

For consideration on June 29, 2021

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Law and Justice Interim Committee (LJIC)

DRAFT WORK PLAN FOR THE 2021-2022 INTERIM

Purpose: To help the LJIC plan its interim and establish work priorities. When finalized, the work plan will provide guidance to the members, staff, and public on how the LJIC will conduct its business throughout the interim. It will serve as a blueprint that allows the LJIC to complete its work over the next 15 months.

DRAFT

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LJIC WORK PLAN, 2021-2022 -- DRAFT

ABOUT THE LAW AND JUSTICE INTERIM COMMITTEE (LJIC)

The LJIC is one of several interim committees established by law and required to meet in the months between regular legislative sessions. Interim committees provide oversight for the various state agencies, perform interim studies as needed and as assigned by the Legislative Council, and propose legislation for consideration at the next legislative session. The interim committees also give Montana's citizens an opportunity to provide testimony about their experiences with state government.

The LJIC is responsible for monitoring the activities of the Office of the State Public Defender (OPD), the Department of Corrections (DOC), the Department of Justice (DOJ)¹, and any entities attached to those agencies for administrative purposes. The administratively attached entities² that the LJIC monitors are:

- the Board of Pardons and Parole (attached to DOC);
- the Board of Crime Control (attached to DOJ); and
- the Gaming Advisory Council (attached to DOJ).

The committee also serves as the liaison to the Judicial Branch.

THE DRAFT WORK PLAN FOR THE 2021-2022 INTERIM INCLUDES:

- Background on the LJIC and its duties;
- A description of potential interim work topics and plans to address those topics; and
- A suggested meeting schedule.

COMMITTEE PROCEDURES AND PUBLIC PARTICIPATION

The LJIC is subject to the Legislative Council's Rules, Procedures, and Guidelines for Interim Committees. The rules and guidelines give structure to and provide requirements for the interim committees' work, including public notice and participation requirements, parliamentary procedures, legislative reimbursement, and the use of staff. The Council also suggests that interim committees complete their work by September 15, 2022.

A 10-day advance public notice will be given for all regular meetings, and the public will be given an opportunity to comment on any matter that is within the jurisdiction of the committee during meetings. The presiding officer may establish time limits for public comment, if necessary.

Meeting agendas, memos, links and other information can be found on the LJIC website:

<https://leg.mt.gov/committees/interim/ljic/>. Interested persons may also sign up to receive electronic meeting notifications at <https://public.govdelivery.com/accounts/MTLSB/subscriber/new>.

¹ Except for the Motor Vehicles Division, which will be overseen by the Transportation Interim Committee.

² The Public Safety Officer Standards and Training (POST) Council remains administratively attached to the DOJ with staff provided by a bureau of the DOJ (House Bill 693, 2021 Legislature).

PROXY VOTES

The [Legislative Council's Rules, Procedures, and Guidelines](#) guide the use of proxy votes in interim committees. Generally, the use of proxies is discouraged. However, "[f]or the exercise of a proxy to be valid, the deputized member shall hold a written proxy from the absent member." [Legislative Council's Rule, page 2] Unless the LJIC approves a different proxy policy, the Legislative Council policy applies.

During the 2019-2020 interim, the LJIC used the Legislative Council policy. Written proxies were given to the deputized member, the presiding officer, and staff, often by email.

HOW THE LJIC PLANS ITS WORK

DEVELOPING A WORK PLAN

The LJIC establishes its work plan at the beginning of the interim by revising the work plan during the organizational meeting and finalizing it at the fall meeting, if needed. The work plan is a blueprint for the interim. The primary constraint limiting the committee's work during the interim is the number of issues that can be effectively addressed within the available time and resources of the committee members and its staff.

This 2021-2022 work plan sets priorities and outlines how and where the LJIC will allocate its time and resources. Staff will use decisions made at the organizational meeting in June to develop plans to complete the committee's work by the September 15, 2022, interim end date.

The work plan is flexible and can be adjusted by the LJIC later if other issues require the committee's attention.

THE DRAFT DECISION MATRIX

The attached LJIC Work Plan Decision Matrix, a separate document, is a way to look at the topics side by side and review time allocations to each topic. It is used in conjunction with this draft work plan.

INSTRUCTIONS

1. Review the potential topics, including assigned studies, statutory duties, and any member-suggested topics presented with this work plan or suggested during the committee's work session.
2. Prioritize the topics you want the LJIC to focus on this interim.
3. Select the FTE you wish to allocate to each of the topics in which you're interested. The proposed FTE and corresponding level of study may be adjusted by the LJIC. **The total allocation available is 0.75 FTE.** The options you chose should add up to no more than 0.75 FTE. Use the draft decision matrix to assist you with this process.

