiss.
- 14:22:05 Sen. Sands asked Ms. Weiss to review the language in the original bill.

### **Public Comment**

- 14:24:06 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association and Montana County Attorneys Association
- 14:25:35 Sen. Sands asked Ms. Weiss for clarification on the HJ31-3 bill draft language.

### **Committee action**

#### **Motion**

- 14:27:39 Sen. Sands moved HJ31-1 and HJ31-2 forward as committee bills.

#### **Vote**

- 14:27:59 The motion passed unanimously on a voice vote. Sen. Bennett was excused with no proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.
- 14:29:41 Sen. Sands will sponsor HJ31-1 until the general election. Sen. Regier will sponsor it after the general election if re-elected.
- 14:30:11 Sen. Sands will sponsor HJ31-2 until the general election. Rep. Usher will sponsor it after the general election if re-elected.

### **HJ36 STUDY OF COMPENSATION FOR WRONGFULLY CONVICTED INDIVIDUALS**

- 14:31:13 Rep. Kelker ([Exhibit 28](#))
- 14:34:31 Ms. Burkhardt

### **Public comment**

14:35:40 Michelle Feldman, Innocence Project  
14:39:39 Janee Weber, self  
14:41:34 Patrick Webb, Americans for Prosperity - Montana  
14:42:42 Cody Marble, Montana Innocence Project

### **Committee discussion**

14:44:06 Sen. Regier asked Ms. Burkhardt if there is language preventing individuals from suing the state after receiving a settlement from the state.  
14:45:39 Rep. Farris-Olsen disclosed his legal relationship with Richard Burkhardt.  
14:46:15 Committee discussion on bill draft language.

### **Motion**

14:50:02 Sen. Sands moved HJ36-1 forward as a committee bill.

### **Vote**

14:50:30 The motion passed on an 8-3 roll call vote, with Sen. Esp, Sen. Fitzpatrick, Rep. Knudsen voting no. Sen. Bennett was excused with no proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.  
14:52:00 Sen. Sands will sponsor HJ36-1 until the general election. Rep. Kelker will sponsor it after the general election if re-elected.

### **BREAK**

### **HJ 31 STUDY OF THE MONTANA BOARD OF CRIME CONTROL - CONTINUED**

15:12:50 Rep. Usher  
15:13:08 Ms. Weiss ([Exhibit 29](#))

### **Committee questions and discussion**

15:16:54 Sen. Sands

### **Motion**

15:17:44 Sen. Sands moved HJ31-3 with draft language amendments.

### **Vote**

15:18:36 The motion passed on a 9-2 roll call vote, with Sen. Fitzpatrick and Rep. Knudsen voting no. Sen. Bennett was excused with no proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.  
15:20:43 Sen. Sands will sponsor HJ31-3.

### **SJ 19 STUDY OF SEXUAL AND VIOLENT OFFENDER REGISTRIES**

15:21:20 Ms. Weiss

### **Committee questions and discussion**

15:23:20 Rep. Kelker and Sen. Regier reviewed bill draft SJ19-1C ([Exhibit 30](#))  
15:30:45 Ms. Weiss and Sen. Sands reviewed bill draft SJ19-2A ([Exhibit 31](#))  
15:38:14 Rep. Krotkov asked when committee members will be able to comment on each individual bill draft.  
15:40:09 Ms. Burkhardt and Sen. Sands reviewed bill draft SJ19-3 ([Exhibit 32](#))  
15:41:34 Ms. Burkhardt and Rep. Farris-Olsen reviewed bill draft SJ19-5 ([Exhibit 33](#))  
15:43:32 Rep. Farris-Olsen reviewed bill draft SJ19-6A ([Exhibit 34](#))

15:45:10 Ms. Weiss and Sen. Sands reviewed bill draft SJ19-7 ([Exhibit 35](#))  
15:48:17 Sen. Regier asked Ms. Weiss for clarification on bill draft SJ19-7 language.

### **Public comment**

15:52:15 Janee Weber, self  
15:57:23 Clemente Arciga, self  
15:59:04 Chris Quigley, Montana Sex Offender Treatment Association  
16:02:38 Andy Hudak, Montana Sex Offender Treatment Association ([Exhibit 36](#))  
16:07:58 Bart Holt, Montana State Volunteer Advocate for the National Association  
for Rational Sex Offender Laws ([Exhibit 37](#))  
16:10:58 Jim Lochrie, self  
16:14:03 May Simmons, self

### **Committee action**

#### **Motion**

16:15:18 Sen. Regier moved an amendment for SJ19-1C. ([Exhibit 38](#))

#### **Discussion on the motion**

16:16:48 Sen. Gross asked Sen. Regier how the amendment will define experience.  
16:17:31 Sen. Sands

#### **Vote**

16:18:25 The motion passed on a unanimous voice vote. Sen. Bennett was excused  
without proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.

