



## **LAW AND JUSTICE INTERIM COMMITTEE**

### **67th Montana Legislature**

#### **SENATE MEMBERS**

John Esp  
Jen Gross  
Ryan Lynch  
Tom McGillvray  
Keith Regier  
Susan Webber

#### **HOUSE MEMBERS**

Laurie Bishop  
Sherry Essmann  
Donavon Hawk  
Emma Kerr-Carpenter  
Amy Regier  
Barry Usher

#### **COMMITTEE STAFF**

Julianne Burkhardt - Attorney  
Bethany McDowell - Secretary  
Rachel Weiss - Research Analyst

# **MINUTES LOG**

May 9, 2022  
Room 317/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. John Esp, Chair (R)  
Rep. Laurie Bishop (D)  
Rep. Sherry Essmann (R)  
Rep. Donavon Hawk (D)  
Sen. Ryan Lynch (D)  
Sen. Tom McGillvray (R)  
Sen. Keith Regier (R)  
Rep. Amy Regier (R)  
Rep. Barry Usher (R)  
Sen. Susan Webber (D)

#### **MEMBERS EXCUSED:**

Sen. Jen Gross (D)  
Rep. Emma Kerr-Carpenter (D)

#### **MEMBERS ABSENT:**

#### **STAFF PRESENT:**

Julianne Burkhardt, Attorney  
Bethany McDowell, Secretary

Rachel Weiss, Research Analyst

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

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

**COMMITTEE ACTION**

**CALL TO ORDER/ROLL CALL**

09:01:46 Sen. John Esp-R called the meeting to order at 9:01 AM. The committee secretary took roll.

**Opening Remarks**

09:03:02 Sen. Esp asked for a moment of silence for the late Sen. Sweeney.

**HJ 31 Study of Criminal Justice System Data**

09:03:42 Ashley Dowell, Executive Director for Idaho Commission of Pardons and Parole, and Monty Prow, Director of the Idaho Department of Juvenile Corrections, gave a presentation on Idaho's criminal justice system data sharing program, Insight Idaho. [\(Exhibit 1\)](#)

**Committee Questions/Discussion**

09:29:17 Sen. Lynch asked the presenters to describe the State Controller's Office and their role in implementing the data sharing program.

09:32:16 Sen. Lynch asked the presenters to describe any other functions of the State Controller's Office.

09:33:57 Sen. Lynch asked the presenters for details about how the program works.

09:37:46 Sen. Lynch asked about presenting Insight Idaho to officials at the local level.

09:41:22 Rep. Usher asked the presenters about funding for the criminal justice system data sharing program.

09:44:40 Rep. Usher asked the presenters to clarify whether they received grant funding for the program.

09:45:35 Rep. Bishop asked the presenters to describe the timeline from preparing Insight Idaho, to getting it passed in the Idaho legislature.

09:49:12 Rep. Bishop asked the presenters if there were any data sharing program models from other states that they believed would be beneficial for the committee to look at.

09:51:45 Sen. Esp asked Ms. Dowell about the immunity issue in the bill.

09:52:45 Sen. Esp asked Ms. Dowell for recommendations on tailoring the language in the statute.

09:53:19 Rep. Essmann asked the presenters about the consistency of funds and whether the necessary amount to operate the program fluctuates.

**BREAK**

9:56:15 Reconvened at 10:15:16.

### **HJ 31 Study of Criminal Justice System Data continued**

10:15:57 Rachel Weiss, Research Analyst for the Law and Justice Interim Committee, introduced the draft legislation for HJ 31 and the documents related to it from the agencies. ([Exhibit 2](#) and [Exhibit 3](#)) She also presented a written-in public comment to the committee. (See Exhibit 5)

### **Discussion with Montana criminal justice system stakeholders**

10:18:51 Beth McLaughlin, Court Administrator for the Judicial Branch, began the discussion on behalf of the Judicial Branch and its role and expectations regarding criminal justice data sharing. She stated there was no additional information besides that which was already presented to the committee. (See exhibit 3)

10:21:46 Anne Dormady, Crime Information Bureau Chief at the Division of Criminal Investigation at the Department of Justice (DOJ) and Alan Doane, stated that the DOJ did not have more to add to what was already presented to the committee. (See exhibit 3)

10:22:48 John Daugherty, Chief Executive of Central Services at the Department of Corrections (DOC), said there was no additional comments to be made on behalf of the DOC other than those already given to the committee. (See exhibit 3)

10:25:06 Brett Schandelson, Development and Operations Bureau Chief at the Office of State Public Defender (OPD) presented the OPD's responses to the draft legislation and the questions submitted by LJIC members. (See exhibit 3)

10:31:19 Sheriff Leo Dutton, Board Presiding Officer for the Montana Board of Crime Control (MBCC), discussed the draft legislation and the concerns and recommendations of the Board of Crime Control regarding the draft legislation. (See exhibit 2)

10:35:02 Natalia Bowser, Executive Director for MBCC, described the potential resources that the MBCC might need to implement a data sharing program.

