

# WORK PLAN PROPOSAL

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For the  
***Law and Justice Interim Committee***  
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## Overview

This paper proposes a work plan for the Law and Justice Interim Committee (LJIC) to review and adopt. A work plan offers a blue print for how the LJIC may organize its activities during the interim. It also assists stakeholders, other interested parties, and the public to prepare for meetings. A study plan is a working document, which means it is flexible and subject to change depending on findings, actions and instructions of the LJIC. Nonetheless, statute requires that the LJIC complete its work by September 15, 2008.

This work plan:

- summarizes the LJIC's statutory responsibilities and assigned studies;
- prioritizes the LJIC's workload by allocating staff and committee time as a percentage of total time available; and
- proposes a meeting schedule that includes proposed dates, locations, and major agenda items.

## Responsibilities

### Statutory duties

The LJIC's statutory duties and responsibilities are outlined in section 5-5-215, MCA, and section 5-5-226, MCA, which are provided below:

**5-5-202. Interim committees.** (1) During an interim when the legislature is not in session, the committees listed in subsection (2) are the interim committees of the legislature. They are empowered to sit as committees and may act in their respective areas of responsibility. The functions of the legislative council, legislative audit committee, legislative finance committee, environmental quality council, and state-tribal relations

committee are provided for in the statutes governing those committees.

(2) The following are the interim committees of the legislature:

- (a) economic affairs committee;
- (b) education and local government committee;
- (c) children, families, health, and human services committee;
- (d) law and justice committee;
- (e) energy and telecommunications committee;
- (f) revenue and transportation committee; and
- (g) state administration and veterans' affairs committee.

(3) An interim committee or the environmental quality council may refer an issue to another committee that the referring committee determines to be more appropriate for the consideration of the issue. Upon the acceptance of the referred issue, the accepting committee shall consider the issue as if the issue were originally within its jurisdiction. If the committee that is referred an issue declines to accept the issue, the original committee retains jurisdiction.

(4) If there is a dispute between committees as to which committee has proper jurisdiction over a subject, the legislative council shall determine the most appropriate committee and assign the subject to that committee.

**5-5-226. Law and justice interim committee.** The law and justice interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the department of corrections and the department of justice and the entities attached to the departments for administrative purposes. The committee shall act as a liaison with the judiciary.

#### Reports to be received

Some statutes require that specific reports be made to the LJIC. These reporting requirements are summarized below.

- Section 3-1-702, MCA, requires the Court Administrator to report "on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch".
- Section 37-61-211, MCA, requires the Court Administrator to report on expenditures of revenue from the attorney license tax (\$25 a year) that must be made for the operation of the Supreme Court's various commissions.
- Section 44-2-117, MCA, requires that the Department of Justice make periodic reports on "the degree of compliance by municipal, county,

consolidated local government, and state law enforcement agencies" with the section's provisions. The section prohibits racial profiling, requires the adoption of policies prohibiting racial profiling, requires cultural awareness training for peace officers, and specifies that appropriate action must be taken against any peace officer found to have engaged in racial profiling.

- Section 47-1-105, MCA, requires the Office of State Public Defender to submit to the LJIC a detailed biennial report that covers:
  - "(a) all policies or procedures in effect for the operation and administration of the statewide public defender system;
  - (b) all standards established or being considered by the commission or the chief public defender;
  - (c) the number of deputy public defenders and the region supervised by each;
  - (d) the number of public defenders employed or contracted with in the system, identified by region;
  - (e) the number of attorney and nonattorney staff supervised by each deputy public defender;
  - (f) the number of new cases in which counsel was assigned to represent a party, identified by region, court, and case type;
  - (g) the total number of persons represented by the office, identified by region, court, and case type;
  - (h) the annual caseload and workload of each public defender, identified by region, court, and case type;
  - (i) the training programs conducted by the office and the number of attorney and nonattorney staff who attended each program;
  - (j) the continuing education courses on criminal defense or criminal procedure attended by each public defender employed or contracted with in the system; and
  - (k) detailed expenditure data by court and case type".

