



## CRIMINAL JUSTICE OVERSIGHT COUNCIL 67th Montana Legislature

### SENATE MEMBERS

Ryan Lynch  
Keith Regier

### HOUSE MEMBERS

Kathy Kelker  
Barry Usher

### COMMITTEE STAFF

Milly Allen - Research Analyst  
Bethany McDowell - Secretary

### PUBLIC MEMBERS

Council Member Boggio  
Sheriff Canen  
Director Gootkin  
Council Member Guernsey  
Council Member Kelly  
Judge Krueger  
Council Member Lindquist  
Council Member Medrano  
Council Member Patelis  
Council Member Tenney  
Council Member Twito  
Deputy Director Wolken

# MINUTES LOG

March 23, 2022  
RM 152  
Helena, Montana

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)  
Council Member Boggio, Public Member  
Sheriff Canen, Public Member  
Director Gootkin, Public Member  
Council Member Guernsey, Public Member  
Rep. Kathy Kelker (D)  
Council Member Kelly, Public Member  
Judge Krueger, Public Member  
Council Member Lindquist, Public Member  
Sen. Ryan Lynch (D)  
Council Member Patelis, Public Member  
Sen. Keith Regier (R)  
Council Member Tenney, Public Member  
Council Member Twito, Public Member  
Deputy Director Wolken, Public Member

**MEMBERS EXCUSED:**

. Council Member Medrano ()

**MEMBERS ABSENT:**

**STAFF PRESENT:**

Bethany McDowell, Secretary

**AGENDA** ([Attachment 1](#))

**VISITORS' LIST** ([Attachment 2](#))

**COMMITTEE ACTION**

**CALL TO ORDER/ROLL CALL**

08:02:42 Rep. Barry Usher-R called the meeting to order at 8:02 AM. The committee secretary took roll.

**SOBER LIVING HOMES**

08:06:57 Deputy Attorney Karen Tracey gave a presentation on sober-living homes in Billings, and the challenges caused by a lack of regulation for the homes. ([Exhibit 1](#))

08:46:45 Chief Rich St. John, Chief of Police for the Billings Police Department, commented on Ms. Tracy's presentation by describing the problems that arise from the lack of regulations at the Billings Sober Living Home. Mr. St. John continued by mentioning other homes and the positive changes they have made for their residents.

08:51:32 Rep. Usher introduced Katie Weston, Deputy Chief at the Billings Probation and Parole Office.

08:53:24 Ms. Weston described a new program that her agency has introduced to combat the challenges associated with sober-living homes.

**Committee Questions/Discussion**

08:54:52 Mr. Twito asked Ms. Weston how many sober-living establishments exist in her county.

08:55:57 Mr. Twito asked Ms. Tracy how long the sober-living homes have operated in Billings.

08:56:35 Mr. Twito asked Ms. Tracy where the financing came from to purchase and setup the sober-living homes.

08:57:12 Ms. Tracy described the various donors and organizations that fund the Billings sober-living homes.

08:58:26 Mr. Twito asked Ms. Tracy if she was aware that most sober-living homes are not required to follow landlord tenant laws and that there are several homes in her area that do not follow those laws.

08:59:03 Mr. Twito asked Ms. Weston how many residents get evicted from sober-living homes without any expansive processing.

09:00:36 Mr. Twito asked Ms. Weston how many sober-living homes operate outside of Billings.

09:01:18 Rep. Kelker asked Ms. Tracy what it would look like if accreditation standards were required and how much the cost of implementing those standards would be.

09:02:38 Ms. Tracy responded by stating that the main cost to implement accreditation standards would come from liability insurance.

09:03:14 Rep. Kelker asked Ms. Tracy about licensing that would be required for sober-living homes to operate under new accreditation standards.

09:04:22 Rep. Kelker asked Ms. Tracy how to begin legally implementing accreditation standards.

09:05:57 Ms. Wolken stated that the Department of Corrections is working on requiring licensure for sober living homes. Ms. Wolken asked Ms. Tracy if there was a way to strengthen enforcement of the landlord tenant act.

09:08:03 Ms. Tracy stated that there are sections of the landlord tenant act that should not be waivable. She described what the language in that law should look like in order to ensure safety for all the residents.

09:10:37 Ms. Guernsey asked Ms. Tracy how many homes allowed children as residents.

09:11:46 Ms. Guernsey asked Ms. Tracy if she looked into the level of supervision over children within these homes.

