

Office of Research and Policy Analysis

**PROPOSED
WORK PLAN PRIORITIES AND
MEETING SCHEDULE**

A REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE

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For the
Law and Justice Interim Committee
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Overview

This paper summarizes:

- the committee's statutory duties;
- reviews the committee's study assignments;
- presents work plan priorities for discussion and **action**;
- and proposes a meeting schedule for the interim for discussion and **action**; and

After the committee decides on its study priorities and directs staff how to allocate available time and resources, staff will prepare a detailed work plan for the committee's review and adoption at the second meeting.

Statutory responsibilities

The Law and Justice Interim Committee's (LJIC's) statutory duties are outlined in sections 5-5-215 and 5-5-226 of the Montana Code Annotated (MCA). Under these statutes, the LJIC is empowered to sit as a committee and act within its statutorily assigned areas of responsibility. The LJIC may refer an issue to another committee if the LJIC determines that the other committee is more appropriate in consideration of the issue.

Agency monitoring

The LJIC's assigned agencies are:

- the Department of Corrections (DOC);
- the Department of Justice (DOJ); and
- the Judicial Branch.

This assignment includes entities attached to these agencies for administrative purposes only and includes:

- the Board of Pardons and Parole (DOC);
- the Montana Board of Crime Control (DOJ); and
- the Police Officer Standards and Training (P.O.S.T) Council.

There is an unwritten understanding the LJIC also performs these agency oversight duties for the Office of State Public Defender, which is actually administratively attached to the Department of Administration.

For assigned agencies (and the Office of State Public Defender), the LJIC must conduct:

- administrative rule review;
- draft legislation review;
- program evaluation; and
- monitoring.

Reports to be received

Certain statutes require that specific reports be made to the LJIC:

- ***Court information technology:*** 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".
- ***Court Attorney license tax:*** 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.
- ***Racial profiling:*** 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.

- **Public defender system:** Section 47-1-105, MCA, requires that the Office of State Public Defender submit to the LJIC a detailed biennial report that covers several items including caseload and expenditure data.
- **Juvenile delinquency intervention program:** Section 41-5-203, MCA, requires that DOC report to the LJIC the evaluation conducted each fiscal year on out-of-home placements by juvenile probation officers.
- **Medical parole:** Section 46-23-210, MCA, requires the Board of Pardons and Parole to report to the LJIC regarding the outcome related to any person released on medical parole since the last report, including health care costs and payments related to the care of the person released on medical parole.
- **Implementation of LJIC bills on the diversion of mentally ill from the justice system:** HB 130, HB 131, and HB 132 (requested by the LJIC last session) each required the Department of Public Health and Human Services to report to the LJIC on the implementation of the programs provided under each of the bills. HB 130 established a grant program for jail diversion and crisis intervention, HB 131 required contracting for emergency detention beds, and HB 132 provided for diversion from involuntary commitment to the State Hospital to voluntary short-term inpatient treatment. **(Note: The Children and Families, Health and Human Services Interim Committee will be monitoring implementation of these bills as well.)*

Assigned studies

The Legislative Council has assigned the following two studies to the LJIC:

- | | |
|--------|--|
| SJR 29 | Study retention and preservation of biological evidence in criminal proceedings by state and local law enforcement |
| SJR 39 | Study DUI laws and enforcement |

Please see the staff background report (i.e., primer) on each of these studies, which are separate from this paper.

Emerging or member issues

Each interim, there are issues of concern to agencies, stakeholders, committee members, or other legislators that the LJIC is asked to study. These are usually referred to as "emerging" or "member". These, too, must be considered in the LJIC's work plan.

Issues formally raised

One issue has already been formally presented to the LJIC for consideration:

- The Corrections Advisory Council has requested that the LJIC study **sex offender placement** and the difficulty encountered in placing them in the community upon their release from prison. (Please see the attached letter from the Corrections Advisory Council.)

On the radar screen

At the writing of this paper, the issues listed below have been brought to staff attention as issues of concern that the LJIC may be requested to examine. However, these issues have not yet been formally presented to the LJIC (though they may be at the first meeting):

- formula for **youth detention centers** (by Montana Board of Crime Control);
- **pet hoarding**, potential penalties, and public funding issues for care (Sen. Esp);
- notification and education/awareness in public schools about **sex offenders** (Sen. Moss);
- **racial discrimination** allegations at Shelby prison (Rep. Augare); and
- training and qualifications for **guardians ad litem** in child custody proceedings (Rep. Hands).