#### Studies assigned to the LJIC

The Legislative Council has assigned four studies to the LJIC. Each of these studies some of the key study questions and tasks is summarized below.

|        |   |
|--------|---|
| SJR 24 | Examine prison population growth and nonprison treatment alternatives for certain nonviolent offenders and provide a report |
|--------|---|

and any recommendations. Key questions involved in this study include an analysis of Montana's corrections population, specifically, nonviolent offenders who also have a substance abuse or mental illness treatment issue, examining current and potential diversion programs that offer treatment alternatives to incarceration, and the role and effectiveness of treatment courts.

- HJR 26      Examine the mental health treatment in the adult and juvenile justice system and provide a report and any recommendations. This study will involve researching how many offenders may suffer from mental illness and what treatment should be provided and how.
- HJR 50      Examine costs and processes for psychiatric evaluations conducted in the precommitment stages of civil involuntary commitment proceedings and provide a report and any recommendations. The key issue involved in this study is how current law, specifically Title 53, chapter 21, part 1, MCA, is being interpreted and applied with respect to billing counties for psychiatric precommitment examination, detention, and treatment.
- SJR 6        Examine the juvenile justice system and provide a final report and any recommendations. This study involves a broad and comprehensive study to identify gaps and overlaps in youth correctional and alternative treatment services, to determine whether and how the Youth Court Act should be updated, and to examine graduated sanctions, transition to adult corrections, and early intervention and treatment options.

### **Priorities**

The following table is a starting point for the LJIC to discuss and set its study priorities. The table simply provides a means of prioritizing the allocation of staff and committee time to one study activity in relation to the others. The LJIC may adjust the percentage of time allocations to reflect its priorities, provided that the total of 100 percent of available time is not exceeded.

| <b>Study</b> | <b>Description</b>  | <b>Time Allocation</b> |
|--------------|---|------------------------|
| SJR 24       | Study of prison population growth and alternative sentencing      | 25%                    |
| HJR 26       | Study of mental health services in adult and juvenile corrections | 25%                    |
| HJR 50       | Study of precommitment psychiatric evaluations                    | 15%                    |
| SJR 6        | Study of juvenile justice system                                  | 25%                    |
| Statutory    | Agency monitoring and emerging issues                             | 10%                    |
| <b>TOTAL</b> |   | <b>100%</b>            |

### **Approach**

The proposed work plan and meeting schedule presented on the following pages outlines committee meetings in a manner that:

- combines the SJR 24 study on alternative sentencing and portions of HJR 26 study on mental health treatment in adult corrections, which will help avoid duplication and facilitate a more efficient use of time;
- combines the SJR 6 study on juvenile justice with portions of the HJR 26 study that concern mental health treatment in juvenile corrections, which will also help avoid overlap and duplication of effort;
- approaches each study concurrently and in the following progressive phases: (1) information gathering to define key issues that may be addressed by the legislature; (2) identification and analysis of legislative policy options; and (3) development and finalization of recommendations to the legislature and of any committee legislation for the session;

- provides that state agency overviews and agency monitoring activities coincide with study activities to the extent possible in order to avoid redundant presentations;
- anticipates the use of panel presentations and roundtable discussions to help coordinate testimony from key speakers on issues that involve multiple stakeholders and a broad range of interests and concerns;
- breaks each study down into bite-sized areas of focus for presentations, discussions, and committee action;
- anticipates committee meetings outside of Helena to allow committee members to make site visits;
- proposes meeting dates that, to the extent possible, do not overlap other interim committee meeting dates, provide staff with adequate preparation time between each meeting, avoid over booking secretarial support, and allow staff to reduce accrued comp time and leave balances; and
- ensures completion of committee activities by September 15, 2008.

