



AN ACT GENERALLY REVISING CRIMINAL JUSTICE SYSTEM LAWS; CREATING A MONTANA CRIMINAL JUSTICE DATA WAREHOUSE; ALLOWING THE LEGISLATIVE FISCAL ANALYST AND LEGISLATIVE SERVICES DIVISION DIRECTOR DIRECT ACCESS TO THE DATA WAREHOUSE; REVISING DUTIES AND MEMBERSHIP OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL; ESTABLISHING DATA PROJECT PRIORITIES FOR THE 2024-2025 INTERIM; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 1-1-207, 5-12-303, 46-1-1103, AND 53-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the lack of complete, consistent, and integrated criminal justice system data has stymied legislative efforts to allocate financial resources and to enact policy changes that would improve outcomes for offenders and crime victims; and

WHEREAS, the seemingly separate pieces of the state and local criminal justice system are intertwined, and the state cannot make effective changes without supporting its local partners; and

WHEREAS, the Law and Justice Interim Committee studied criminal justice data needs and gaps as part of an interim study; and

WHEREAS, as part of the study, state and local stakeholders and committee members spent hours identifying problems and discussing solutions; and

WHEREAS, improved state and local criminal justice system data collection, sharing, and integration will help change the current reactionary nature of the system; and

WHEREAS, improved state and local criminal justice system data collection, sharing, and integration can create efficiencies to save money in the future by reducing or eliminating time-consuming and sometimes redundant data entry; and

WHEREAS, any savings from efficiencies created from improved state and local criminal justice system data collection, sharing, and integration or from improved policy choices can benefit both state and local

stakeholder and taxpayers, regardless of where in the system an improvement is made; and

WHEREAS, improved state and local criminal justice system data collection, sharing, and integration ultimately drives public safety by informing funding, policy, caseload, and staffing decisions, as well as how policy decisions can affect prison and supervision populations and recidivism.

WHEREAS, to ensure that data collection is a means to an end, the state must adopt a workable and meaningful definition of recidivism to which data may be applied.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [sections 1 and 2], unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Agency" has the meaning provided in 2-15-102.
- (2) "Board" means the board of crime control established in 2-15-2008.
- (3) "Contributing entity" means an agency, the office of court administrator, a local government entity, a nongovernment entity, a tribal government, or a federal government that submits data to the criminal justice data warehouse.
- (4) "Council" means the criminal justice oversight council established in 53-1-216.
- (5) "Detention center" has the meaning provided in 7-32-2241.
- (6) "Local government entity" includes a city, county, or consolidated city-county government entity including but not limited to a county attorney office, law enforcement agency, detention center, court, or other entity created by the city, county, or consolidated city-county government.
- (7) "Nongovernment entity" includes a community corrections facility or program established under Title 53, chapter 30, part 3, or other prereleases, treatment centers, or providers that contract with the department of corrections.

Section 2. Criminal justice data warehouse. (1) There is a criminal justice data warehouse housed in the board of crime control. The purpose of the criminal justice data warehouse is to receive, store, secure, and maintain data and information from contributing entities to assist state and local officials to make data-

informed decisions about the criminal justice system.

(2) (a) An agency and the court administrator shall contribute data and information to the criminal justice data warehouse on request by the board. A local government entity, a nongovernment entity, a tribal government, or a federal government entity may submit data and information to the criminal justice data warehouse.

(b) A contributing entity retains ownership of the data it contributes to the criminal justice data warehouse.

(3) As the administering agency of the criminal justice data warehouse, the board shall:

(a) adopt a memorandum of understanding with the department of administration for the provision of any technical assistance or services required to establish and maintain the criminal justice data warehouse;

(b) work in conjunction with the department of administration to assure the confidentiality of all records and data collected in the criminal justice data warehouse and to assure compliance with the applicable state and federal laws governing the privacy of records, data, and personally identifiable information;

(c) consult and collaborate with the council to prioritize data to request from contributing entities, data requests, and research using data from the criminal justice data warehouse;

(d) (i) identify and seek federal grant money that may be used for the purposes of establishing and maintaining the criminal justice data warehouse and achieving priorities established in law;

(ii) prioritize distribution of funds received pursuant to subsection (3)(d)(i) to contributing entities;

(e) adopt a memorandum of understanding with each contributing entity. The memorandum of understanding must describe the data and information being submitted and the schedule on which the data will be submitted and identify the confidentiality of the information and any conditions or restrictions on the use of the data or information; and

(f) grant the legislative fiscal analyst and the legislative services division director direct access to the criminal justice data warehouse in a manner that complies with the regulations of the respective federal programs.