09:12:12 Ms. Guernsey asked Ms. Tracy if there would be a difference in accreditation standards for homes that allowed children versus homes that did not allow children.

09:12:59 Rep. Usher responded in part to Ms. Guernsey's question by stating that there was one home that did not allow roommates to ensure privacy for the parent and child.

09:13:17 Ms. Guernsey stated that requiring accreditation would ensure that those children had a safer place to reside. Ms. Guernsey continued by suggesting that the council look further into implementing accreditation standards.

09:14:12 Sen. Regier asked Ms. Weiss if there is a definition of sober living facilities.

09:14:35 Ms. Weiss responded by stating she would check with Ms. Milly Allen, Research Analyst for the council.

09:15:03 Sen. Regier asked Ms. Tracy if the sober living homes within her presentation were separately owned or owned by the same entity. (See exhibit 1)

09:16:25 Sen. Regier asked Ms. Wolken how much money residents receive from the state in order to pay their monthly rent at sober living homes.

09:16:55 Ms. Wolken responded by describing the funding process and how long the residents are assisted in their payments.

09:17:37 Sen. Regier asked Ms. Wolken if the resident can supplement rent payment if they have a job.

09:17:53 Ms. Wolken responded to Sen. Regier by stating that the residents are required to show a need for the aid.

09:17:59 Sen. Regier asked Ms. Weston if probation and parole visits are random and unannounced.

09:18:33 Ms. Tenney asked Ms. Tracy if any of the recovery homes that are licensed through DPHHS were included in her presentation.

09:19:41 Ms. Tenney asked the panel if there had been any discussion on only allowing homes that are accredited and licensed through DPHHS to house individuals.

09:20:42 Ms. Wolken responded by stating it was the Department of Correction's intent to only allow homes that follow accreditation standards and receive licensing to house sober-living individuals and receive the state rental voucher assistance.

- 09:21:45 Mr. Twito stated that this is a complex issue. He described the difficulties his community has faced trying to deal with the issues that arise from non-regulated sober living homes.
- 09:26:07 Rep. Usher stated his intention to run a bill to provide additional rules that the DPHHS and DOC cannot cover.
- 09:26:36 Rep. Kelker stated that she has tried to reform the landlord tenant law during her time as a legislator. She asked Ms. Tracy to describe the changes that need to be made to update the landlord tenant laws and if Ms. Tracy believes that attempting to change those laws is the right move to improve sober living housing.
- 09:28:46 Ms. Tracy responded by stating that she believed it would be worthwhile to go over the changes that should be made in landlord tenant laws and accreditation standards with Rep. Kelker.
- 09:29:08 Rep. Usher asked Mr. St. John if he had a log of the addresses that the city attorney mentioned and if there was an increase in the amount of law enforcement calls to those addresses.
- 09:29:36 Mr. St. John stated that there was a list of those addresses and that there was not a significant number of calls to those addresses.
- 09:30:20 Chief St. John left the meeting.
- 09:30:32 Ms. Wolken answered Sen. Regier's earlier question about monthly rental stipends and yearly expenditures for individuals receiving aid.

#### **Public Comment**

- 09:31:42 May Simmons, Polson
- 09:36:15 Rep. Usher asked the council to consider three owners who have asked to be part of a panel.

#### **BREAK**

- 09:39:52 The meeting reconvened at 9:55:42.

#### **Public Comment**

- 09:56:35 Kacy Keith, Silver Beginnings and Oxford House Kenzie, Billings

#### **STOPPING ADDICTION AND FOSTERING EXCELLENCE**

- 10:01:48 Rep. Michael G. Curcio, Tennessee District 69, gave a presentation on sober living homes in middle Tennessee communities and the regulations and requirements for residents and landlords, which were enacted in HB 215 amendments to SB 207. ([Exhibit 2](#))
- 10:12:48 Rep. Usher asked Rep. Curcio to describe changes that were made to Tennessee SB 207, in Tennessee HB 215. (See exhibit 2)

#### **Committee Questions**

- 10:15:15 Mr. Twito asked Rep. Curcio if there were any legal challenges associated with the bill.
- 10:15:52 Mr. Twito asked Rep. Curcio what his intentions were for the bill regarding the Tennessee Department of Corrections and the residents in Tennessee's sober living homes.
- 10:18:14 Mr. Twito asked Rep. Curcio who maintains the list of accredited sober living housing in Tennessee.