WORK PLAN TOPICS

Work plan topics include study resolutions enacted by the 2021 Legislature and assigned to committees by the Legislative Council. It also includes statutorily assigned responsibilities and study topics suggested by legislators. Each is discussed further in this section.

SENATE BILL 303 STUDY OF INMATE TELECOMMUNICATIONS CONTRACTS AND COSTS

Senate Bill No. 303 (SB 303) requires the LJIC to study inmate telecommunications contracts and costs, including contracts for services provided in state prisons, other state-owned or operated facilities and county detention centers. Because the Legislature enacted the study in a bill, the LJIC is required to conduct the study. For that reason, the study choices offered to the committee do not include an option to do nothing with it.

A study plan for SB 303 is on page 12.

STUDY RESOLUTIONS ASSIGNED TO THE LJIC BY THE LEGISLATIVE COUNCIL

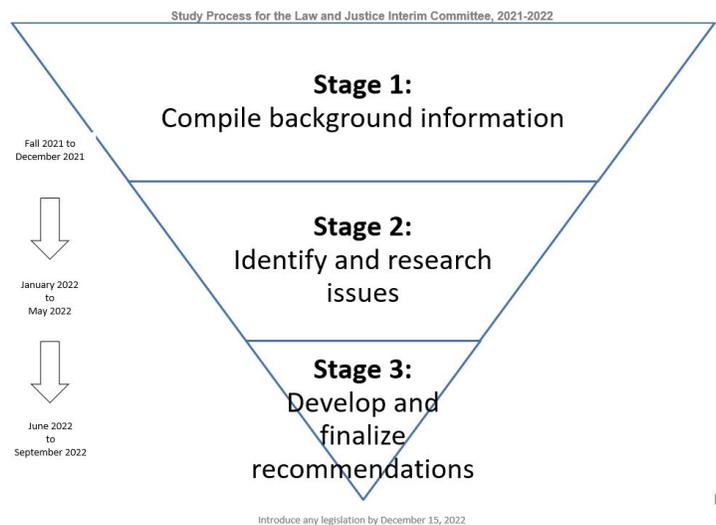
The Legislative Council assigned 5 studies to the LJIC for the 2021-2022 interim:

- HJ 4: Study of criminal proceedings and commitment of people with mental illness
- HJ 29: Study of victim services and funding in Montana
- HJ 31: Study of criminal justice system data in Montana
- HJ 40: Study of the Judicial Standards Commission
- SJ 26: Study of the Montana Women's Prison

Priorities for each study are expressed in staff hours (or FTE). Most studies have 3-4 options ranging from a full-blown, in-depth study to no action. While the LJIC can choose its preferred level of involvement for each study, most interim studies can be broken into three main stages:

- **Stage 1: Compile Background**

Information – This stage is usually the most expansive stage and includes several steps designed to help an interim committee gather background information about a study topic. It sets the foundation for the rest of the committee's work in the policy area. Information is usually generated from reviews of existing laws, other legislative staff research, and information provided by stakeholders through panel presentations or written materials.



- **Stage 2: Identify and Research Issues** – In this stage, committee members identify problems that could be addressed through further study, legislation, or other action. Study activities in Stage 2 can include further research from legislative staff and additional presentations from stakeholders or policy experts.
- **Stage 3: Develop/Finalize Recommendations** – After compiling background information, identifying issues, and researching options, the committee can discuss and act on recommendations it wants to make to the Legislature or others and on any legislation it wants to forward to the next Legislature.

If the LJIC chooses to take no action on a study, it should inform the Legislative Council of the recommendation. Study plans for each study start on page 12.

STATUTORY DUTIES AND OBLIGATIONS

The LJIC is assigned other responsibilities from several statutory sources, including the main statute guiding all interim committees' work: [section 5-5-215, MCA](#).

