

Department of Corrections

The Legislature is concerned with the delays associated with getting defendants transferred to state custody after imposition of sentence. It is the expectation of the Legislature that DOC will ensure that defendants will not remain in a state or local facility for more than five business days after sentencing unless unusual circumstances arise.

DOC shall report to the Law & Justice Interim Committee and the Legislative Finance Committee no later than September 1, 2022 on the rental voucher program to discuss where it is being utilized based upon the location of expenditures, whether the program is effectively connected to treatment and supervision, and the view of the Department on the strengths and weaknesses of the program.

It is the sense of the Legislature that Parole Board decisions are resulting in a distribution of parolees to communities that results in some communities receiving few, while other communities receive a disproportionate share. The Legislature urges the Parole Board to determine whether its placements of offenders are unduly burdening certain communities relative to other communities and adjust its subsequent placements accordingly to better conform the population being released based upon the population of the communities to which parolees are released.

The Legislature has been advised that the vocational opportunities at the Women's Prison are inadequate, particularly when compared to the offerings in Deer Lodge. The Legislature is mindful that the campuses may face different limitations in what programming may be offered based upon location, footprint, and facilities. Nonetheless, DOC shall examine additional vocational programming options for the Women's Prison and report its findings to the Law & Justice Interim Committee and the Legislative Finance Committee no later than September 1, 2022.

The Legislature is concerned with the findings of the Legislative Audit Division in 2020 that DOC had drug treatment beds that were not fully utilized in FY 2019, which resulted in a payment for failure to allow the contractor to operate at 75% capacity. Beginning July 1, 2021 and every quarter thereafter, DOC shall report to the Law & Justice Interim Committee and the Legislative Finance Committee on utilization of drug treatment beds and any payments made to contractors for the failure to allow the contractor to operate at 75% capacity.

The Legislature is concerned that DOC has yet to fully implement statutory directives to measure the effectiveness of its programs – both those provided by DOC employees and those provided by contractors. In 2017, the Legislature directed DOC to conduct evaluations of programs to determine their impact on reducing recidivism. This work, in addition to other requirements in Senate Bill 59 (2017), appear to be unaddressed or incomplete. Beginning July 1, 2021 and every quarter thereafter, DOC shall report to the Law & Justice Interim Committee and the Legislative Finance Committee on steps taken to measure the impact of its programming on recidivism and the conclusions, by program, of those evaluations.

Office of Public Defender

The Legislature is concerned with the findings of the Legislative Audit Division in 2020 that OPD does not accurately track or report attorney time and that its attorneys routinely ignore a policy to enter time or make inaccurate entries. It is not clear whether this is attributable to inadequate training, inadequate supervision, or an inadequate electronic timekeeping program. By June 1, 2021, OPD will report to the Legislative Finance Committee on what it will do in FY 22 and 23 to ensure that its employees are accurately and completely making time entries to demonstrate how much time is dedicated to core tasks, time spent on specific cases, and time spent on tasks other than those required to meet the constitutional requirement to provide counsel for individuals not financially able to afford counsel for crimes if jail or prison time may be the punishment if convicted.

No later than September 1, 2022, OPD shall report to the Legislative Finance Committee whether funding from Title IV-E of the Social Security Act provided all funding needed to provide legal representation for children and parents in child abuse and neglect proceedings in FY 22 and, if not, what necessary expenditures were made from other appropriated funds.

The Legislature is concerned with the findings of the Legislative Audit Division in 2020 regarding billing practices by contractors, including the failure to require the use of assistants for non-attorney tasks, and allowing contractors to work a number of hours per year that may induce attorneys to be contractors instead of OPD employees. By June 1, 2021, OPD will report to the Legislative Finance Committee on what it will do in FY 22 and 23 to address these concerns.

It is the sense of the Legislature that the Office of Public Defender expends its appropriation, in part, to perform tasks that are not required by the state or federal

constitution or statutory directive (e.g., 47-1-104(4), MCA). Given limited resources and the demands on OPD staff, the Legislature believes that it is incumbent upon OPD management to limit the scope of its work to what is required by statute and the constitution. No later than August 1, 2022, OPD shall report to the Legislative Finance Committee on a list of tasks performed by attorneys and non-attorneys in FY 22 that were not required by statute or constitutional requirement and the amount of time dedicated to that work.

The Legislature is concerned with the findings of the Legislative Audit Division in 2020 that OPD has not identified and tracked key data points. OPD shall identify data needs for measuring agency performance and establish data-based performance measurements and targets.

Neither through its employees nor its contractors should OPD impair the Legislature's intent to have defendants share in the costs of counsel provided by OPD. OPD employees and contractors should not move the Court to waive assessments under 46-8-113 unless the defendant can show a compelling reason why they cannot pay this assessment over the course of the sentence. No later than September 1, 2022, OPD shall report to the Legislative Finance Committee on the cases in FY 22 in which it moved for waiver of the assessment and the basis for the motion.

No later than September 1, 2022, OPD shall report to the Legislative Finance Committee on the time spent by employees and contractors in cases involving defendants in treatment courts in FY 22 per defendant. The report should report on each defendant without identifying the defendant by name per district court or court of limited jurisdiction.

No later than September 1, 2022, OPD shall report to the Legislative Finance Committee on the time spent by employees and contractors in cases involving defendants in capital cases in FY 22 per defendant.

Department of Justice

In House Bill 640 (2019), the Legislature established a mechanism to ensure that sexual abuse reports generated by those with mandatory reporting responsibilities are provided to county attorneys and that county attorneys report to the Attorney General on the status of the investigations and prosecutions generated from these referrals. It is the sense of the Legislature that the Department has not undertaken a thorough review of the reports generated pursuant to 41-3-210(3), and it urges

the Department to do so and report to the Legislative Finance Committee and the Law and Justice Interim Committee no later than August 1, 2021 on the status of reporting by county attorneys since the initial report deadline and its review of the reports.

No later than September 1, 2022, DOJ shall report to the Law and Justice Interim Committee and the Legislative Finance Committee on the number of human trafficking investigations initiated by DOJ in FY 21 and FY 22 and the number of prosecutions generated from the investigations. The report shall also include information on the sentences imposed for convictions obtained as a result of these prosecutions, including the names of the defendants and the crimes for which convictions were obtained.

No later than September 1, 2022, DOJ shall report to the Law and Justice Interim Committee and the Legislative Finance Committee on the number of referrals to ICAC-funded programs in FY 21 and FY 22 and the number of investigations initiated in response. The report shall also include information on prosecutions initiated in FY 21 and FY 22 as the result of these investigations and the sentences imposed for convictions obtained as a result of these prosecutions.

The Legislature expresses its concern that the backlog of testing on sexual assault kits must be eliminated as soon as possible. It has provided one-time-only funding in FY 22 and 23 to provide additional resources to DOJ to complete this work. No later than September 1, 2022, DOJ shall report to the Legislative Finance Committee on the number of sexual assault kits evaluated in FY 22 and the work remaining to eliminate any backlog.

Judicial Branch

The Legislature believes that Program 3 should confer with the State Library and other states' law libraries to evaluate whether a fee for service model would be appropriate given the services offered by the Law Library.