10:18:19 Rep. Curcio stated that the Department of Mental Health and Substance Abuse Services maintains the list of accredited sober living homes by posting them on a specific website to let individuals choose which house is best for them.

10:19:01 Rep. Kelker asked Rep. Curcio how HB 215 addressed the complaints that were made regarding crowded streets and homes.

10:20:15 Rep. Curcio responded to Rep. Kelker by stating that the law is not fully enacted yet, but there were individuals who have already adjusted their lifestyle accordingly. He described a specific property that adhered to the standards outlined in HB 215. (See exhibit 2)

10:22:46 Rep. Kelker asked Rep. Curcio if the quality programs are making enough money to maintain quality standards.

10:23:31 Rep. Curcio responded by mentioning HB 215 and different sections that prohibit and require certain activities. (See exhibit 2)

10:26:54 Vice Chair Patelis asked Rep. Curcio if there was a reason that the bill granted voluntary accreditation rather than mandatory accreditation.

10:28:03 Rep. Curcio stated that the legislature did not want to run into any legal issues with requiring all homes to meet accreditation standards.

10:28:25 Sen. Lynch asked the council if Montana sober living home residents need a referral from a licensed provider.

10:29:33 Rep. Usher asked Rep. Curcio about the cost required of residents to stay in Tennessee sober living homes.

10:30:30 Mr. Twito asked Rep. Curcio about the support that this bill received in the Tennessee legislature.

10:31:00 Rep. Curcio stated that he believed the bill passed with a unanimous vote because the members were grateful for a solution to the problem. He encouraged the council to move forward with this bill.

#### **BREAK**

10:35:30 The meeting reconvened at 10:41:21.

#### **2017 CRIMINAL JUSTICE BILL PACKAGE**

10:42:03 Ms. Wolken, Sen. Lynch, and Vice Chair Patelis presented the Criminal Justice Bill Package. Ms. Wolken introduced the discussion on SB 65. ([Exhibit 3](#))

10:44:17 Vice Chair Patelis commented on the efforts being made regarding SB 65.

#### **Committee Questions/Discussion**

10:44:51 Sen. Regier asked the panel if there are inmates who have been released and have nowhere to go.

10:45:20 Vice Chair Patelis answered by stating that a majority of inmates are able to save money before they are released so that they can secure housing.

10:45:48 Director Gootkin responded by stating that the DOC wants to make sure that inmates are setup for release, so they have money and a place to go.

10:46:02 Rep. Kelker commented on inmates at the Montana Women's Prison (MWP) who have trouble securing housing upon their release.

10:47:30 Sen. Lynch responded by stating that there were no gender specific instructions regarding the money funded by SB 65. He suggested contacting the Department of Corrections to deal with specific cases.

10:47:56 Rep. Kelker responded to Sen. Lynch by stating that the problem with women at MWP securing housing stems from other problems caused by a lack of funding.

10:48:41 Ms. Wolken responded by stating that she could get more specific information regarding funding at MWP for Rep. Kelker.

10:49:57 Ms. Wolken continued the presentation on the Criminal Justice Bill Package and introduced the discussion on SB 66. (See exhibit 3)

### **Committee Questions/Discussion**

10:50:20 Rep. Usher asked when the last session of plenty was.

10:50:41 Sen. Lynch continued the presentation on the Criminal Justice Bill Package and introduced the discussion on HB 133. (See exhibit 3)

### **Committee Questions**

10:53:14 Rep. Usher asked Mr. Twito if his department is working on any bills to clean up HB 133 and if the council will introduce them as committee bills or have them pushed by an individual legislator.

10:55:09 Mr. Twito responded by describing the pushback regarding HB 133, the unintended consequences of the bill, and the requested amendments to it. He asked the legislators to strongly consider moving forward with the bill with his suggested amendments, that included defining a class of individuals that are supervised by the DOC for a felony offense that is not substance related.

### **Motion/Vote**

10:58:48 Mr. Twito moved to continue forward with HB 133 with his suggested amendments.

### **Discussion on the Motion**

10:58:52 Rep. Kelker stated that she would support HB 133 with amendments if she were re-elected. She suggested that the council consider how they will present this bill to the public.

11:01:13 Sen. Regier asked for the motion to be restated.

11:01:15 Rep. Usher restated the motion.

11:01:50 Mr. Twito restated the motion and the intended goal.

11:02:34 Sen. Regier asked Mr. Twito if the amendment to update the definition of persistent felony offender is the only amendment, he would like to make to HB 133.

