



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

May 11, 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:

Rep. Barry Usher, Chair (R)
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 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 Boggio ()
Council Member Lindquist ()

Sen. Ryan Lynch (D)
Council Member Medrano ()

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

08:01:39 Rep. Barry Usher-R called the meeting to order at 8:01 AM. The committee secretary took roll.

Larceny and Auto Theft in Montana

08:03:57 Brad Griffin, President of the Montana Retail Association, gave a presentation on the impact of larceny in retail stores across the state as well as the effects of HB 133. ([Exhibit 1](#))

08:14:25 Sheriff Brian Heino, Flathead County, gave a presentation on crimes in Flathead County.

08:21:15 Shawn Mayo, Captain of Patrol at the Billings Police Department, gave a presentation on crimes in Billings.

Committee Questions/Discussion

08:26:27 Rep. Kelker asked Sheriff Heino to describe an individual's conviction process.

08:28:33 Rep. Kelker asked Sheriff Heino about the size of jails.

08:31:13 Rep. Usher asked Sheriff Heino about the percentage of individuals who could be sent to rehab facilities.

08:33:10 Dir. Gootkin asked Captain Mayo about laws enacted in 2017 and their effect on Billings officers.

08:35:35 Sen. Regier asked Mr. Griffin about worker response to shoplifters.

08:36:36 Rep. Kelker asked Mr. Griffin about shoplifting in his stores.

08:38:29 Rep. Kelker asked Mr. Griffin about the shoplifter restitution timeline.

08:39:40 Rep. Kelker commented on retailers' ability to receive restitution.

08:40:48 Rep. Usher commented on a shoplifter in Billings.

08:41:15 Mr. Patelis asked Mr. Griffin about shoplifting data related to HB 133.

08:42:12 Mr. Patelis asked Capt. Mayo about data on shoplifters under the influence of drugs or alcohol.

08:43:15 Dir. Gootkin asked Mr. Griffin about retailers who have gone out of business due to shoplifting.

08:44:01 Mr. Twito asked Capt. Mayo about the impact of stolen vehicles on individuals.

08:45:29 Mr. Twito asked Capt. Mayo about legislation addressing auto theft.

Public Comment on Auto Theft and Larceny

- 08:47:34 Nanette Gilbertson, Montana Sheriff's and Peace Officers Association (MSPOA) and the County Attorneys Association
- 08:48:45 May Simmons, Polson
- 08:51:10 Mark Murphy, Helena
- 08:56:10 Rep. Usher commented on the public comments.

Sober Living Home Operators

- 08:56:51 Kacy Keith and Traci Jordan, founders of Sober Beginnings, gave a presentation on their sober living homes and the initiatives that are put in place to help residents maintain sobriety.
- 09:03:40 Terri Todd and Richard Todd, founders of Gratitude in Action, gave a presentation their sober living homes in Billings and the work that is being done to improve their residents' recovery and transition. ([Exhibit 2](#))

Committee Questions/Discussion

- 09:14:54 Sen. Regier asked Ms. Keith about her facilities.
- 09:15:35 Sen. Regier asked Ms. Keith about the supervision at her facilities.
- 09:16:47 Sen. Regier asked Mr. and Mrs. Todd about the neighborhoods surrounding their facilities.
- 09:17:53 Sen. Regier asked Mr. and Mrs. Todd about their policies.
- 09:18:45 Rep. Kelker asked both sets of presenters about the source of their revenues.
- 09:22:22 Mr. Twito asked Ms. Keith and Ms. Jordan about the male residents in their homes.
- 09:23:25 Mr. Twito asked Ms. Keith and Ms. Jordan about male residents in their facilities.
- 09:24:11 Mr. Twito asked Ms. Keith and Ms. Jordan about the male residents who leave their homes. He asked about residents under the supervision of the Department of Corrections (DOC).
- 09:26:01 Ms. Guernsey asked Mr. and Mrs. Todd about family homes versus single resident homes.
- 09:30:50 Mr. Patelis asked Mr. and Mrs. Todd about annual inspection of their homes. He followed by asking about licensed counselors.
- 09:32:52 Mr. Patelis asked Mr. and Mrs. Todd about their regulations regarding sex offenders.
- 09:33:56 Rep. Usher directed Mr. Patelis' question to Ms. Keith and Ms. Jordan.
- 09:36:20 Mr. Twito asked Ms. Todd about rent and fees for the residents.
- 09:37:54 Mr. Twito asked about fee charges and refunds.
- 09:39:30 Sheriff Canen joined the meeting via zoom.