1. **Conduct interim studies** as assigned. The committee may recommend to the Legislative Council that a study be assigned to another committee or not be conducted.
2. **Review administrative rules** of the agencies assigned to the LJIC for oversight. A list of those agencies is on page 4 of this document.
3. **Review legislation** proposed by the agencies and the Judicial Branch. Bills requested by an individual member of the Legislature are not subject to this requirement. The review and authorization process is not an endorsement by the LJIC of the agency proposals.
4. **Complete additional statutory duties** including receiving reports required by law to be given to the LJIC.
5. **Monitor the operation of the agencies assigned to the LJIC** with specific attention to the following:
 - a. identification of issues likely to require future legislative attention;
 - b. opportunities to improve existing law through the analysis of problems; and
 - c. experiences of Montana's citizens with the operation of the agency that may be amenable to improvement through legislative action.
6. **Review proposed ballot initiatives** in the LJIC's subject area. (This duty is new in 2021 and might require the LJIC to hold additional meetings to accomplish the review in the timeline required by law.)³
7. (Committee driven): Prepare bills and resolutions that, in the committee's opinion, the welfare of the state may require for presentation to the next regular session.
8. (Committee driven): Compile, analyze, and furnish information bearing on the committee's assignment and relevant to existing or prospective legislation that the committee determines to be pertinent to the adequate completion of its work.

The LJIC is also required by [section 5-5-226, MCA](#) to act as the liaison with the judiciary. In this capacity, the committee gets updates from court members and staff, receives statutorily required reports, and reviews the Judicial Branch's requested legislation.

³ [Required by Chapter 554, Laws of 2021 \(HB 651\)](#).

REQUIRED REPORTS

Various laws require agencies to report information to the LJIC. In addition to other statutory reports, [HB 693, the companion bill for the Section D portion of House Bill No. 2 in the 2021 session](#), requires numerous agency reports to the LJIC.

| Agency or Branch | Description | Law and Timeline* |
|---------------------------|--|--|
| Judicial Branch | Out-of-home placements report | Biennially, section 41-3-2003 |
| Judicial Branch | Pending civil cases report | Quarterly for fiscal year, HB 693 (2021) |
| Department of Justice | Domestic Violence Fatality Review Commission report | Biennially, section 2-15-2017 |
| Department of Justice | Statewide Public Safety Communications System report | Biennially, section 44-4-1606 |
| Department of Justice | Montana False Claims Act report | Biennially, section 17-8-416 |
| Department of Justice | Child Abuse and Neglect Review Commission report | Biennially, section 41-3-123 (temporary) |
| Department of Justice | HB 640 status report on childhood sexual assault prosecutions | Annually by 9/1, section 41-3-210 |
| Department of Justice | HB 640 status report since 2021 session | By 8/1/21, HB 693 (2021) |
| Department of Justice | POST Council transition report | Not specified but customarily each regularly scheduled LJIC meeting, 2-15-2029 (temporary) |
| Department of Justice | Human trafficking investigations | By 9/1/22, HB 693 (2021) |
| Department of Justice | Referrals to Internet Crimes Against Children funded programs and investigations | By 9/1/22, HB 693 (2021) |
| Department of Justice | Treatment court expungement report | By 9/1/22, HB 693 (2021) |
| Board of Crime Control | Restorative justice grant programs | Annually, section 44-7-302 |
| Department of Corrections | MIIG supervision grid | Annually, section 46-23-2028 |
| Department of Corrections | Quality Assurance Unit | Annually, section 53-1-211 |
| Department of Corrections | Utilization of drug treatment beds | Quarterly for biennium, HB 693 (2021) |
| Department of Corrections | Rental voucher program | By 9/1/22, HB 693 (2021) |
| Department of Corrections | MWP vocational programming options | By 9/1/22, HB 693 (2021) |
| Department of Corrections | Jail holds update | Quarterly for biennium, HB 693 (2021) |

| | | |
|---|---|--|
| Department of Corrections | Report on new felony and revocations for compliance violations between 2021 and 2022 for offenders on supervision or in DOC custody from 2015 to 2021 | By 9/1/22, HB 693 (2021) |
| Office of State Public Defender | Biennial report | Biennially, section 47-1-125 |
| Office of State Public Defender (technically the Legislative Fiscal Division) | 5-year funding report | Every 5 years, 47-1-125 (next due FY 2024) |
| Criminal Justice Oversight Council | Biennial report | Biennially, section 53-1-216 |

* Unless otherwise stated, biennial reports are usually due by September 1 of the year prior to a legislative session.

ADDITIONAL TOPICS FOR LJIC DISCUSSION

Typically, the LJIC members allocate committee and staff time to gather information or provide updates on topics that were the subject of recent legislation or recent LJIC attention or issues that may emerge during the interim.

During the previous interim, the LJIC reviewed 20-year histories of agency expenditure data and received budget updates from the Legislative Fiscal Division staff, examined pretrial decisionmaking laws and best practices, and received regular updates from the Department of Corrections on developments from the COVID-19 pandemic.