11:02:45 Mr. Twito stated that it is not the only thing he would like to see changed to this bill, but he believes this amendment would have the greatest impact.

11:02:50 Sen. Regier commented on the series of bills that the legislature passed in the 2017 session and the complaints that have come up because of HB 133.

11:04:01 Sen. Regier suggested that the council study all of HB 133 and consider all the changes that could be made to it.

11:04:35 Vice Chair Patelis seconded Mr. Twito's motion. He stated that there must be something to deter individuals from committing new crimes.

### **Public Comment**

11:05:38 NONE

### **Vote**

- 11:05:56 Rep. Usher called for a voice vote on the decision to move forward focusing on the study of HB 133 and redefining persistent felony offender.
- 11:06:27 The motion passed unanimously by voice vote.

### **Committee Questions/Discussion**

- 11:06:33 Rep. Usher commented on additional aspects of HB 133.
- 11:06:49 Mr. Twito discussed the criminalization of first-offense theft and why the bill received pushback in the legislature. He suggested that the council invite retailers from Billings to present a panel on their experiences with shoplifters.
- 11:08:47 Rep. Usher stated that the council can look into inviting retailers to a future meeting and that can be discussed in the work session.
- 11:09:13 Sen. Regier commented on the common result of not having first theft-offenses criminalized.
- 11:09:13 Rep. Usher stated the biggest complaint of shoplifters staying under a total theft of \$1,500 and not having it considered a first offense.
- 11:09:28 Rep. Kelker stated the concerns of the ACLU and fines that individuals could not pay and the impact on retailers. She stated that she was in favor of having a panel of retailers speak to the council.
- 11:11:23 Ms. Boggio stated her concern over moving forward with HB 133 and the amendments that are being focused on.
- 11:12:13 Ms. Wolken continued the presentation on the Criminal Justice Bill Package and introduced discussion for SB 67. (See exhibit 3)
- 11:13:47 Vice Chair Patelis commented on the possibility of implementing a victim impact program on the outside of prison. He asked Ms. Wolken if this bill could be used for implementing something like that.
- 11:14:42 Ms. Wolken stated that there is a victim impact program that the DOC offers with the services they have in place, and that those programs receive no grant funding specific to them. She continued by explaining the main target of SB 67, which focuses on misdemeanors.
- 11:16:10 Ms. Wolken stated that HB 143 died, and the enabling statute was adopted into another bill that the panel already covered.

### **Public Comment on the 2017 Criminal Justice Bill Package Review**

- 11:17:34 May Simmons, Lake County

### **LUNCH**

- 11:20:11 The meeting reconvened at 13:01:04.

### **CRIMINAL JUSTICE DATA IN MONTANA**

- 13:02:15 Kevin Gilbertson, Chief Information Officer at the Department of Administration, and Adam Carpenter, Chief Data Officer at the Department of Administration, introduced a presentation on government agencies' abilities to share criminal justice data. ([Exhibit 4](#))
- 13:05:13 Mr. Carpenter began the presentation. (See exhibit 4)
- 13:29:41 Mr. Gilbertson added additional information to the presentation.

### **Committee Questions**

13:34:27 Director Gootkin asked the panel about Snowflake and if its use would eliminate the need for an interface.

13:35:59 Director Gootkin asked the panel if corrections data would need to build into Snowflake.

13:37:00 Mr. Twito stated his concern regarding local county governments' responsibility in inputting the data into Snowflake.

13:38:48 Mr. Carpenter and Mr. Gilbertson responded to Mr. Twito's concern by explaining the integration of data process within Snowflake.

13:39:49 Mr. Twito voiced his agreement with the functionality and benefits of the program. Mr. Twito continued by stating the benefits of getting local governments on the same page regarding data entry and processing.

13:44:48 Ms. Guernsey asked about the physical location of the data banks.

13:45:42 Rep. Usher asked about the physical security around the data banks.

13:47:19 Mr. Carpenter responded by describing the security protocols and regulations as well as the different states who use the program.

13:47:58 Director Gootkin asked the panel about how to tackle implementing this program and begin the projects.

13:50:41 Mr. Carpenter and Mr. Gilbertson responded by stating that taking implementation projects little by little would be the best way to begin.

13:52:42 Mr. Twito asked the panel about data in the criminal justice system that would be a priority to place into this data sharing system.