## **Special notes**

### Out-of-state speakers

Although not specifically addressed in this work plan, it should be recognized that during the course of the interim, the committee may wish to invite key speakers from out-of-state to provide expert testimony on specific topics. This work plan does not preclude that possibility as each of the studies develop. However, bringing in out-of-state speakers involves payment of travel expenses and per diem. Each interim committee's budget is allocated with this possibility in mind, however, the committee should keep the costs in mind.

### Subcommittees

Section 5-5-211(7), MCA, authorizes an interim committee to create subcommittees and provides that nonlegislators may be appointed to subcommittees. The subsection reads as follows: "An interim committee or the environmental quality council may create subcommittees. Nonlegislative members may serve on a subcommittee. Unless the person is a full-time salaried officer or employee of the state or a political subdivision of the state, a

nonlegislative member appointed to a subcommittee is entitled to salary and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503."

This work plan does not propose the use of subcommittees. If the committee should desire to consider one or more subcommittees, it should keep the following points in mind:

- From a staffing perspective, a subcommittee meeting represents the same workload as a full committee meeting. Thus, any meeting of a subcommittee should replace a full committee meeting, not be added to the work schedule.
- A subcommittee works best when it has specific instructions from the full committee and is really only necessary if the task cannot be accomplished by the full committee.
- Subcommittees can only make recommendations to the full committee, not act as if it were the full committee.
- Because public comment and testimony is welcome at all meetings, including subcommittee meetings, expect that even though a matter may have had a full hearing at a subcommittee meeting, the same testimony and information will likely be presented to the full committee. In other words, when a subcommittee reports its recommendations to the full committee and the full committee considers the recommendation, there is often redundant testimony and discussion.

#### Coordination with other committees

The studies assigned to the LJIC often overlap areas under the jurisdiction of the Children, Families, Health and Human Services Interim Committee, such as mental health and substance abuse treatment and family law and youth court services. It is advisable to coordinate and share information between committees. However, it is also important to respect jurisdictional boundaries, not only to avoid confusion and redundancy for interested parties and for those who testify and answer questions at meetings, but also for policymakers. Section 5-2-202(3) and (4), MCA, addresses how issues may be referred between committees.

### Meetings outside of Helena

Holding a committee meeting outside of Helena does not present additional costs in committee member lodge, travel, and per diem. However, it does present an additional cost for staff lodging, travel, and per diem. Additionally, although not a cost to the committee, when the committee travels out of Helena, so must interested persons and state agency staff based in Helena. This should be kept in mind when planning to conduct a committee meetings outside of Helena.

**PROPOSED WORK SCHEDULE**

*Subject to change by the LJIC*

| <b>Meeting Date</b>                                | <b>Location</b>                                 | <b>Major Agenda Items/Themes</b>  |
|--|---|---|
| <b>Friday,<br/>July 13, 2007</b>                   | Helena,<br>Room 102<br>State Capitol            | <ul style="list-style-type: none"> <li>- Organizational meeting</li> <li>- Background primers on study resolutions</li> <li>- Agency overviews</li> <li>- Prioritize work</li> <li>- Review and adopt study plan</li> </ul>   |
| <b>Thurs. &amp; Fri.<br/>Sept. 27-28,<br/>2007</b> | Butte,<br>Office of State<br>Public<br>Defender | <p><b><i>INFORMATION GATHERING</i></b></p> <p><u>Day 1</u></p> <p><b>Site visits</b> (optional)</p> <ul style="list-style-type: none"> <li>-- Montana State Prison, Deer Lodge</li> <li>-- Warm Springs Sanction, Treatment, Assessment, Revocation, and Treatment (START)</li> <li>-- Warm Springs Addictions Treatment and Change (WATCH)</li> <li>--Treasure State Correctional Training Centers, Deer Lodge</li> </ul> <p><u>Day 2</u></p> <p><i>Morning</i></p> <p><b>SJR 24 and HJR 26</b></p> <ul style="list-style-type: none"> <li>-- Research and analysis: Montana's prison population, substance abuse and mental illness in adult justice and corrections (legislative staff and corrections research/data collection staff)</li> <li>-- Panel presentation: prison-based treatment programs (corrections officials, treatment providers, advocates, criminal justice experts)</li> </ul> <p><i>Afternoon</i></p> <p><b>Agency Monitoring:</b> Office of State Public Defender, discussion with Public Defender Commission members</p> |

