

**Memorandum**

To: Erin Sullivan, Research Analyst
Economic Affairs Interim Committee

From: David Ortley, Deputy Attorney General

Re: SJ31 Catch-All Penalty Provision

Date: July 15, 2022

After review of your June, 2022, Analysis of SJ 31, and the need for a “catch-all” penalty provision in 16-12-106, MCA, I agree that a “catch-all” provision is needed to ensure there is a statutory mechanism for prosecution of violations not otherwise specifically provided for in Title 16.

The only recommendation I make to your suggested “catch-all” is to substitute the words “must be charged and prosecuted . . . ” to “may be charged and prosecuted . . .”

The change makes clear that the “catch-all” retains prosecutorial discretion in the charging decision. That clarity will avoid unnecessary debate, and the need for interpretation by the judicial branch.

Thank you for the opportunity to consider the proposed Bill, and offer my recommendation.

DEPARTMENT OF JUSTICE

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