Due to the recent flurry of legislative activity in the criminal justice realm, there are numerous topics the LJIC could choose to designate committee time to study. However, given the number of studies assigned to the LJIC this interim, time to pursue other topics might be limited if the committee plans to dive deep into one or more of the study topics. Many issues will overlap with the committee's routine agency oversight duties, so there is flexibility for the committee to choose what issues of interest should be covered and in what manner.

A list of possible issues and FTE allocations is provided in the attached work plan decision matrix. State created the initial issue list from issues raised prior to the meeting. However, the committee *is not* limited to choices on that list. It is merely a selection of possibilities. Members should discuss and decide upon their actual priorities during the organizational meeting. If additional issues emerge over the course of the interim, the LJIC is free to revise the work plan to accommodate its changing needs. The LJIC's focus on the Department of Corrections' response to the COVID-19 pandemic in 2020 is one example of an event spurring a work plan revision.

INDIVIDUAL MEMBER RESEARCH REQUESTS

Individual members of the committee may seek additional information on issues that fall under the jurisdiction of the LJIC. These issues may be raised by constituents, may be emerging problems in Montana or other states, or may be of interest to a particular member. If the committee chooses not to pursue information on a topic, the individual committee member may submit a research request. Under rules adopted by the Legislative Council, a staff member may provide up to 16 hours of research for a request that is not included in a committee's work plan unless the presiding officer of the interim committee approves additional research time.

DRAFT 2021-2022 LJIC WORK PLAN TIMELINE

The following meeting dates provide a tentative schedule for the interim. This work plan proposes 10 meeting days, excluding the organizational meeting. The LJIC was allocated approximately \$48,880 as an interim budget to cover committee members' salary, per diem, travel reimbursements, and administrative expenses. If the LJIC forms a subcommittee, money must be allocated from the budget to cover these costs, and the number of meeting days for the full committee may be reduced. A more specific outline of potential tasks for each meeting will be tracked in a separate meeting chart once the LJIC adopts a work plan.

Committee members may change the dates or number of meetings as their schedules and the budget allow to better reflect their needs for the interim and any changing priorities as the interim progresses. However, because the LJIC shares 9 members with a combination of 7 other interim committees and shares staff with other commissions and committees, changing or adding meeting dates after the LJIC adopts a work plan will be difficult this interim.

- June 29, 2021 **Organizational Meeting.**
- Interim work plan prioritization and other organizational tasks
 - Agency introductions and overviews
 - Selection of studies and topics
- September 13, 2021 **1-day meeting.**
- Adoption of final work plan
 - Review of initial interim meeting chart and future meeting topics
 - Start studies and continue agency oversight
- October 28-29, 2021 **2-day meeting.**
- Continue studies and agency oversight
- January 19, 2022 **1-day meeting.**
- Continue studies and agency oversight
- March 21-22, 2022 **2-day meeting.**
- Continue studies and agency oversight
 - Develop/discuss any draft recommendations
 - Develop topics for final reports, if any
- May 9-10, 2022 **2-day meeting.**
- Continue studies and agency oversight
 - Develop/discuss any draft recommendations
 - Revise/review draft study documents
 - Revise recommendations, proposed legislation
- June 28, 2022 **1-day meeting.**
- Develop/discuss any draft recommendations
 - Revise/review draft study documents
 - Revise recommendations, proposed legislation
 - Authorize agency bill draft requests

August 29, 2022

Final meeting.

- Final approval of recommendations, reports, proposed legislation
- Select bill sponsors
- Authorize agency bill draft requests

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SB 303 STUDY OF INMATE TELECOMMUNICATIONS CONTRACTS AND COSTS

STUDY BACKGROUND

Sponsor: Sen. Tom McGillvray

Poll Rank: Not applicable, assigned by law

The House Judiciary Committee amended SB 303 to remove the bill's substantive provisions that revised rates that the state could charge inmates for phone calls and limited fees that could be charged by state and local facilities for inmate telecommunication services. The amendment required the LJIC to study the topic in the interim. Committee discussion during executive action indicated members understood the importance of the issue with the public, noted the Department of Corrections and the sheriffs' association were willing to help with the study, and preferred to take legislative action related to the telecommunications contracts. However, existing contracts and differences between the operation of state and local facilities complicated the issues, so the legislators decided a study would be the best option to generate information for the next Legislature.

The amendment also required the Legislative Audit Division to conduct a performance audit of the inmate welfare fund, which is partially funded by revenues from the state's contract for inmate telecommunications services. The results should be reported to the Legislative Audit Committee, the LJIC, and the 2023 Legislature.