| Meeting Date                    | Location | Major Agenda Items/Themes   |
|---------------------------------|----------|---|
| Thurs. & Fri.<br>Nov. 8-9, 2007 | Missoula | <p data-bbox="613 264 964 289"><b>INFORMATION GATHERING</b></p> <p data-bbox="613 338 680 363"><u>Day 1</u></p> <p data-bbox="613 411 1386 436"><b>SJR 24 and HJR 26 (adult, diversion programs, mental health)</b></p> <p data-bbox="613 447 708 472"><i>Morning</i></p> <p data-bbox="613 483 1235 508">Research and analysis: current law, programs, issues</p> <ul data-bbox="613 518 1321 835" style="list-style-type: none"> <li data-bbox="613 518 922 543">-- offenses and sentencing</li> <li data-bbox="613 554 889 579">-- pre-booking diversion</li> <li data-bbox="613 590 899 615">-- post-booking diversion</li> <li data-bbox="613 625 954 651">-- courts and court processes</li> <li data-bbox="613 661 964 686">-- community-based treatment</li> <li data-bbox="613 697 909 722">-- prison-based treatment</li> <li data-bbox="613 732 1045 758">-- capacity, resources, funding issues</li> <li data-bbox="613 768 1321 835">-- Panel: law enforcement, prosecution, and sentencing laws, treatment courts</li> </ul> <p data-bbox="613 884 727 909"><i>Afternoon</i></p> <ul data-bbox="613 919 1386 1089" style="list-style-type: none"> <li data-bbox="613 919 1386 1020">-- Panel presentations and discussions: community-based alternatives (mental health and/or drug court team representatives, treatment providers, law enforcement, other stakeholders)</li> <li data-bbox="613 1031 1268 1089">-- WORK SESSION: Identify key policy issues for further consideration</li> </ul> <p data-bbox="613 1138 680 1163"><u>Day 2</u></p> <p data-bbox="613 1173 1146 1199"><b>HJR 26 and SJR 6 (juvenile justice system)</b></p> <ul data-bbox="613 1209 1349 1455" style="list-style-type: none"> <li data-bbox="613 1209 971 1234">-- Overview of Youth Court Act</li> <li data-bbox="613 1245 932 1270">-- Overview of Youth courts</li> <li data-bbox="613 1281 1349 1381">-- Panel on juvenile justice, mental health and substance abuse programs (judicial officers, youth advocates, county attorney, community-based service provider, youth correctional official)</li> <li data-bbox="613 1392 1268 1455">-- WORK SESSION: Identify key policy issues for further consideration</li> </ul> <p data-bbox="613 1503 727 1528"><i>Afternoon</i></p> <p data-bbox="613 1539 699 1564"><b>HJR 50</b></p> <ul data-bbox="613 1575 1409 1745" style="list-style-type: none"> <li data-bbox="613 1575 1243 1600">-- Overview on precommitment psychiatric evaluations</li> <li data-bbox="613 1610 1409 1673">-- Panel discussion (MACo, mental health provider, judge, consumer advocate, state hospital official)</li> <li data-bbox="613 1684 1268 1745">-- WORK SESSION: Identify key policy issues for further consideration</li> </ul> |