Other issues may yet be raised. In considering whether to add these issues to the LJIC's work plan, members should remember that any time spent on these issues will necessarily take time away from performance of the committee's statutory duties and study assignments. This is not a reflection on the merits of the issues. It is simply a work plan issue, and if the committee considers an emerging or member issue, it must adjust its work plan accordingly.

Setting work plan priorities

In order to develop a detailed work plans for the LJIC, staff needs to know how the LJIC wants to prioritize its work. Following are some basic parameters to assist committee planning efforts. These parameters are based on best *estimates* and averages.

Budget and time

Budget:	\$48,036 (see attachment)
Meeting days:	6 one-day meetings <u>2 two-day meetings</u> 10 meeting days
Meeting hours:	70 meeting hours - assumes 10 meeting days and an average of 7 hours per meeting
Staff hours:	2,100 staff hours - equates to 30 hours per committee meeting hour
Deadline:	September 15, 2010

Special considerations

2-day meetings:	Two-day meetings save a little money in committee member travel because members do not have to drive back and forth so much, but require more staff preparation time.
Out-of-town mtgs:	Out-of-town meetings are discouraged because of added costs, the lack of audio and video capabilities, and the additional staff time required (which takes time away from research and analysis). However, site visits, such as to the state crime lab, may be desirable and so should be planned for.
Minimum	Administrative and statutory duties will consume no less than 20% of the committee's time (i.e, 14 hours over the

interim, or the equivalent of 2 meeting days). *Note: This assumes that the statutorily required reports will be made in writing and that most of them will not be discussed at a committee meeting, and if discussed at all, not for more than about 10 minutes.*

Subcommittees

Section 5-5-211(7), MCA, authorizes an interim committee to create subcommittees and provides that nonlegislators may be appointed as members. A working group, task force, or other ad hoc group of the committee is still considered a subcommittee and involves the same public notice, minutes, and public participation as a full committee meeting,

This work plan does not propose the use of subcommittees. If the committee should desire to establish 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 meeting reduces costs for member travel and per diem.
- A subcommittee works best when it has specific tasks and instructions from 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.
- When subcommittee recommendations are made to the full committee, expect that the full committee will re-plow some (and perhaps most) of the ground already plowed by the subcommittee.

Set your priorities

The following table presents **one** option with regard to allocating your time this interim. The LJIC should adjust the percentages below to reflect its priorities. However, the total percentage must not exceed 100 percent. *Please note: The table assumes only minimal time for reviewing implementation of HB 130, HB 131, and HB 132. If the committee wants to spend more than 15 to 30 minutes (interim total) on these bills, it should increase the percentage of time allocated to administrative and statutory duties and decrease another category accordingly.*

Responsibilities	Percentage of Total	Meeting Hours	Staff Hours
Administrative and statutory duties	20%	14 hours	420 hours
SJR 29 - Retention of biological evidence	30%	21 hours	630 hours
SJR 39 - DUI laws	40%	28 hours	840 hours
Other issues	10%	7 hours	210 hours
TOTAL	100%	70 hours	2,100 hours

Proposed Meeting Schedule

All meetings would be in Helena, except for one 2-day meeting in Missoula.
There should be no less than 6 weeks between meetings.

DATE	BETWEEN MEETINGS	STUDY PHASE	MAJOR ACTIVITIES/DECISIONS
2009			
Mon. Aug. 3	1st mtg	Phase I- Organizational Background	- Background reports - Provide direction on study planning - Adopt priorities and meeting schedule
Mon. & Tues, Oct. 5-6 <i>Missoula</i>	9 weeks	Phase I- Gather information	- Visit State Crime Lab in Missoula - Visit treatment court (DUI study) - Testimony and reports - Review and adopt detailed study plan - Identify key issues for next meeting
Mon., Dec. 14	10 weeks	Phase II - Analyze problems	- Visit L&C County evidence room - Testimony and reports on identified issues - Define problems for further examination
2010			
Mon., Feb. 8	9 weeks	Phase II - Analyze problems	- Testimony and reports on specific problems - Identify initial options for further analysis
Mon., April 5	8 weeks	Phase III- Develop options	- Testimony and reports on options - Select specific options for further examination - Begin fiscal analysis
Mon. & Tues., May 17-18	6 weeks	Phase III - Develop options	- Testimony and reports on options, fiscal analysis - Develop preliminary recommendations - Request any bill drafts
Mon., July 12	8 weeks	Phase IV- Preliminary recommendations	- Hearings on recommendations & bill drafts - Further fiscal analysis - Make adjustments
Fri., Sept. 3	7.5 weeks	Phase IV - Finalize recommendations	- Adopt final recommendations and report, approve implementation plan