STUDY TASKS

SB 303 requires the LJIC to:

- examine current phone call rates and ancillary fees charged by state prisons/facilities and county detention centers;
- review cooperative purchasing agreement laws to determine how the state and counties could partner to provide for telecommunications services;
- review methods used in other states to provide telecommunications services to state and local inmates, including whether states use general fund appropriations to subsidize phone rates for inmates;
- review studies to determine if inmate recidivism is lowered by continued contact with families and friends while incarcerated;
- examine the statutory basis for the inmate welfare fund, including funding sources and expenditures;
- review federal rate caps for interstate calls from state prisons and detention centers and any effects federal law might have on state and local telecommunications contracts; and
- determine, if possible, the lowest cost that could be assessed to inmates in state and county facilities for phone calls.

STUDY RESOURCES

While conducting the study, the LJIC will rely heavily on the Department of Corrections' staff and staff for the private and regional prisons. Because the study includes a review of county detention centers' rates, input from county sheriffs and the detention center commanders will be essential.

In addition, SB 303 requires the LJIC to consult with other stakeholders, including families of incarcerated or detained individuals, organizations advocating on behalf of those individuals, and telecommunications services providers. The LJIC might also contact staff of other states' corrections departments to gather input or advice on other contract options or models the LJIC could consider.

The LJIC will also need to coordinate with the Legislative Audit Committee to ensure the LJIC receives an update on the results of a performance audit of the Inmate Welfare Fund (IWF) that is required in SB 303.

OUTLINE OF STUDY PROCESS AND POTENTIAL ACTIVITIES

SB 303 is a required study with an expansive scope, so the earlier in the interim the LJIC can engage in the study topics, the more likely members will be to gather the information they feel will best assist the 2023 Legislature consider any legislation on this topic.

| Option A | Option B | Option C | Option D |
|--|--|---|---|
| 0.45 FTE | 0.25 FTE | 0.15 FTE | 0.02 FTE |
| <ul style="list-style-type: none"> ◦ All of Option B ◦ Additional staff research on cooperative purchasing in other states ◦ Staff research or expert presentation on recidivism studies and rates <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff papers ◦ Final report ◦ Legislation | <ul style="list-style-type: none"> ◦ All of Option C except IWF presentation ◦ Staff research on cooperative purchasing laws in MT, how other states provide services, and the IWF <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff papers ◦ Study summary ◦ Legislation | <ul style="list-style-type: none"> ◦ Receive audit report ◦ Direct staff to acquire current rate information for DOC facilities, regional and private prisons, and county detention centers, and on federal caps ◦ Panel presentations to gather stakeholder feedback on the IWF, other topics, options, and any draft legislation <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff papers ◦ Study summary ◦ Legislation | <ul style="list-style-type: none"> ◦ Receive audit report ◦ Panel presentations to gather stakeholder feedback on the IWF, other topics, options, and any draft legislation <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Legislation |

HJ 4 STUDY OF CRIMINAL PROCEEDINGS FOR PEOPLE WITH MENTAL ILLNESS

STUDY BACKGROUND

Sponsor: Rep. Mary Caferro

Poll Rank: 7 of 28

Montana is one of four states in the United States that does not allow a criminal defendant to raise the so-called "insanity defense" to avoid conviction on the grounds that the defendant was suffering from a mental disorder that made the defendant unable to understand the criminal nature of the acts at issue or to conform to the requirements of law. The Montana Legislature eliminated the insanity defense in 1979. Instead, Montana uses medical legal categories for criminal defendants and offenders, including guilty but mentally ill, not guilty due to mental illness, and unfit to proceed to trial. If a judge determines that a person was guilty of a crime but suffered from a mental disorder at the time the crime was committed, the judge must sentence the person to the director of the Department of Health and Human Services (DPHHS) for placement in an appropriate facility. An increasing number of these adult commitments has placed pressure on the department and its facility for people who have been criminally committed to the department. Since the creation in 2016 of the 54-bed Forensic Mental Health Facility at Galen for adults who are criminally committed to DPHHS, the Legislature has not closely examined the facility's role in the mental health and criminal justice system.

STUDY TASKS

HJ 4 asks the interim committee to:

- analyze the legal framework of the existing statutes for determining criminality of defendants with mental illness, including disposition, treatment, sentencing, conditional release, and monitoring of the defendants; and
- examine the use of the Forensic Mental Health Facility, including criteria for admission, costs of operation, transfers to the Montana State Prison or other correctional facilities, availability of the facility for people being held in local correctional facilities, and the optimal use of the facility in Montana's mental health and criminal justice systems.