(4) The board may:

(a) require an entity that contributes data or information to deliver the data or information in a certain format and on schedules established for the criminal justice data warehouse;

- (b) collaborate with the council and contributing entities to establish policies to address the creation of reports generated through the query of records and data in the criminal justice data warehouse. A nongovernment entity may only collaborate with respect to the data or information contributed by that nongovernment entity; and
- (c) adopt a standard memorandum of understanding that state and local criminal justice entities and the courts may use to govern data-sharing agreements.

Section 3. Projects for 2023-2024 interim. (1) In preparation for the 2025 legislative session, the board shall prioritize the following projects:

- (a) create a unique identifier to link data from separate state and local criminal justice agencies and the judicial branch in a manner that is efficient and protects the confidentiality requirements for any personally identifiable information;
- (b) consult with the council to determine research priorities to answer existing questions about the criminal justice system, to prioritize data collection, and to develop data warehouse governance policies;
- (c) identify and define the data elements that the board and the council shall collect to achieve the purposes of [sections 1 and 2];
- (d) identify willing local stakeholders to create up to four pilot projects to deposit existing local criminal justice data in the criminal justice data warehouse, identify technology needs, and document data processes;
- (e) create a list of the current vendors used by state and local criminal justice agencies and the judicial branch;
- (f) identify and apply for federal funds that would help the board and the criminal justice coordinating council begin and sustain work on the criminal justice data warehouse;
- (g) document data processes that are used to deposit data in the criminal justice data warehouse;
- (h) identify methods to share any state savings that could result from improved data collection and integration with local governments; and
- (i) identify information from other state agencies, including the department of public health and human services, or from tribal governments or the federal government that could be included in the criminal

justice data warehouse or that would be necessary to answer criminal justice research questions posed by the council.

(2) The board shall:

(a) report to the council and the law and justice interim committee at each regularly scheduled meeting between [the effective date of this act] and September 15, 2024, and to other legislative interim committees or administrative committees as requested; and

(b) by September 15, 2024, submit to the council and the law and justice interim committee, legislative finance committee, and the governor's office of budget and program planning a report that includes:

- (i) a summary of the work of the board to create the criminal justice data warehouse;
- (ii) recommendations for specific next steps to further implement the criminal justice data warehouse and the associated costs and technology needs to accomplish those steps;
- (iii) at least 3 examples of data sharing or integration projects the board has completed; and
- (iv) a list of policy and funding priorities identified for the 2025 legislative session.

Section 4. Recidivism. Any report produced by a state entity that requires the disclosure of information regarding recidivism or recidivism rates must use the definition of recidivism provided in 1-1-207.

Section 5. Section 1-1-207, MCA, is amended to read:

"1-1-207. Miscellaneous terms. Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(1) "Bribe" means anything of value or advantage, present or prospective, or any promise or undertaking to give anything of value or advantage, that is asked, given, or accepted with a corrupt intent to unlawfully influence the person to whom it is given in the person's action, vote, or opinion in any public or official capacity.

(2) "Peace officer" has the meaning as defined in 46-1-202.

(3) (a) "Recidivism" means a circumstance in which any sentence is imposed for a new felony or in which a judge or the board of pardons and parole determines that a person convicted of a felony has violated the person's terms of probation or parole within 5 years of the imposition of a sentence for a previous felony

conviction.

(b) The term does not include a violation that is a compliance violation, as defined in 46-23-1001.

(4) "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and steamships, canal boats, and every structure adapted to be navigated from place to place."

Section 6. Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state agencies. (1) The legislative fiscal analyst may investigate and examine the costs and revenue of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

(2) When confidential records and information are obtained from a state agency, the legislative fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential records and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies and may not disclose confidential records or information to legislators.

(3) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the legislative fiscal analyst when the values on the requested return, including estimated payments, are considered necessary by the legislative fiscal analyst to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.

(4) (a) The department of public health and human services shall provide the legislative fiscal analyst direct access to the department's secure data warehouse as the phases of the secure data warehouse project are implemented.