Public Comment

- 09:40:00 Lenette Kosovich, Rimrock Foundation
- 09:40:33 Max Obrosinski, Sober Beginnings

BREAK

- 9:44:37 Reconvened at 9:57:41

Voluntary Recovery Residence Certification Process

- 09:58:58 Mary Collins, Behavioral Health and Disabilities Bureau Chief at DPHHS, introduced Ka-la McBride, Opioid Prevention Program Manager at DPHHS.
- 09:59:11 Ms. McBride introduced Dave Sheridan, Executive Director for the National Alliance of Recovery Residences.
- 10:00:19 Mr. Sheridan began a presentation on opioid recovery efforts across the nation. ([Exhibit 3](#))
- 10:11:52 Ms. McBride continued the presentation on opioid recovery and the goals for re-entry homes.
- 10:14:49 Rep. Usher commented on work between DPHHS and members of the council.

Committee Questions/Discussion

- 10:17:12 Rep. Kelker asked Mr. Sheridan about accreditation costs.
- 10:20:46 Rep. Kelker asked Mr. Sheridan about sober living homes models in Montana.
- 10:21:14 Ms. Guernsey asked about oversight for sober living homes.
- 10:23:19 Rep. Usher asked about the cost of implementing standardized programs.

HB 133 and Justice Reinvestment

- 10:26:07 Leo Gallagher, Lewis and Clark County Attorney, gave a presentation on justice and reinvestment.
- 10:31:25 Kirsten Pabst, Missoula County Attorney, continued the presentation by discussing HB 133. She presented an annual report to the council. ([Exhibit 4](#))
- 10:41:51 Samm Cox, Butte-Silver Bow Chief Deputy County Attorney, continued the presentation.
- 10:44:15 Jed Fitch, Beaverhead County Attorney, continued the presentation by discussing the criminal justice reform acted in 2017.
- 10:48:00 Dir. Wolken joined the meeting.

Committee Questions/Discussion

- 10:48:21 Dir. Wolken asked Ms. Pabst about a policy in SB 59.
- 10:51:35 Sen. Regier asked Ms. Pabst about her comments on HB 133.
- 10:52:54 Sen. Regier asked Ms. Pabst about her support for prosecutorial discretion.
- 10:53:53 Dir. Gootkin asked Mr. Fitch or Mr. Twito about dangerous drugs on the PFO.
- 10:54:54 Mr. Twito stated that he will address Dir. Gootkin's question in his scheduled presentation.
- 10:55:09 Rep. Kelker asked the panelists about individual assessments.
- 10:58:05 Rep. Usher asked Ms. Pabst about outside source funding.
- 11:00:01 Mr. Twito asked the panelists about probation policies.
- 11:05:19 Mr. Twito directed his question to the other panelists.
- 11:09:58 Dir. Gootkin commented on the state's probation officers' complaints.
- 11:11:31 Dir. Wolken described the different efforts from the DOC.
- 11:13:37 Mr. Patelis commented on the PFI and the 30-day PSI as well as DOC commitments.

Public Comment on HB 133 and Justice Reinvestment

11:18:45 May Simmons, Polson

LUNCH

11:22:52 Reconvened at 12:59:46.

ASAM Level 3 Chemical Dependency Treatment

13:00:25 Mary Windecker, Executive Director for Montana Behavioral Health Alliance, began a presentation on the Behavioral Health Alliance. ([Exhibit 5](#))

13:03:58 Lenette Kosovich, CEO of Rimrock Foundation, continued the presentation by discussing challenges related to mental and behavioral health.