STUDY RESOURCES

The staff attorneys for the LJIC and the Children, Families, Health and Human Services (CFHHS) Interim Committee will be key resources given their experience studying the topic and drafting bills related to it. The DPHHS staff can provide information related to admissions criteria for Galen, numbers of people placed at the facility and the reasons, and feedback on what might be the optimal role for the facility. Other state government stakeholders who might provide data or perspectives are the Office of Public Defender, the Department of Corrections, and district court judges. The LJIC will want to seek perspectives from community and family stakeholders when determining the optimal role for Galen or reviewing potential changes to state law. The National Conference of State Legislatures (NCSL) might provide cross-state comparisons of use of the insanity defense and of the treatment of the mentally ill in communities and in the criminal justice system.

TIME ALLOCATIONS AND POTENTIAL ACTIVITIES

| Option A | Option B | Option C | Option D |
|----------|---|---|-------------------------|
| 0.00 FTE | 0.10 FTE | 0.02 FTE | 0.00 FTE |
| | <ul style="list-style-type: none"> ◦ All of Option C ◦ Staff papers on existing Montana laws, legal framework in other states, recent U.S. Supreme Court ruling on topic, data on use and cost of Galen facility ◦ Travel to Galen (if wanted) <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff papers ◦ Study summary ◦ Legislation | <ul style="list-style-type: none"> ◦ Panel discussion(s) to review laws in Montana and other states, use of Galen facility, and stakeholder perspectives of alternatives including prior legislation <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Legislation | <p>No Action</p> |

DRAFT

HJ 29 STUDY OF VICTIM SERVICES AND FUNDING

Sponsor: Rep. Neil Duram

Poll Rank: 22 of 28

Federal grant funds from the Victims of Crime Act, the Violence Against Women Act, and the Sexual Assault Services Program provide the bulk of victim services funds in Montana. The state does not provide General Fund appropriations to victim services programs. Because the federal funding streams fluctuate and have become unstable, local programs relying on those grant funds face funding uncertainty and pressure.

STUDY TASKS

HJ 29 asks the LJIC to explore how the state can support victim services programs and ensure that these programs will be adequately and sustainably funded.

STUDY RESOURCES

The Board of Crime Control (MBCC) receives and disburses to local recipients much of the federal funding for victim services and programs. Recently the MBCC convened meetings of victim services stakeholders to review victim services programs' goals, priorities, and needs. Stakeholders include advocates from community-based programs, advocates from government programs (county and state), tribal programs, courts, county attorneys, and public defenders. They will be essential resources for most stages of the study. MBCC staff can provide information on current funding sources and amounts. Because the LJIC conducted a study of the MBCC last interim, it can rely on previously gathered background information and committee expertise for the HJ 29 study.

TIME ALLOCATIONS AND POTENTIAL ACTIVITIES

| Option A | Option B | Option C | Option D |
|-----------------|--|--|------------------|
| 0.00 FTE | 0.10 FTE | 0.02 FTE | 0.00 FTE |
| | <ul style="list-style-type: none"> ◦ All of Option C ◦ Staff paper examining how other states fund victim services <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff paper(s) ◦ Study summary ◦ Legislation | <ul style="list-style-type: none"> ◦ Panel discussions to summarize stakeholder group meetings, identify current funding sources and allocation levels, projected funding gaps, and opportunities for new sources ◦ Round table discussion to gather feedback on draft legislation, <i>if wanted</i> <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Legislation | No Action |

HJ 31 STUDY OF CRIMINAL JUSTICE SYSTEM DATA IN MONTANA

STUDY BACKGROUND

Sponsor: Rep. Frank Fleming

Poll Rank: 3 of 28

Although most state, tribal, and local criminal justice agencies collect data, Montana does not have a central database or clearinghouse. That absence can limit the state's ability to identify areas that might benefit from statutory changes and to track the effectiveness of improvements to criminal justice system processes and interventions. The 2017 Legislature enacted multiple bills to restructure parts of the state's criminal justice system. However, tracking the effectiveness of those changes has been hindered by the lack of accurate, complete data from arrest to release from prison or supervision. Local criminal justice system data, including charging decisions, can be difficult to obtain but is crucial to understanding the statewide system and comparing outcomes in different jurisdictions. Although criminal justice data, its quality, and its use to measure criminal justice system outcomes are often discussed in legislative hearings, these topics have not been the focus of an interim study.