(b) The department of public health and human services shall consult with the legislative fiscal analyst and shall establish user requirements to ensure the legislative fiscal analyst does not have access to

direct identifiers stored on the secure data warehouse. The department of public health and human services shall consult with the legislative fiscal analyst and shall establish requirements to ensure the legislative fiscal analyst does not have access to direct identifiers stored in other data systems where the data is not available through the secure data warehouse after the phases of the secure data warehouse project are implemented.

(c) The data must be made available to the legislative fiscal analyst in a format that complies with the regulations of the respective federal programs.

(d) The department of public health and human services shall submit quarterly reports in an electronic format to the legislative finance committee and the children, families, health, and human services interim committee in accordance with 5-11-210 on the following:

- (i) the implementation of the phases of the secure data warehouse project;
- (ii) the user requirements established by the department and the legislative fiscal analyst; and
- (iii) the status of the legislative fiscal analyst's access to the secure data warehouse.

(5) The board of crime control shall provide the legislative fiscal analyst direct access to the criminal justice warehouse established in [section 2] in a manner that complies with the regulations of the respective federal programs.

~~(5)(6)~~ Within 1 day after the legislative finance committee presents its budget analysis to the legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This information must be filed in the respective offices and be made available to the legislature and the public. In preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

~~(6)(7)~~ This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure or if the department of revenue notifies the fiscal analyst that specified records or information may contain confidential information."

Section 7. Section 46-1-1103, MCA, is amended to read:

"46-1-1103. Definitions. As used in this part, the following definitions apply:

- (1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person

is a drug offender under this part and would benefit from the provisions of this part.

(2) "Continuum of care" means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency.

(3) "Drug" includes:

(a) a controlled substance, which is a drug or other substance for which a medical prescription or other legal authorization is required for purchase or possession;

(b) an illegal drug, which is a drug whose manufacture, sale, use, or possession is forbidden by law; or

(c) a harmful substance, which is a misused substance otherwise legal to possess, including alcohol.

(4) "Drug offender" means a person charged with a drug-related offense or an offense in which substance abuse is determined to have been a significant factor in the commission of an offense.

(5) "Drug treatment court" means a court established by a court pursuant to this part implementing a program of incentives and sanctions intended to assist a participant to end the participant's addiction to drugs and to cease criminal behavior associated with drug use and addiction.

(6) "Drug treatment court coordinator" means an individual who, under the direction of the drug treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and integrity of the drug treatment court.

(7) "Drug treatment court team" means a group of individuals appointed by the drug treatment court that may consist of the following members:

(a) the judge, which may include a magistrate or other hearing officer;

(b) the prosecutor;

(c) the defense attorney;

(d) a law enforcement officer;

(e) the drug treatment court coordinator;

(f) a probation and parole officer;

(g) substance abuse treatment providers;

- (h) a representative from the department of public health and human services; and
- (i) any other person selected by the drug treatment court.
- (8) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure.
- (9) "Recidivism" ~~means any arrest for a serious offense that results in the filing of a charge and can carry a sentence of 1 or more years~~ has the meaning provided in 1-1-207.
- (10) "Staff meeting" means the meeting before a drug offender's appearance in drug treatment court in which the drug treatment court team discusses a coordinated response to the drug offender's behavior.
- (11) "Substance abuse" means the illegal or improper consumption of a drug as defined in this section.
- (12) "Substance abuse treatment" means a program designed to provide prevention, education, and therapy directed toward ending substance abuse and preventing a return to substance use."

Section 8. Section 53-1-216, MCA, is amended to read:

"53-1-216. Montana criminal justice oversight council -- duties -- membership. (1) (a) There is a Montana criminal justice oversight council. The council consists of ~~46~~18 members as follows:

- ~~(a)~~(i) two members of the house of representatives, one selected by the speaker of the house and one selected by the house minority leader; and
- (ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;
- ~~(b)~~(iii) one district court judge and one municipal court judge selected by the chief justice of the Montana supreme court;
- (iv) the attorney general or the attorney general's designee;
- ~~(c)~~(v) the director ~~and the deputy director~~ of the department of corrections;
- (vi) the director of the office of state public defender;
- (vii) the director of the department of public health and human services;
- ~~(d)~~(viii) a county sheriff and a county attorney appointed by the attorney general; and
- ~~(e)~~(ix) the following individuals appointed by the governor:

~~(i)(A)~~ one member of a federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

~~(ii)(B)~~ one member of the board of pardons and parole;

~~(iii)~~ ~~one member who represents the office of state public defender;~~

~~(iv)(C)~~ one representative of crime victims who also serves on the board of crime control established in 2-15-2008;

~~(v)(D)~~ one representative of civil rights advocates; and

~~(vi)(E)~~ two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center.

