



CRIMINAL JUSTICE OVERSIGHT COUNCIL

68th Montana Legislature

SENATE MEMBERS

Ryan Lynch
Keith Regier

HOUSE MEMBERS

Barry Usher
Kathy Kelker

COMMITTEE STAFF

Milly Allen - Research Analyst
Bethany McDowell - Secretary

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Rhonda Lindquist
Georgette Boggio
Ross Canen
Brian Gootkin
Rachel Guernsey
Melissa Kelly
Judge Kurt Krueger
Keegan Medrano
Jimmy Patelis
Amy Tenney
Scott Twito
Cynthia Wolken

MINUTES LOG

November 15, 2022
Room 137 / Zoom
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:

Sen. Barry Usher, Chair (R)
Ross Canen, Public Member
Brian Gootkin, Public Member
Rachel Guernsey, Public Member
Sen. Kathy Kelker (D)
Sen. Ryan Lynch (D)
Jimmy Patelis, Public Member
Sen. Keith Regier (R)
Amy Tenney, Public Member
Scott Twito, Public Member
Cynthia Wolken, Public Member

MEMBERS EXCUSED:

Rhonda Lindquist, Public Member
Georgette Boggio, Public Member
Melissa Kelly, Public Member

Judge Kurt Krueger, Public Member
Keegan Medrano, Public Member

MEMBERS ABSENT:

STAFF PRESENT:

Milly Allen, Research Analyst
Bethany McDowell, Secretary

AGENDA ([Attachment 1](#))

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

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

08:00:51 Rep. Barry Usher called the meeting to order at 8:00 AM. The committee secretary took roll.

REPORT: HJ 29 STUDY OF VICTIM SERVICES AND FUNDING IN MONTANA - Catherine Duncan, Legislative Fiscal Analyst

08:03:10 Ms. Duncan ([Exhibit 1](#))

Committee Questions/Discussion

08:30:10 Rep. Usher asked Natalie Bowser, Montana Board of Crime Control (MBCC), for any additional comments.

08:30:47 Rep. Kelker asked about a system that determines services for victims.

08:32:05 Sen. Regier asked Ms. Bowser about victim services to parents whose children were victimized. He followed by asking about service providers.

08:34:11 Sen. Regier asked Ms. Bowser about funding for victim services.

08:35:13 Sen. Regier asked Ms. Bowser about nonprofit organizations that receive victim services funding. He followed by asking about audits for those organizations.

08:36:52 Sen. Regier asked Ms. Duncan about funds that didn't meet set budgets.

08:37:20 Ms. Guernsey asked Ms. Bowser about an estimate for victims in Montana that could use victim services.

08:38:19 Ms. Guernsey asked Ms. Bowser about victims who did not receive services due to lack of funding for those services.

08:40:07 Ms. Guernsey asked Ms. Bowser about a system that assesses victim service needs.

08:41:33 Ms. Duncan informed the Council of the MBCC documents that are available on the IBC-D web page.

08:42:31 Rep. Usher asked Ms. Duncan and Ms. Bowser about the spending of federal funds at MBCC.

08:44:45 Rep. Usher asked Ms. Bowser for further clarification on the spending of federal funds at MBCC.

Public Comment on HJ 29 Victim Services and Funding in Montana

08:46:34 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association (MSPOA) and Montana County Attorney Association (MCAA)

PRESENTATION: VICTIMS SERVICES AND FUNDING NATIONWIDE - Kate Bryan, Policy Analyst, National Conference of State Legislators

08:50:46 Ms. Bryan ([Exhibit 2](#))

Committee Questions/Discussion

09:05:52 Rep. Kelker asked Ms. Bryan about funding for restitution in other states.
09:06:53 Ms. Wolken commented on a current restitution policy in Montana.
09:08:18 Mr. Patellis asked Ms. Bryan about the Colorado statute that allows victims to appear for revocations and post-conviction hearings.
09:09:41 Mr. Patellis asked Ms. Bryan for more information on the allowance of victims to attend revocation and post-conviction hearings across the United States.
09:10:27 Rep. Usher asked Ms. Wolken about the policy that was previously mentioned.
09:12:25 Rep. Kelker asked Ms. Bryan about misunderstandings related to plea bargaining.
09:13:59 Sen. Regier asked Dir. Gootkin and Mr. Twito about the difficulty in contacting victims.
09:15:31 Mr. Patellis commented on a notification system that updates victims on upcoming hearings related to their cases.
09:16:33 Ms. Wolken responded to Mr. Patellis.