13:13:13 Ms. Windecker commented on potential legislation that will establish mental health centers under the behavioral health umbrella.

Committee Questions/Discussion

13:15:15 Rep. Kelker asked the panelists about different types of treatment homes.

13:18:44 Rep. Kelker asked about funding for the programs that the alliance oversees.

13:20:55 Ms. Guernsey asked the panelists their preference on a length of stay.

13:21:41 Ms. Guernsey commented on problems facing counselors. She asked the panelists about those problems.

13:26:56 Mr. Twito asked the panelists about an effective assessment tool.

13:29:06 Rep. Usher asked the panelists about individuals in Rimrock.

Public Comment on ASAM Level 3 Chemical Dependency Treatment

13:30:43 Erin McGowan, Montana Community Corrections Associations

13:35:34 Kacy Keith, Sober Beginnings

13:37:53 May Simmons, Polson

Council Legislation: Persistent Felony Offender Designation

13:39:52 Mr. Twito gave a presentation on legislation regarding registerable felony offenses. ([Exhibit 6](#))

Committee Questions/Discussion

13:45:26 Rep. Kelker asked Mr. Twito about dangerous drugs.

13:46:06 Rep. Kelker asked Mr. Twito about drugs that constitute felony offenses.

13:47:10 Rep. Kelker asked Mr. Twito about the determination of drug-related felonies.

13:49:42 Ms. Guernsey asked Mr. Twito about convictions when an individual is out on bail.

13:50:56 Mr. Twito responded by referring to the research presented to the council. (See exhibit 6)

13:52:08 Dir. Wolken asked Mr. Twito about details regarding the proposed changes. (See exhibit 6)

13:54:07 Dir. Wolken asked Mr. Twito about sentencing for particular crimes.

13:58:58 Mr. Patelis asked Mr. Twito about having to change a bill to act in accordance with the proposed legislation.

13:59:50 Mr. Patelis asked for clarification.

14:01:17 Mr. Patelis asked Mr. Twito about suspended sentences for persistent offenders.
14:01:51 Mr. Twito described the power to remove.
14:03:20 Rep. Kelker asked Mr. Twito about plea bargaining.
14:06:35 Rep. Kelker asked Mr. Twito about public reception to plea bargaining.
14:07:42 Mr. Twito responded to Rep. Kelker by describing the plea-bargaining process.
14:10:11 Sen. Regier asked Mr. Twito about details within the proposed legislation and whether he has presented it to the County Attorneys Association.
14:10:59 Ms. Guernsey commented on including the victim in the plea-bargaining process.

Public Comment on the Draft Legislation

14:13:51 None

Public Comment on any topic within CJOC jurisdiction

14:14:34 May Simmons, Polson

Work Session

14:17:02 Mr. Patelis asked the council for additional legislation requests.
14:17:49 Dir. Wolken stated that the council should hear from probation parole officers.
14:18:43 Rep. Kelker asked the council about money for different agencies and organizations.
14:20:41 Mr. Patelis asked about appropriations from the marijuana tax.
14:21:26 Dir. Gootkin stated that, in addition to questioning the costs, the council should also focus on the effectiveness of programs.
14:22:21 Mr. Patelis commented on individuals in transitional centers.
14:23:36 Rep. Usher asked the council to give additional input for future meetings.
14:25:17 Rep. Kelker commented on establishing standards for sober living homes.
14:27:39 Rep. Usher commented on using Tennessee SB 207 as a foundation for new legislation. ([Exhibit 7](#) - See March 23, 2022 Summary Minutes)
14:30:14 Mr. Twito commented on treatment courts.
14:31:43 Mr. Twito stated that Karen Tracy, Billings County attorney, might be willing to get involved in working on legislation.
14:31:52 Dir. Gootkin asked to include Megan Koy, from the DOC.
14:32:20 Rep. Kelker commented on establishing an annual report from DPHHS.
14:32:57 Ms. Kelly volunteered to work on the legislation.
14:33:41 Milly Allen, Research Analyst, gave a summary of the council's requests.
14:35:10 Sen. Regier asked Ms. Allen for clarification on the requests.
14:35:39 Dir. Gootkin commented on payments being included in the legislation.
14:35:49 Ms. Guersney asked Ms. Allen to include regulation regarding families in the legislation.