STUDY TASKS

HJ 31 asks the interim committee to:

- inventory existing statutory requirements to collect data related to the criminal justice system;
- identify what criminal justice system data elements are currently collected and maintained by state and local governments;
- review how all data elements are being collected, maintained, or reported, including but not limited to the software programs or technologies used in the collection, maintenance, or reporting of the data;
- review national best practices related to the collection and accessibility of criminal justice system data and other states' use of data portals to provide public access to criminal justice system data;
- assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the Legislature, and the public adequate information to determine whether state resources are being used efficiently and effectively to achieve the state's correctional and sentencing policy;
- identify any gaps in the data or accessibility to the data for research purposes and for use by system stakeholders and policymakers; and
- recommend solutions to improve and fund the comprehensive and consistent collection, maintenance, analysis, and accessibility of criminal justice system data at the state and local levels.

STUDY RESOURCES

At least two national organizations have circulated model bills related to collection of criminal justice data elements. Those organizations and other stakeholders can provide critical expertise and input on the LJIC's work. Because of the study's breadth, government stakeholders at every level of the criminal justice system would need provide information on their data collection activities, offer suggestions of improvements, and offer feedback on any recommendations or draft legislation the LJIC might develop. The state-level stakeholders include the Judicial Branch, the Department of Corrections, the Department of Justice, the Board of Crime Control, the Office of State Public Defender, and the Department of Public Health and Human Services. County attorneys, county

sheriffs, courts of limited jurisdiction, and city and county government officials all play a role in local criminal justice data collection. Data is also collected and reported by tribal governing bodies and law enforcement officials. Other non-governmental stakeholders can provide suggestions and feedback as the LJIC narrows its focus and develops recommendations and legislation.

TIME ALLOCATIONS AND POTENTIAL ACTIVITIES

This study is a large study and could easily occupy the LJIC's full attention for most of the interim should the LJIC choose to devote their time and that of their staff to it.

| Option A | Option B | Option C | Option D |
|---|---|--|-------------------------|
| 0.50 FTE | 0.30 FTE | 0.15 FTE | 0.00 FTE |
| <ul style="list-style-type: none"> ◦ All of Option B except staff research would be on <u>all</u> data elements collected by agencies and not limited to elements from the model legislation ◦ Staff research on best practices ◦ Collect agencies' data reporting policies ◦ Additional panel discussions on topics identified by the LJIC <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Summary of existing statutes ◦ Other staff papers ◦ Collection of data reporting policies ◦ Final report ◦ Legislation | <ul style="list-style-type: none"> ◦ Staff paper on existing statutes requiring collection of data ◦ Staff research into what data elements listed in model legislation agencies collect currently ◦ Review existing model legislation on data collection, direct staff to draft similar legislation ◦ Panel discussions on: <ul style="list-style-type: none"> ◦ best practices ◦ other states' efforts and costs ◦ identification of gaps and solutions to improve collection/dissemination of data ◦ the draft MT legislation based on model bills ◦ other issues identified by the LJIC <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Summary of existing statutes ◦ Other staff papers ◦ Study summary ◦ Legislation | <ul style="list-style-type: none"> ◦ Staff paper on existing statutes requiring data collection ◦ Review existing model legislation on data collection, direct staff to draft similar legislation ◦ 2-3 panel discussion(s) on: <ul style="list-style-type: none"> ◦ current data collected ◦ other states' efforts and costs ◦ identification of gaps and solutions to improve collection/dissemination of data ◦ the draft MT legislation based on model bills <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Summary of existing statutes ◦ Study summary ◦ Legislation | <p>No Action</p> |

HJ 40 STUDY OF THE JUDICIAL STANDARDS COMMISSION

STUDY BACKGROUND

Sponsor: Rep. Bill Mercer

Poll Rank: 13 of 28

The Montana Constitution provides for the removal and discipline of judges and requires that the Legislature create a Judicial Standards Commission. In the laws governing the commission, the Legislature provides authority to the Legislative Auditor "to determine whether [the commission] is efficiently and effectively processing complaints against judicial officers in the state," and gives the auditor the right to access otherwise confidential materials related to the commission. In 2021, the Legislature considered several bills related to the removal and discipline of judges and the Judicial Standards Commission.

HJ 40 also requested that the Legislative Audit Committee (LAC) prioritize a performance audit of the commission. The resolution noted that the Legislature has not yet conducted an interim study of the Judicial Standards Commission but would benefit from the suggested two-pronged review approach of an audit and study.

STUDY TASKS

HJ 40 asks the interim committee to:

- review the history, structure, and operation of the Judicial Standards Commission and other topics selected by the committee;
- examine methods used by others states to resolve complaints against judicial officers; and
- involve the public and other stakeholders identified by the committee.

In addition, HJ 40 requests that the LJIC review the results of a performance audit and requests legislation to implement any recommendations from the audit.