Public Comment on Victim Services and Funding Nationwide

09:18:02 Clemente Arciga, Welcome Back, Missoula

RECESS

09:22:26 Reconvened at 9:45 AM.

PRESENTATION: DRONES AND PRISON SECURITY - Lisa Lucas, Deputy Director of Support Services, Nevada Department of Corrections

09:45:54 Ms. Lucas ([Exhibit 3](#))
09:47:49 Matthew Gregory, Technical Support, Nevada Department of Corrections (DOC)

Committee Questions/Discussion

09:52:19 Dir. Gootkin asked the presenters about the drones' potential assistance with FTEs.
09:53:58 Rep. Usher asked the presenters about the total number of individuals in Nevada correctional facilities, their staff, and the state of Nevada's population.
09:56:06 Mr. Twito asked the presenters about Nevada DOC's potential solutions to staffing problems.
09:58:30 Mr. Patellis asked the presenters about retention bonuses for Nevada DOC staff. He followed by asking about their drone implementation.
10:00:36 Mr. Patellis asked the presenters about other states who are implementing drone usage.
10:02:42 Mr. Patellis asked the presenters about the number of individuals in prison.
10:04:24 Sen. Regier asked Ms. Lucas about their thermal cameras.

10:05:01 Sen. Regier asked Ms. Lucas about their footage retention.
10:05:56 Dir. Gootkin commented on undergoing research at the Montana State Prison.
10:07:07 Rep. Usher asked Ms. Lucas about potential plans for drone usage.
10:07:53 Rep. Usher asked Ms. Lucas to send Nevada DOC's drone research and information to Ms. Allen.

Public Comment on the agenda item

10:08:34 Clemente Arciga, Welcome Back, Missoula
10:11:16 Merilee Watne, Welcome Back

COUNCIL LEGISLATION - Milly Allen, Legislative Research Analyst

10:13:37 Ms. Allen discussed CJOC 5.3. ([Exhibit 4](#))

Committee Questions/Discussion

10:15:11 Rep. Kelker asked Ms. Allen about including electric bicycles in the definition of a motor vehicle.
10:16:41 Rep. Kelker commented on CJOC 5.3. (See exhibit 4)
10:17:06 Sen. Lynch stated his opposition to CJOC 5.3. (See exhibit 4)
10:17:47 Sen. Regier asked Mr. Twito for his comments on the draft legislation. (See exhibit 4)
10:19:38 Sen. Regier asked Mr. Twito about the penalties outlined in the draft legislation. (See exhibit 4)
10:20:44 Rep. Usher asked Mr. Twito for clarification on a potential bill on scrapping vehicles.

MOTION

10:21:34 Rep. Kelker moved to adopt CJOC 5.3 in its current form.

Discussion on the Motion

10:22:05 Sen. Regier asked for clarification.

VOTE:

10:22:43 The motion carried 9 – 3 with Sen. Lynch and Ms. Wolken voting no. Judge Krueger voted no by proxy. Ms. Boggio, Ms. Kelly, Mr. Medrano, and Ms. Lindquist were absent from the vote and did not leave proxies.

10:22:50 Rep. Usher assigned Rep. Kelker to carry CJOC 5.3. (See exhibit 4)

COUNCIL LEGISLATION - Milly Allen, Legislative Research Analyst

10:25:00 Ms. Allen discussed CJOC 1.2. ([Exhibit 5](#))

Committee Questions/Discussion

10:26:53 Mr. Twito asked Ms. Allen about the research related to the draft legislation. He followed by commenting on value reduction for qualifying felonies.
10:28:44 Dir. Gootkin asked Mr. Twito about the original intention behind the draft legislation. (See exhibit 5)
10:29:13 Sen. Regier asked Mr. Twito to explain the potential effect on the workload for county attorneys.

10:31:07 Rep. Kelker commented on the original intention behind the draft legislation. (See exhibit 5)

10:32:49 Mr. Twito responded to Rep. Kelker.

10:34:25 Sen. Regier asked about jurisdiction between counties and cities over felony charges.

10:37:33 Sen. Regier asked about clarifying language in the draft legislation. He followed by asking Mr. Twito about the difference in felony charge values, as well as for clarification on the procedure to process those charges. (See exhibit 5)

10:37:41 Rep. Usher commented on future discussions surrounding the draft legislation. (See exhibit 5)

10:39:45 Ms. Wolken commented on approving CJOC 1.2. (See exhibit 5)

10:41:04 Rep. Kelker commented on the information given to CJOC by retailers.