Motion/Vote

14:36:22 Rep. Usher moved for Ms. Allen to create legislation based on the Tennessee bill with alterations requested by the council.

Vote

14:36:29 Vote carried unanimously.

Committee Discussion

14:37:49 Ms. Tenney asked about inviting a presenter from the University of Cincinnati to discuss correctional practices.
Dir. Gootkin responded to Ms. Tenney.

14:38:17 Ms. Guernsey asked about the Behavioral Health Alliance's presentation and
14:38:48 looking further into addressing some of their concerns.
Dir. Wolken responded to Ms. Guernsey.

14:40:05 Rep. Usher commented on the council's ability to address some of the issues
14:40:50 facing the Behavioral Health Alliance.
Mr. Twito asked the council about inviting individuals who have experience as
14:42:17 victims in the criminal justice system.
Rep. Usher asked about Mr. Twito's draft legislation.

14:44:04 Dir. Wolken asked about sideboards in the legislation.

14:44:53 Mr. Twito responded to Dir. Wolken by discussing sideboards that currently exist
14:45:28 in legislation.
Sen. Regier asked Mr. Twito about DUI charges as felony offenses.

14:49:40 Mr. Twito recommended delaying a vote for the legislation until the draft is
14:51:02 updated per council recommendations.
Rep. Usher stated that the council should vote on the bill today.

14:52:14 Rep. Kelker stated her preference of having sideboards outlined on paper.

14:52:30 Mr. Twito commented on the persistent felony offender statutes.

14:53:01 Dir. Wolken asked Ms. Allen about researching habitual offender statutes in
14:53:48 other states.
Dir. Gootkin commented on Mr. Twito's comment on establishing DUI as a
14:54:10 felony.

Motion/Vote

14:54:28 Rep. Usher moved to allow Ms. Allen to continue working with Mr. Twito in creating a draft bill with sideboards outlined, and to also allow Ms. Allen to research statutes on habitual offenders in other states.

Vote

14:54:55 Vote carried unanimously with members present.

Council Report and Overview

14:55:46 Ms. Allen discussed the annual report that is to be submitted to the Governor by
September 15, 2022.

14:56:40 Rep. Usher asked the council their preferred mode for submitting the annual
report to LJIC.

14:57:47 Rep. Kelker stated her preference for submitting the report in person.

14:58:47 Rep. Usher asked the council for a non-legislator to present the report to LJIC.

14:59:28 Ms. Allen discussed the topics scheduled for CJOC's next meeting.
15:01:20 Rep. Usher asked Ms. Allen to include Dir. Wolken's request to include research on other states' statutes.
15:01:58 Rep. Usher asked the council to produce a doodle poll to assess their requests.
15:02:27 Rep. Usher asked the council for additional council business.
15:02:51 Sen. Regier asked the council to consider legislation on shoplifting and other issues presented to the committee.
15:03:54 Rep. Usher commented on auto theft as a felony offense.

Motion/Vote

15:04:35 Rep. Usher moved for Ms. Allen to work on legislation that details felony offenses.

Vote

15:04:43 Motion carried unanimously by voice vote with members present.

Committee Discussion

15:05:22 Rep. Usher stated Rep. Kelker's interest in working on legislation related to disorderly conduct.
15:06:00 Mr. Twito commented on disorderly conduct legislation.
15:06:04 Dir. Gootkin asked about the language in the legislation.
15:07:02 Rep. Usher commented on legislation that allows for individuals to avoid staying in jail until a judge is able to convict them.
15:08:38 Mr. Twito commented on standing masters who set bonds.
15:09:15 Rep. Usher asked the council for any additional requests.
15:10:42 Rep. Usher reminded the committee of the June 27 LJIC meeting.

ADJOURNMENT

15:11:14 Rep. Usher adjourned the meeting at 15:11:14