#### **Motion**

16:18:52 Sen. Regier moved SJ19-1C as amended forward as a committee bill.

#### **Vote**

16:19:11 The motion passed on a 11-0 roll call vote. Sen. Bennet was excused with no  
proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.  
16:20:39 Sen. Sands will sponsor SJ19-1C until the general election. Sen. Regier will  
sponsor it after the general election if re-elected.

#### **Motion**

16:20:48 Sen. Regier moved SJ19-2A forward as a committee bill.

#### **Discussion on the motion**

16:22:00 Rep. Krotkov  
16:27:07 Sen. Sands  
16:27:32 Sen. Gross

#### **Vote**

16:29:16 The motion failed on a 5-6 roll call vote, with Sen. Regier, Sen. Esp, Sen.  
Fitzpatrick, Rep. Fleming, Rep. Knudsen, and Rep. Usher voting no. Sen.  
Bennett was excused with no proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.  
16:30:55 Committee recommendations to the SJ19-2A language.



**Motion**

16:31:32 Sen. Sands moved SJ19-3 forward as a committee bill.

**Vote**

16:32:11 The motion failed on a 5-6 roll call vote, with Sen. Regier, Sen. Esp, Sen. Fitzpatrick, Rep. Fleming, Rep. Knudsen, and Rep Usher voting no. Sen. Bennett was excused with no proxy.

16:33:32 Sen. Fitzpatrick and Rep. Knudsen, by Proxy.  
Committee recommendations to the SJ19-3 bill draft language.

**Motion**

16:35:02 Rep. Kelker moved SJ19-5 forward as a committee bill.

**Discussion on the motion**

16:35:37 Rep. Farris-Olsen  
16:36:23 Sen. Regier  
16:37:08 Rep. Kelker  
16:38:20 Sen. Gross  
16:39:04 Rep. Farris-Olsen  
16:40:29 Rep. Usher  
16:43:02 Sen. Gross  
16:43:47 Rep. Krotkov  
16:44:48 Sen. Esp  
16:45:42 Rep. Kelker

**Vote**

16:47:13 The motion failed on a 5-6 roll call vote, with Sen. Regier, Sen. Esp, Sen. Fitzpatrick, Rep. Fleming, Rep. Knudsen, and Rep. Usher voting no. Sen. Bennet was excused with no proxy.

Sen. Fitzpatrick and Rep. Knudsen, by proxy.

**Motion**

16:48:51 Rep. Farris-Olsen moved SJ19-6A forward as a committee bill.

**Discussion on the motion**

16:49:11 Sen. Sands  
16:49:57 Rep. Farris-Olsen  
16:50:54 Sen. Gross

**Vote**

16:51:33 The motion passed on an 11-0 roll call vote. Sen. Bennett was excused with no proxy.

Sen. Fitzpatrick and Rep. Knudsen, by proxy. Senator Sands will sponsor SJ19-6A until the general election. Rep. Farris-Olsen will sponsor it after the general election if re-elected.

**Motion**

16:52:54 Sen. Sands moved SJ19-7 forward as a committee bill.

**Vote**

16:53:40 The motion failed on a 5-6 roll call vote, with Sen. Regier, Sen. Esp, Sen. Fitzpatrick, Rep. Fleming, Rep. Knudsen, and Rep. Usher voting no. Sen. Bennett was excused with no proxy.  
Sen. Fitzpatrick and Rep. Knudsen, by proxy.

**PUBLIC COMMENT ON ANY ITEM IN THE LJIC'S JURISDICTION BUT NOT ON THE AGENDA**

17:03:33 Ms. Weiss referred to the public comments provided to the LJIC ([Exhibit 39](#)) ([Exhibit 40](#)) ([Exhibit 41](#))  
17:04:58 May Simmons, self  
17:07:11 Laurie Little Dog, self  
17:08:55 Cheryl Lau, self  
17:13:52 Mark Anderlik, Missoula ([Exhibit 42](#))  
17:16:22 Marcus Bullchild, self  
17:19:49 Kelli Twoteeth, self  
17:21:47 Yolanda Andrews, self  
17:28:02 Janee Weber, self  
17:30:56 Josh Butterfly, Project Open Doors  
17:38:11 Rep. Usher commented on the public testimony.

**COMMITTEE WORK SESSION**

17:40:55 Committee member closing comments

**ADJOURN**

17:54:03 Rep. Usher adjourned the meeting at 5:54 p.m.

**Additional Documents:**

[General Public Comment](#) received after deadline

[HJ 36 Public Comment](#) received after deadline

[SJ 19 Public Comment](#) received after deadline