10:43:15 Sen. Regier commented on potential crime rate reduction.

10:44:07 Sheriff Canen stated his anticipation for increased jail populations with the passing of CJOC 1.2. (See exhibit 5)

10:44:40 Ms. Guernsey asked Mr. Twito about the workload transfer.

10:45:40 Rep. Usher asked about a compromise on the numbers in CJOC 1.2. (See exhibit 5)

MOTION

10:46:02 Dir. Gootkin moved to adopt CJOC 1.2 in its current form, and have revisions made during session committees. (See exhibit 5)

Discussion on the Motion

10:46:25 Ms. Guernsey asked the council about the fiscal note on the draft legislation. (See exhibit 5)

10:47:01 Rep. Usher commented on the continuation of necessary work related to the draft legislation. (See exhibit 5)

10:48:16 Sen. Lynch responded to Rep. Usher.

10:48:43 Sen. Regier asked about the limits in the draft legislation. (See exhibit 5)

10:49:14 Rep. Kelker commented on Dir. Gootkin's motion.

10:50:10 Mr. Twito asked about previous discussions on the draft legislation. (See exhibit 5)

10:52:37 Mr. Twito further commented on previous discussions and presentations related to the draft legislation. (See exhibit 5)

10:54:17 Rep. Usher asked Ms. Allen about the possibility of revising the draft legislation by a certain date. Rep. Usher followed by asking the Council about moving forward with the draft legislation. (See exhibit 5)

10:54:58 Ms. Wolken commented on the original intentions behind previous legislation related to CJOC 1.2. (See exhibit 5)

10:55:46 Mr. Twito responded to Ms. Wolken.

10:57:02 Sen. Regier asked for clarification on the draft legislation. (See exhibit 5)

10:58:02 Rep. Kelker asked Mr. Twito about available information on individuals appearing at court, who may be perpetual offenders.

10:59:41 Rep. Usher restated the motion.

11:01:19 Rep. Kelker asked to vote on the motion after the lunch.

11:01:34 Dir. Gootkin withdrew the motion.

LUNCH / RECESS

11:02:06 Reconvened at 12:43 PM.

COUNCIL LEGISLATION - Milly Allen, Legislative Research Analyst – CJOC 1.2 continued

12:43:05 Rep. Usher clarified the proposed amendments to CJOC 1.2. (See exhibit 5)

12:43:58 Ms. Allen restated the proposed amendments to CJOC 1.2. (See exhibit 5)

12:44:29 Mr. Twito asked for clarification on the draft legislation. (See exhibit 5)

MOTION

12:45:34 Mr. Twito moved to keep the value of \$1,500 in CJOC 1.2 and modify the definition of "common scheme."

VOTE

12:46:24 Motion carried 7-2 with Sen. Lynch voting no. Judge Krueger voted no by proxy. Ms. Boggio, Ms. Kelley, Mr. Medrano, and Ms. Lindquist were absent from the vote and did not leave proxies.

PRESENTATION: KENTUCKY'S DEFERRED PROSECUTION PILOT PROJECT - Sen. Whitney H. Westerfield, Kentucky; Roberta Kiser, Judiciary Committee Staff Administrator, Kentucky Legislative Research Commission

12:47:32 Sen. Westerfield

Committee Questions/Discussion

12:57:28 Ms. Wolken asked Sen. Westerfield about the qualifications for potential applicants to the program.

13:01:38 Rep. Kelker asked Sen. Westerfield about county services that were offered that led the program there.

13:03:35 Mr. Twito asked Sen. Westerfield about behavioral health assessment tools.

13:06:22 Mr. Twito asked Sen. Westerfield about a standard behavioral health assessment tool.

13:08:26 Sen. Lynch asked Sen. Westerfield about continuing care for patients.

13:13:41 Sen. Lynch asked Sen. Westerfield about the decision-making process for behavioral health services.

13:17:22 Ms. Guernsey asked Sen. Westerfield for clarification on Medicaid coverage of treatment.

13:21:17 Ms. Kiser responded to Ms. Guernsey's question.

13:22:55 Ms. Guernsey asked the presenters about issues from providers willing to participate in the program.

13:26:43 Ms. Tenney asked Sen. Westerfield about non-substance use treatment for individuals.

13:28:51 Mr. Twito asked Sen. Westerfield about defense council involvement in the process.

13:32:34 Ms. Kiser responded to Mr. Twito's question.