(b) When appointing members as required in subsection (1)(a), the governor and attorney general shall consider appointing individuals who also serve on the board of crime control established in 2-15-2008.

(2) The legislative services division shall provide clerical and administrative staff services to the council.

(3) The council shall elect a presiding officer, who must be a legislator.

(4) The council shall:

(a) provide direction and recommendations to the board of crime control regarding data to be included in the criminal justice data warehouse established in [section 2] and policies to govern the use of and priorities for the criminal justice data warehouse;

(b) study and recommend solutions to address issues facing the criminal justice system and its constituent state and local agencies;

(c) monitor the functioning of the criminal justice system; and

(d) make recommendations to the legislature to address system issues proactively, manage limited resources, improve workloads, make improvements to state and local criminal justice systems, meaningfully address crime, and enhance public safety.

~~(a) review the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015;~~

~~(b) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the commission on sentencing and that are collecting data during the implementation and~~

management of specific recommendations;

~~(c) assess outcomes from the recommendations the commission on sentencing has made and corresponding criminal justice reforms; and~~

~~(d) request, receive, and review data and report on performance outcome data relating to criminal justice reform.~~

~~(5) Data evaluation performed by the council must:~~

~~(a) assess the current electronic records utilized by criminal justice agencies;~~

~~(b) review and list all variables collected in each agency's information management system;~~

~~(c) establish a baseline for historical data comparisons;~~

~~(d) determine whether data is linked to specific offenders through a unique identifying factor;~~

~~(e) review archival data and agencies' data retention policies;~~

~~(f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;~~

~~(g) review any established data protocols for pretrial services;~~

~~(h) 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 correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and~~

~~(i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.~~

~~(6) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets.~~

~~(7)(5)~~ The council shall submit a report to the governor and legislature, as provided in 5-11-210. The report must include:

~~(a) a description of the council's proceedings since the previous report;~~

~~(b) a summary of savings from criminal justice reforms and recommendations for how the savings~~

should be reinvested to reduce recidivism;

~~(c) a description of performance measures and outcomes related to criminal justice reforms; and~~

~~(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work.~~

~~(8) The council may appoint a working group to track any legislation resulting from criminal justice reforms and to perform other detailed analysis as directed by the council. If appointed, the working group shall meet regularly and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.~~

~~(9)(6) Using the process established in legislative rules for executive agency legislative requests, the~~
The council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.

~~(10)(7) The judicial branch, the department of corrections, the department of public health and human services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data and information and assistance~~ as requested by the council.

~~(11)(8) Appointments made under subsection (1) must be made within 60 days after July 1, 2019. A vacancy on the council must be filled in the manner of the original appointment. If a vacancy on the council remains unfilled by the appropriate appointing authority for more than 60 days, the council may vote to appoint a member to serve on the council until the appropriate appointing authority makes an appointment.~~

~~(12)(9) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council who are full-time salaried officers or employees of this state or any political subdivision are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.~~

~~(13)(10) The council shall provide updates to the law and justice interim committee and the legislative finance committee as requested."~~

Section 9. Transition. Members of the criminal justice oversight council must be appointed within 30 days of [the effective date of this act].

Section 10. Appropriation. There is appropriated \$2,500 from the general fund to the legislative services division for the biennium beginning July 1, 2023, for the purposes of paying for additional travel costs related to the new member of the criminal justice oversight council.

Section 11. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 7, and the provisions of Title 44, chapter 7, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 53, chapter 1, part 2, and the provisions of Title 53, chapter 1, part 2, apply to [section 3].

Section 12. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 11, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 11

INTRODUCED BY B. USHER

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

AN ACT GENERALLY REVISING CRIMINAL JUSTICE SYSTEM LAWS; CREATING A MONTANA CRIMINAL JUSTICE DATA WAREHOUSE; ALLOWING THE LEGISLATIVE FISCAL ANALYST AND LEGISLATIVE SERVICES DIVISION DIRECTOR DIRECT ACCESS TO THE DATA WAREHOUSE; REVISING DUTIES AND MEMBERSHIP OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL; ESTABLISHING DATA PROJECT PRIORITIES FOR THE 2024-2025 INTERIM; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 1-1-207, 5-12-303, 46-1-1103, AND 53-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.