

Bill: HB-2: General Appropriations Act 2021-01-29 08:00 AM - (H) JAS on Judicial Branch, Law Enforcement, and Justice

Position: Opponent

Representing an Entity/Another Person: No

Organization: N/A

Name: Laurie Little Dog

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City, State: Bozeman, MT

Written Statement: Re: Program 1 presentation (Youth Court)

In my keen observation, the broad discretion that Chief Probation Officers enjoy is giving a false-positive "shining star" review of the Youth Court System in the Judiciary. Without a court-ordered in-camera review of cases by a District Court Judge, the Chief Probation Officers are going undetected in their pattern of downgrading serious offenses and not actively helping minor age offenders access behavioral health interventions for a sustainable positive future. The declared purpose of the Montana Youth Court Act (MCA 41-5-102) states that the Montana Youth Court Act must be interpreted and construed to effectuate the following express legislative purposes: (4) to provide judicial procedures in which the parties are ensured a fair, accurate hearing and recognition and enforcement of their constitutional and statutory rights. For minor age citizens, the Youth Court Act serves to ensure that both "parties receive a fair accurate hearing and recognition and enforcement of the constitutional and statutory rights".

The denial of minor age victims equal participation in the criminal justice process is a serious and silenced problem. For example, in Flathead County, the Chief Probation Officer did not notify the victim in a Sexual Intercourse Without Consent (sodomy) "completed" case that the Chief Probation Officer had dismissed the case. No closure letter was issued to the victim. The Chief Probation Officer did receive a case file from the County Attorney office which included a case summary for Flathead County Sheriff Office (FCSO) Case No: *****1849. Attached to the case summary was the FCSO's Investigative Report which list the offense as 45-5-503(C) Sexual intercourse (forcible sodomy) w/o consent (Completed). The document positively indicates that the case is referred to the county and states "Prosecute? Y." The document verifies the existence of "seized" "evidence" labeled "CD RECORDING OF VIDEO INTERVIEW WITH [minor age suspect]" in the form of 2 cd's of and a thumb drive containing audio/ visual interview recordings. The Chief Probation Officer also had access to the video footage of the child-victim's forensic interview, smartboard hand drawing from the victim, a signed rights advisory (waiver of rights) from the perpetrator and the perpetrator's parents, video footage of the detective interview with the perpetrator and the parents in which the perpetrator made admissions of crime, etc. The Chief Probation Officer did not interview the minor age child-victim prior to dismissal of the case.

This example shows the outcome of what "informal investigations" done by the Chief Probation Officer can yield. I appreciate Chair Mercer and the subcommittee asking questions for information about how youth court interventions are handled.

With all of the red-tape (sealed files) surrounding cases involving minors, few (even professionals in the Judiciary) would ever know that these problematic occurrences take place. Since it was stated that 89% of youth cases are handled informally, and having knowledge of the system, I am acutely alarmed.

It appears that we need to look beyond the low number of Youth Court cases being thoroughly prosecuted and realize that these "informal investigations" are being done by unchecked Chief Probation Officers. I caution this committee from the quick satisfaction that the Youth Court is the "shining star" of the judiciary. For minor-age victims who never have been able to receive closure or a sense of justice, in our courts, that is not the case. In the unfortunate situations that Montana you do come into contact with the courts as a victim or as a perpetrator, it is important that we are balanced in what THEY experience. Teaching youth that the justice system does not "work" diminished the hope for a fair and just society.

The example herein demonstrates a lack of monitoring and oversight for youth cases in Montana. The likelihood of a child-victim having the foresight to request an in-camera review by a judge and having his "right to know" honored, is

a rarity. This writing serves to speak on behalf of minor age victims who have no avenue to seek justice once the Youth Probation Officers make all decisions, "off the radar" and are not held accountable by the Judiciary.
Thank you for your consideration.

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Written Statement: Re: Program 1 presentation (Youth Court) Some clarification may be helpful to the subcommittee in knowing about how the informal handling of the cases (89% of youth cases) does not necessarily have that intervention attention paid to marijuana use. As a case in point example, a male age 12 years 3 months was recommended for prosecution upon by a senior detective for Sexual Intercourse Without Consent (Sodomy) on a 9 year old male. The 9 year old male disclosed in the forensic interview that the 12 year old perpetrator smoked marijuana and that he tried to get [the victim] to smoke. Victim declined. The Chief Probation Officer in this case did NOT seek intervention for the 12 year old's marijuana usage and the Chief probation officer declined to prosecute the Sexual Intercourse Without Consent crime either. The County's child victim services advocate called CPS twice trying to report the marijuana usage and nothing ever came of that either.

This was in the Flathead. Informal investigations are very dangerous. Minor-age perpetrators and minor-age victims are left behind.

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Written Statement: With regard to the budget 5% reduction that is being presented by the Judiciary, I am very much opposed to the following section reductions and caution that making these cuts will unleash a slew of negative impacts on Montana society and cost taxpayers a lot more in the long run.

The cuts that I oppose are:

- Eliminate all general fund for alcohol and drug treatment court costs and administration
- Eliminate the payment of court ordered evaluations, fitness to proceed evaluations and psychosexual evaluations in criminal cases in District Courts

The alcohol, drug and treatment courts are instrumental in getting our citizens tangible and immediate help without spending more money on sending these individuals. We should be significantly increasing investments in these alternative courts. Chief Justice McGrath's statement in favor of these courts is echoed across the judiciary and greater Montana.

Additionally, I ask the State to please integrate a domestic violence court with batterer's intervention services that will yield results that tangibly and immediately address these very complex issues. Rather than sending a head of household to up to a year in county jail and eventually to prison, displacing victims, repeatedly re-traumatizing children, implementing DV court with batterer's intervention can responsibly apply resources to efforts keeping families safe. In my work as a legal advocate that represented victims of domestic violence in tribal court, I recognize that the current system in the State of Montana, is a point of contention that can often keep victims isolated and quiet rather than seeking help for the family. The benefits of counseling for the victim(s) to understand the power dynamics of domestic abuse, especially when combined with the offender taking a court-mandated batterer's intervention (perhaps while incarcerated in the county jail with no contact with the victim) should be piloted in Montana and funded long term.

On a different note, the court mandated evaluations for mental health should and must be continued, but not at the Forensic unit at State Hospital in Galen. Perhaps, it can be explored to have those evaluations conducted by local contracted mental health professionals who enter the county jails, upon the request of a judge. The psych evaluations coming out of Galen, particularly by those being conducted Dr. Virginia Hill have raised a great deal of controversy as being a tool for the prosecution on which to hang their case, rather than a neutral professional evaluation. There is a significant outcry on this matter which can be resolved if these evals can be contracted out. Even when a district court does send a person out to Galen for a psych eval, and honorable Judge orders the retransfer and indicates their "recommendation" a particular medical professional such as D.F., PhD (who is a seasoned clinical psychologist who works at Montana State Hospital) to conduct the evaluation, once at the Galen facility, the facility refuses to allow the Judge's recommendation take place. Ultimately, Dr. Hill's controversial evaluation will enter the record.