| Meeting Date                    | Location                             | Major Agenda Items/Themes  |
|---------------------------------|--------------------------------------|--|
| Thurs. & Fri.<br>Jan. 3-4, 2008 | Helena,<br>Room 102<br>State Capitol | <p><b>DEVELOP AND ANALYZE OPTIONS</b></p> <p><u>Day 1</u> - <b>Site visits</b>, Boulder (optional)<br/> -- Meth Treatment program<br/> -- Riverside Youth Correctional Facility</p> <p><u>Day 2</u><br/> <i>Morning</i><br/> <b>SJR 24 and HJR 26</b> (adult system)<br/> -- follow-up research and testimony on policy options for identified issues, adult corrections<br/> -- WORK SESSION: develop options</p> <p><i>Afternoon</i><br/> <b>HJR 26 and SJR6</b> (youth system)<br/> -- follow-up research and testimony on policy options for identified issues, juvenile corrections<br/> -- WORK SESSION: develop options</p>   |
| Friday,<br>Feb 29, 2008         | Helena,<br>Room 102<br>State Capitol | <p><b>SELECT OPTIONS</b></p> <p><i>Morning</i><br/> <b>SJR 24 and HJR 26</b> (adult corrections, mental health treatment)<br/> -- Community-based programs<br/> -- Prison-based programs<br/> -- WORK SESSION: select options</p> <p><b>HJR 50:</b> Precommitment evaluations<br/> -- Research and presentations following-up on work session instructions at previous meeting (mtg. #3)<br/> -- WORK SESSION: select options</p> <p><i>Afternoon</i><br/> <b>HJR 26 and SJR 6</b> (juvenile justice, corrections, mental health)<br/> -- mental health needs<br/> -- offenses, penalties, process of adjudication, youth court<br/> -- community-based programs<br/> -- correctional facility programs<br/> -- WORK SESSION</p> |

| Meeting Date                          | Location                             | Major Agenda Items/Themes  |
|---------------------------------------|--------------------------------------|--|
| Thurs. & Fri.<br>April 10-11,<br>2008 | Billings<br>or Miles City            | <p><b>DEVELOP PRELIMINARY RECOMMENDATIONS</b></p> <p><u>Day 1</u> - <b>Site visit</b> (optional)</p> <ul style="list-style-type: none"> <li>- If Billings meeting: Drug Treatment Court</li> <li>- If Miles City meeting: Pine Hills Youth Correctional Facility</li> </ul> <p><u>Day 2</u></p> <p><i>Morning</i></p> <p><b>SJR 24 and HJR 26</b></p> <ul style="list-style-type: none"> <li>-- follow-up on adult corrections and treatment issues</li> <li>-- WORK SESSION: preliminary recommendations, instructions for bill drafts</li> </ul> <p><i>Afternoon</i></p> <p><b>HJR 26 and SJR 6</b></p> <ul style="list-style-type: none"> <li>-- follow-up on juvenile justice and corrections</li> <li>-- WORK SESSION: preliminary recommendations, instructions for bill drafts</li> </ul> |
| Thurs. & Fri.<br>June 29- 30,<br>2008 | Helena,<br>Room 102<br>State Capitol | <p><b>REFINE RECOMMENDATIONS</b></p> <p><u>Day 1</u></p> <p><i>Morning</i></p> <p><b>SJR 24 and HJR 26:</b> Adult justice and corrections</p> <p><b>HJR 50:</b> Precommitment psychiatric evaluations</p> <p><i>Afternoon</i></p> <p><b>HJR 26 and SJR 6:</b> Juvenile justice and corrections</p> <p><u>Day 2</u></p> <p><b>Agency Monitoring:</b> Presentations of Agency Legislation</p> <ul style="list-style-type: none"> <li>- Dept. of Corrections</li> <li>- Judicial Branch</li> <li>- Department of Justice</li> <li>- Office of State Public Defender</li> </ul>  |

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| Meeting Date           | Location                  | Major Agenda Items/Themes   |
|------------------------|---------------------------|---|
| Friday<br>Aug. 1, 2008 | Room 102<br>State Capitol | <b><i>FINALIZE RECOMMENDATIONS</i></b><br><br><b>Committee recommendations legislation:</b> final approval<br><br><b>Agency legislation:</b> Final reviews<br><br><b>Finalize all other work:</b> Approve draft of final report |

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