13:53:42 Mr. Gilbertson responded by giving an example of what shared information may do to benefit the state and the state's funds.

13:55:27 Rep. Usher stated that he is not sure if DOCs are the number one piece of data that he wants prioritized.

13:55:35 Mr. Twito asked if certain data could be mined to better organize individuals in the system and improve efficiency.

13:56:25 Ms. Lindquist stated that any information that agencies could share would be beneficial.

13:57:16 Rep. Usher suggested that the council should start writing notes on what information they would want to prioritize putting in the data system.

13:58:02 Director Gootkin suggested that integrating new data sharing systems should begin at the street level, with local arrests.

13:58:18 Rep. Usher commented on the potential benefits and return investments for counties if they used Snowflake.

13:59:48 Mr. Carpenter and Mr. Gilbertson gave parting comments on the discussion and offered additional information or help if the committee should ever need or want it.

14:01:15 Rep. Usher mentioned the Law and Justice Interim Committee's study on this topic and the council's future use of the system.

### **Public Comment on Criminal Justice System Data Study**

14:03:12 None

### **2017 CRIMINAL JUSTICE BILL PACKAGE**

14:03:27 Ms. Wolken reviewed the earlier discussion on the Criminal Justice Bill Package. (See exhibit 3)

14:05:59 Vice Chair Patelis commented on a bill that addressed lengthy prison sentences. He referred to the handout given by Director Gootkin. ([Exhibit 5](#))

14:09:52 Mr. Twito commented on SB 63 and the correlation between an offender's risk assessment and conditional discharge.



14:11:59 Ms. Wolken restated the council's intent to invite retailers to provide information on shoplifting.

**Public Comment on 2017 Criminal Bill Package**

14:12:25 Mark Murphy, Helena

**Public Comment on any topic within the committee's jurisdiction**

14:22:12 May Simmons, Lake County

**BREAK**

14:23:53 The meeting reconvened at 14:35:42

**WORK SESSION**

14:36:16 Rachel Weiss, Research Analyst substitute for Milly Allen, introduced potential agenda items to the committee.

**Committee Questions/Requests**

14:37:23 Ms. Guernsey asked if the council could invite accreditors to come and present to the council.

14:37:58 Mr. Twito agreed with Ms. Guernsey's suggestion to have accreditors and researchers talk about accreditation certifications.

14:38:24 Ms. Tenney asked if it would be beneficial for the council to hear from someone from the Behavioral Health Alliance.

14:39:47 Rep. Kelker asked if the council should have a look at other group homes available rather than just focusing on Silver Beginnings and if there should be additional regulations on Silver Beginnings homes.

14:40:25 Rep. Usher mentioned a Florida law that the council might have been presented.

14:40:47 Ms. Weiss stated that a Florida law was not included in their packet, but that she would touch base with Ms. Allen about any other state's bill.

14:41:31 Director Gootkin suggested that the committee come back with their top nominations for what data to prioritize for the data sharing program, Snowflake, and that the council should be prepared to relay that information to the Law and Justice Interim Committee at their next meeting.

14:42:20 Sen. Regier commented on the discussion regarding HB 133 and hearing about how shoplifters have affected local law enforcement and retailers.

14:43:06 Rep. Usher reviewed the requests from the committee and future work sessions.

14:45:41 Mr. Twito suggested that the council invite Billings law enforcement to present their experiences with theft to the council.

14:45:50 Sen. Regier suggested hearing from the parole board based on information given during public comments.

14:46:33 Vice Chair Patelis responded to Mr. Murphy's earlier comment. He requested that Mr. Murphy stand before the council to answer questions.

14:47:01 Mr. Murphy expanded on his public comment by sharing additional information regarding the parole board.

14:47:54 Vice Chair Patelis explained parole board hearings and the decisions and process behind those hearings.

14:53:19 Mr. Twito commented on the work of the parole board and the individuals that the board oversees.

14:54:35 Rep. Usher voiced his agreement with Mr. Twito's statement. He explained why he supports the improved data sharing system. Rep. Usher also mentioned the possibility of having the chairman of the parole board come before the council.

14:55:40 Sen. Regier stated that the response was adequate so that the chairman of the parole board does not need to be invited to speak to the council.

14:56:19 Rep. Usher reviewed the top priorities of future agenda items agreed upon by the council.

**Adjourned**

14:57:47 Rep. Usher adjourned the meeting at 2:57pm.

**ADJOURNMENT**

Adjournment: 14:57:47