

**HB 35 Requirements:**

- AG appointment of up to 18 commission members;
- Examine trends and patterns;
- Educate the public, law enforcement and policy makers;
- recommend policies and practices to increase jurisdictional collaboration and reduce the number of missing indigenous persons.

**Completed Steps:**

- Commission members are identified and due to be appointed this month;
- Reviewed the MT Missing Persons Clearinghouse to identify possible cases for commission review;
- Identified questions about procedures;
- Legal analysis of HB35 DOJ Agency Legal Services Office to clarify role of the commission and case selection.

**Challenges Identified:**

- Commission, although modelled on existing DOJ Fatality Review commissions, will require new procedures to review the case of a living individual;
- Legal right to privacy concerns:
  - Individual privacy is protected by the confidentiality sections of the bill; however, the bill could be challenged as not strong enough protection under the Montana Constitution Article II, sections 9 & 10;
  - Consent could be given by an individual, then withdrawn during the process, and consent alone will not prevent a legal challenge;
  - Individual's whose case is reviewed could legally assert a right to copies of the commissions review documents;
- Previously unreported or ongoing crime/s and abuse/s identified by commission review may need to be reported to the appropriate authority by the commission members; A crime or abuse identified by the commission would halt the review immediately;
- MCA 44-5-301 directs the process for dissemination of confidential criminal justice information and HB 35 may not override the existing code if challenged;
- Information gathering from family members, friends, and others may cause issues for the individual whose case is under review;
- The commission authority cannot compel any tribal or federal records be provided for review;
- Maintaining anonymity of the case for the official report will be difficult due to the low number of cases that will qualify for a review.

**Next Steps Identified:**

- Appoint the commission;
- Schedule commission to meet to develop case review procedures;
- Generate a report prior to the 2023 Legislative Session to report the findings and recommendations of the commission.