10:35:10 Bill Fulbright, Ravalli County Attorney, discussed the concerns of the County Attorneys Association regarding the draft legislation. (See exhibit 2)

10:43:09 Sheila DeVries, Yellowstone County Records Supervisor, discussed the work that would be required from the Sheriff's office and the resources that would be required in entering and collecting criminal justice system data.

### **Committee Questions/Discussion**

10:46:14 Sen. Regier asked Sheriff Dutton about the process of sharing information and how it might affect his office. (See exhibit 2)

10:49:04 Sen. Regier asked Mr. Schandelson about reducing the data that is shared.

10:51:21 Sen. Esp asked Ms. McLaughlin to clarify Mr. Schandelson's response by describing the role of the court in data sharing.

10:56:38 Sen. Esp discussed the Judicial Branch Current Data Exchange document that correlates to the points made by Ms. McLaughlin. ([Exhibit 4](#))

10:59:10 Rep. Usher asked the stakeholders what they thought about the complexity of a system like Snowflake, which was presented at the previous LJIC meeting in March 2022. (See Summary Minutes on March 22, 2022)

10:59:36 Rep. Usher asked Mr. Schandelson what his thoughts were regarding the Snowflake program.

11:02:23 Sheriff Dutton responded to Rep. Usher's question by describing the different types of data-gathering systems in Montana.

11:06:02 Mr. Fulbright responded to Rep. Usher's question.

11:08:49 Sen. Regier asked Ms. Dormady to describe her role for the DOJ.

11:10:36 Sen. Lynch explained the data sharing program and asked the stakeholders specifics around implementing it.

11:17:24 Director Brian Gootkin, DOC, commented on the DOC's intention to help establish a new system that will integrate criminal justice system data.

11:19:07 Ms. McLaughlin explained the current focus of the Judicial Branch.

11:22:27 Sheriff Dutton explained the roadblocks that inhibit integration and his concerns for implementing a new program.

11:25:06 Ms. Fulbright described the potential apprehension at the county level behind implementing a new program.

11:28:22 Ms. Weiss and Sen. Lynch discussed creating a new document to clarify any questions to the stakeholders and address their concerns.

11:30:37 Rep. Bishop asked Sheriff Dutton if the sheriff's office currently uses an electronic system for citations.

11:31:20 Ms. McLaughlin responded to Rep. Bishop.

11:32:01 Rep. Usher commented on the goal to create efficient systems for the agencies.

11:33:21 Rep. Essmann commented on the potential timeline of implementing the data integration program. She continued by asking the stakeholders to send in relevant information to ensure no data is duplicated and the program is being used for its intended purpose.

11:35:43 Sen. Esp asked the stakeholders their thoughts on the Idaho presentation and how Montana agencies can implement a similar type of reporting system.

11:38:01 Ms. McLaughlin asked the committee to find any data elements that they need so that the agencies are not doing unnecessary work and the systems do not contain extraneous information.

11:38:24 Sen. Lynch responded to Ms. McLaughlin. He continued by explaining the reasons behind the steps that need to be taken.

11:40:57 Mr. Schandelson stated his thoughts on the necessary initial steps in implementing a data sharing program.

11:45:11 Sen. Esp asked about other states' right to privacy established in their constitutions.

11:45:16 Mr. Schandelson responded by describing the right to privacy laws in Montana and how a data sharing program will have to work around those statutes.

11:47:24 Sen. Esp asked Rep. Usher to share additional information on a program.

11:47:40 Rep. Usher discussed details regarding implementing a new program.

#### **LUNCH**

11:52:13 Reconvened at 13:16:32.

#### **Public Comment on the HJ 31 study and draft legislation**

13:17:03 Written public comment presented to the committee on HJ 31 study of criminal justice system data - [Exhibit 5](#)

13:17:09 Sen. Esp read a statement that clarified the purpose of public comment and the legislators' duties.

13:18:26 Brian Thompson, Montana County Attorneys Association and Montana Sheriffs and Peace Officers Association.