13:33:14 Mr. Twito commented on the presentation.

13:34:58 Sen. Westerfield and Ms. Kiser responded to Mr. Twito.

Public Comment on Kentucky's Deferred Prosecution Pilot Project

13:39:27 Merilee Watne, Welcome Back

13:40:07 Kasey Hugs, Welcome Back
13:46:44 Nicole Gomez, Montana Women Vote

COUNCIL LEGISLATION - Milly Allen, Legislative Research Analyst

13:48:06 Rep. Usher reviewed the previous vote for CJOC 1.2. He followed by assigning Rep. Kelker to carry the draft legislation. (See exhibit 5)

13:50:01 Ms. Allen discussed CJOC 6.2 ([Exhibit 6](#))

Committee Questions/Discussion

13:52:22 Rep. Usher commented on the Council's readiness to pass CJOC 6.2. (See exhibit 6)
13:53:04 Mr. Twito responded to Rep. Usher.
13:53:08 Sen. Lynch clarified the status of the work on CJOC 6.2. (See exhibit 6)
13:55:14 Rep. Usher further clarified the status of CJOC 6.2. (See exhibit 6)
13:56:14 Sen. Regier commented on the potential ability to start the bill in the Senate.
13:57:15 Rep. Kelker commented on the limited behavioral health resources in Montana.
13:58:08 Mr. Twito asked Rep. Usher for a potential timeline.
14:00:17 Rep. Usher asked Ms. Allen for a deadline for unintroduced committee bills.
14:03:13 Rep. Usher asked Mr. Twito about a potential meeting to further discuss the direction of CJOC 6.2. (See exhibit 6)
14:03:47 Rep. Usher commented on a schedule for introducing CJOC 6.2. (See exhibit 6)
14:04:20 Sen. Lynch asked the Council about the restrictions on qualifications for behavioral services.
14:06:01 Mr. Twito responded to Sen. Lynch. He followed by commenting on the importance of the risk assessment tool.

Public Comment on Council Legislation

14:08:20 Merilee Watne, Welcome Back
14:11:24 Clemente Arciga, Welcome Back, Missoula
14:15:27 Nicole Gomez, Montana Women Vote

Public Comment on any topic within CJOC's jurisdiction

14:17:35 Angelica Henson, Colville, WA ([Exhibit 7](#))

RECESS

14:25:01 Reconvened at 14:33 (2:33 PM).

WORK SESSION

14:33:50 Rep. Usher discussed CJOC's next meeting date.
14:35:44 Ms. Allen reviewed potential meeting dates and agenda items.
14:39:32 Councilmembers discussed future meeting dates for March and June.
14:40:35 Mr. Twito discussed potential topics for future meetings.
14:44:15 Rep. Usher responded to Mr. Twito.
14:44:43 Rep. Kelker commented on implementing standards for mental health assessments.

14:46:09 Sen. Regier commented on including the coroner's role in future discussions.
14:46:53 Rep. Usher asked the Council for their opinions on future topics.
14:47:38 Ms. Guernsey responded to Rep. Usher.
14:48:57 Sen. Lynch responded to Rep. Usher.
14:49:21 Dir. Gootkin commented on focusing on mental health.
14:50:17 Mr. Patellis commented on an enhanced transitional supervision services program that serves individuals returning to society.
14:52:39 Ms. Allen reviewed other ideas from the council that were previously mentioned.
14:53:00 Dir. Gootkin responded to Ms. Allen.
14:53:10 Rep. Usher commented on the topic of examining telehealth programs.
14:55:42 Rep. Kelker responded to Rep. Usher.
14:57:20 Rep. Usher commented on a security system in a Billings clinic.
14:57:55 Mr. Twito responded to Rep. Usher by commenting on a particular incident with security in a medical facility.
14:58:20 Rep. Usher commented on a "Shoot, Don't Shoot" presentation.
14:58:31 Ms. Allen reviewed all potential topics for future meetings.
15:01:01 Sen. Lynch added an additional item to the potential topic list.
15:01:22 Rep. Usher added a review of council legislation to next meeting's agenda.
15:02:17 Ms. Wolken asked to add the coroner topic to next meeting's agenda.
15:04:20 Sen. Regier asked about the sponsor for CJOC 3.2.
15:04:41 Ms. Allen responded to Sen. Regier.
15:04:47 Rep. Usher asked Sen. Lynch about carrying CJOC 3.2.

ADJOURNMENT

15:05:46 Rep. Usher adjourned the meeting at 15:05 (3:05 PM).