STUDY RESOURCES

The LJIC will rely on input from the current and former members of the Judicial Standards Commission as well as testimony from stakeholders ranging from judicial officers, members of the bar, and the public. If the LAC members prioritize the HJ 40 audit and if its results are available prior to the LJIC's final meeting, the LJIC members will benefit from the LAC's review of otherwise confidential materials.

TIME ALLOCATIONS AND POTENTIAL ACTIVITIES

One decision point for the LJIC is whether and to how to coordinate its work with that of the LAC.

| Option A | Option B | Option C | Option D |
|--|--|---|---|
| 0.20 FTE | 0.10 FTE | 0.005 FTE | 0.00 FTE |
| <ul style="list-style-type: none"> ◦ Staff research on methods used in other states to handle complaints ◦ Staff research and panel presentations on other topics selected by LJIC <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff papers ◦ Study summary ◦ Legislation | <ul style="list-style-type: none"> ◦ Staff paper on history, structure of commission, including constitutional convention history and legislative history of statutes ◦ Panel discussion or roundtable discussion on structure, history of commission, including panelists' views on current commission operations and ideas for changes ◦ Audit results presentation (if available) <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff paper ◦ Study summary ◦ Legislation | <ul style="list-style-type: none"> ◦ Audit results presentation (if available) <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Legislation | <p style="text-align: center;">No Action</p> |

SJ 26 STUDY OF MONTANA WOMEN'S PRISON

STUDY BACKGROUND

Sponsor: Sen. Diane Sands

Poll Rank: 23 of 28

The Montana Women's Prison (MWP) is located in Billings. The DOC purchased the current prison building in 1994. It previously served as a psychiatric hospital before being converted to a prison facility, and its last major expansion occurred in 2003. The prison has 250 beds and houses approximately 225 felony inmates, a significant number of whom are American Indian. Access to educational opportunities and job training is not adequate or equal to those in the men's facilities. In addition, the MWP has an aging inmate population and lacks a geriatric facility comparable to that available for male inmates.

STUDY TASKS

SB 26 asks the interim committee to examine:

- the adequacy of the prison facility to meet the living, programming, training, and educational needs of the inmate population;
- the adequacy of the facility to meet the unique needs of an aging population;
- the demographics of the inmate population, including the number of women of color, veterans, inmates who are parents, educational level, and crimes for which they were sentenced;
- available and needed workforce training programs, educational programs, and counseling and therapeutic resources, including those resources specific to survivors of sexual assault and violence and other Adverse Childhood Experience Score traumas and for the special and medical needs of women who are parents, veterans, and Indigenous or people of color;
- the adequacy of Prison Rape Elimination Act programming, training, and reporting procedures related to sexual assault in the prison;
- issues related to discharge and parole, reentry programs, diversion opportunities specific to women, and the number of women who reenter the corrections system through violations of community supervision terms or through conviction for a new crime; and
- the number of female youths in the custody of the Department of Corrections, including the nature of the residential placements and programs available for those female youths.

STUDY RESOURCES

The Department of Corrections recently contracted for a Strategic Development Master Plan for department facilities, including facility analysis and recommendations for the MWP. The MWP staff will also be key sources of information for the study.

TIME ALLOCATIONS AND POTENTIAL ACTIVITIES

During hearings, the study sponsor noted that the study was broad and presented opportunities for topics to be studied either at the 10,000 foot level and the 5 foot level. The options below are designed to present both the deep-dive approach and the higher-level review.

| Option A | Option B | Option C | Option D |
|---|--|--|-------------------------|
| 0.25 FTE | 0.15 FTE | 0.05 FTE | 0.00 FTE |
| <ul style="list-style-type: none"> ◦ All of Option B ◦ Staff paper(s) on additional topics identified by the committee ◦ Additional panels on topics identified by the committee or roundtables discussing options for new facilities <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff papers ◦ Final report ◦ Legislation | <ul style="list-style-type: none"> ◦ All of Option C ◦ Staff paper(s) on the demographics of inmate population, and PREA background ◦ Tour MWP as committee (if wanted) ◦ Additional panels on topics identified by the LJIC <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Staff paper(s) ◦ Study summary ◦ Legislation | <ul style="list-style-type: none"> ◦ DOC staff or consultant review of recent strategic master plan aspects relating to MWP ◦ Receive DOC report on vocational programming options (HB 693) ◦ 1-2 panel discussion(s) to review available programming at MWP and gaps, adequacy of facility, and proposed solutions/costs <p>Deliverables</p> <ul style="list-style-type: none"> ◦ Study summary ◦ Legislation | <p>No Action</p> |