13:20:33 Amy Sings In The Timber, Montana Innocence Project

13:22:03 Mark Murphy, Helena  
13:26:41 May Simmons, Polson  
13:30:37 Henry Kriegel, Montana Americans for Prosperity

#### **HJ 40 Study of Judicial Standards Commission**

13:36:19 Ms. Weiss introduced the HJ 40 Study of Judicial Standards Commission and the materials that will be discussed by panelists. ([Exhibit 6](#))  
13:38:44 Brittany Kauffman, Senior Director at the Institute for the Advancement of the American Legal System, gave a presentation on recommended improvement efforts to assess and advance judicial discipline. ([Exhibit 7](#)) - The presentation can be viewed at 13:39:10 in the video recording of the meeting.  
13:50:11 Bart Crabtree, with the Montana Citizens Council on Judicial Accountability, gave a presentation on the concerns regarding judicial oversight and judicial misconduct. ([Exhibit 8](#))

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

14:02:04 Sen. Esp asked Mr. Crabtree to clarify the bill in his presentation. (See exhibit 8)  
14:02:58 Rep. Bishop asked Ms. Kauffman to provide the study that she mentioned in her presentation. (See exhibit 7)  
14:04:15 Sen. McGillvray asked Ms. Kauffman about specific instances where agency officials' conduct would need to be reviewed by the judicial standards commission.  
14:08:44 Sen. McGillvray asked Mr. Crabtree if his organization had a process for tracking complaints made by an individual.  
14:10:22 Sen. Esp discussed a document mentioned earlier that explained confidentiality. (See exhibit 6)  
14:11:47 Rep. Usher asked Mr. Crabtree about the purpose of a new bill.  
14:13:19 Rep. Usher asked Mr. Crabtree to point to the legislation that was in his presentation. (See exhibit 8)  
14:13:51 Rep. Usher asked Julianne Burkhardt, LSD attorney for LJIC, to confirm what is in the document that Mr. Crabtree provided. (See exhibit 8)  
14:16:01 Rep. Bishop asked Ms. Kauffman if having more public members to be part of the commission would impact the outcome.  
14:18:27 Sen. Esp asked Ms. Kauffman about the rules of the Montana Judicial Standards Commission. (See exhibit 7)  
14:21:39 Sen. Esp introduced Judge Randal Spaulding, from Judicial District 14 and the vice chairman for Montana Judicial Standards Commission.  
14:22:47 Rep. Usher asked Judge Spaulding to clarify the language that establishes the role of the Legislature and Supreme Court related to the Judicial Standards Commission.  
14:24:25 Sen. McGillvray asked Judge Spaulding if the Commission considered making a rule that established an appeals process.  
14:26:36 Sen. McGillvray commented on an appeals process for the Judicial Standards Commission.  
14:26:51 Sen. Esp responded to Sen. McGillvray.  
14:27:22 Sen. Esp asked Ms. Kauffman about the role of the Judicial Standards Commission.  
14:28:22 Sen. Regier asked Mr. Crabtree to clarify the intention and goals of the legislation that his agency proposed.  
14:30:17 Rep. Usher asked about rules established to hold judges accountable.

14:35:28 Rep. Bishop commented on the relationship between the three branches of government. She continued by asking Judge Spaulding about the process of becoming a judge.  
14:38:04 Sen. Esp stated his interest in sharing Mr. Crabtree's report to the members of the Commission.

**Public Comment on the HJ 40 study**

14:40:36 Rudy Stock, Helena  
14:42:48 May Simmons, Polson

**BREAK**

14:15:19 Reconvened at 15:05:10

**Committee Issue: Update on HB 92 from 2021 Session**

15:05:57 Amy Sings In The Timber, Executive Director for the Montana Innocence Project, gave a presentation on wrongful convictions in Montana and the costs associated with the exoneration and transition process. ([Exhibit 9](#))

**Committee Questions/Discussion**

15:15:58 Sen. Esp asked Ms. Sings In The Timber about the state settlement system.

**Public Comment on HB 92**

15:18:02 May Simmons, Polson  
15:19:43 Henry Kriegel, Montana Americans for Prosperity

**Agency Oversight: Department of Justice Responding to Crimes Against Children**

15:20:51 Dana Toole, Bureau Chief for the Special Services Bureau in the Division of Criminal Investigation at the DOJ, gave a presentation on the Children's Advocacy Center (CAC) and advocacy programs in Montana. ([Exhibit 10](#))

**Committee Questions/Discussion**

15:42:01 Rep. Bishop asked Ms. Toole for background information on the National Children's Alliance.  
15:44:44 Rep. Usher asked about the relationship between the CAC and the DOJ.  
15:46:33 Rep. Usher asked about the accreditation of CAC programs.  
15:49:22 Rep. Usher asked Ms. George about funding for CAC programs.  
15:50:22 Rep. Usher commented on CAC programs and facilities.

**Public Comment on CAC and Agency Oversight**

15:51:04 May Simmons, Polson

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

15:53:08 May Simmons, Polson

**RECESS**

**ADJOURNMENT**

15:56:35 Sen. Esp adjourned the meeting at 15:56:32 (3:56).