

DRAFT LEGISLATION: DECISION POINTS

BACKGROUND

The Criminal Justice Oversight Council will review six pieces of draft legislation on August 30, 2022. This paper outlines key decision points for the council. A “.2” after the bill draft number indicates a second draft that incorporates feedback from the June 28, 2022 meeting. Draft legislation is available on the council’s [website](#). To submit public comment, use the [public comment form](#).

CJOC 1.2

CJOC 1.2 revises sentencing laws for theft and thematically related crimes. This draft reverses changes made to the Montana Code Annotated after 2015 and reduces the felony amount for theft (45-6-301, MCA) from \$1,500 to \$500.

CJOC 1.2 DECISION POINTS:

1. Would the council like to change the felony dollar amounts for other statutes?
2. Would the council like to change the sentencing length or dollar amount of fines in any statutes?
3. Is there any language the council would like to strike, amend, or introduce?

CJOC 2.2

CJOC 2.2 addresses matters relating to recovery residences, also known as sober living homes.

The second draft of this legislation uses “substance use disorder” rather than “chemical dependency.” It also limits certifying organizations to those that operate in the state and are recognized by the Department of Health and Human Services, and it allows minor children to reside (with their parent) in certified recovery residences that maintain an environment consistent with the welfare of minors.

CJOC 2.2 DECISION POINTS:

1. What department, agency, or other entity (if any) should enforce statutory requirements for recovery residences?
2. Is there any language the council would like to strike, amend, or introduce?

CJOC 3.2

CJOC 3.2 creates a separate definition for a persistent felony offender under supervision. Per council discussion at its June 28 meeting, this draft makes those who commit felonies while on conditional release or with inmate status eligible for a designation of persistent felony offender under supervision.

CJOC 3.2 DECISION POINTS:

1. "Inmate" refers to individuals sentenced to a correctional facility and to individuals in custody awaiting their trial or sentencing. Would the council like to apply the definition to all these individuals, or just sentenced inmates? (See pertinent statutes, below)
2. Would the council like to include individuals on conditional release?
3. Is there any language the council would like to strike, amend, or introduce?

PERTINENT STATUTES:

45-2-101(31) "Inmate" means a person who is confined in a correctional institution.

45-2-101(17) "Correctional institution" means a state prison, detention center, multijurisdictional detention center, private detention center, regional correctional facility, private correctional facility, or other institution for the incarceration of inmates under sentence for offenses or the custody of individuals awaiting trial or sentence for offenses.

CJOC 4

CJOC 4 revises sentencing laws for disorderly conduct. This draft reverses changes made to the Montana Code Annotated after 2015. This draft was not edited at the June 28, 2022 meeting.

CJOC 4 DECISION POINT:

1. Is there any language the council would like to strike, amend, or introduce?

CJOC 5.2

CJOC 5.2 makes theft of a motor vehicle a felony, no matter its assessed value, by revising sentencing laws for theft. Currently, there is no separate statute in state law for motor vehicle theft. The second draft incorporates council direction on sentencing from the June 28, 2022 meeting: for uniformity, CJOC 5.2 includes the same sentencing for motor vehicle theft as CJOC 1.2 uses for felony theft.

CJOC 5 DECISION POINT:

1. Is there any language the council would like to strike, amend, or introduce?

PERTINENT STATUTES:

61-1-101(43)(a) "Motor vehicle" means:

- (i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;
- (ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

CJOC 6

CJOC 6 creates a pretrial diversion pilot program for certain non-violent drug offenses under the oversight of the Department of Justice. It includes an appropriation section to fund this program and requires the department to submit an annual program report to the Criminal Justice Oversight Council and Law and Justice Interim Committee.

CJOC 6 DECISION POINTS:

1. Would the council like to create a pilot program, or launch a statewide program in all counties?
2. If the council creates a pilot program, in how many counties should the pilot program run?
3. Are there any additional eligibility requirements? Diversion agreement requirements?
4. Would the council like to include an appropriation as drafted? How much should the appropriation be?

PERTINENT STATUTES:

The following offenses are eligible for the pretrial diversion program in this draft:

45-9-102. Criminal possession of dangerous drugs.

45-9-104. Fraudulently obtaining dangerous drugs.

45-9-105. Altering labels on dangerous drugs.

45-9-121. Criminal possession of toxic substance – penalty.