



HB 142 - REVIEW OF ADVISORY COUNCILS & REPORTS

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Part 2 - Montana Board of Crime Control

Purpose & Organization of Brief

This paper is the first installment of the additional information on advisory councils and agency reports requested by the Law and Justice Interim Committee at its December 15-16, 2011, meeting. A December 2011 Decision Brief presented a complete at-a-glance chart and copies of the statutes for the statutory advisory councils and agency reports that the LJIC is required to review under HB 142. The recommendations contained in this report are numbered in sequence to follow the HB 142 briefing paper for Part 1 A - Department of Justice. Thus, the recommendations in this paper start with #8.

Montana Board of Crime Control

This brief covers advisory councils and reports under the Montana Board of Crime Control (MBCC). The MBCC is statutorily established in section 2-15-206, MCA. By statute, it is attached to the Department of Justice for administrative purposes only. However, it may hire its own staff. The board's 18 members are appointed by the governor.

The MBCC is a state entity, but it is required under federal law in order to manage federal grants to the state. Section 44-4-301(1), MCA states:

"(1) As designated by the governor as the state planning agency under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the board of crime control shall perform the functions assigned to it under that act. The board shall also provide to criminal justice agencies technical assistance and supportive services that are approved by the board or assigned by the governor or legislature."

Youth Justice Advisory Council

One of the advisory councils attached to the MBCC is the Youth Justice Advisory Council. This council must be established by the state in order to comply with the federal requirements of the Juvenile Justice and Delinquency Prevention Act of 2002. However, the council is not a statutorily-created. It is created by executive order pursuant to section 2-15-122, MCA, so must be re-authorized by the governor every two years. Although it is not established by statute, there is one MCA reference to the "youth justice council": section 52-2-303, MCA. Section 52-2-303, MCA establishes the Children's System of Care Planning Committee. Subsection (h) provides that an appointee from the "youth justice council" must be a member of the planning committee. It is not typical nor is it good practice to reference an entity in statute that is not somehow defined in statute. Even if it is an entity required pursuant to federal law, the statute should reference the applicable federal law.

Recommendation #8 - Youth Justice Advisory Council

Section 2-15-206, MCA, should be amended to include the establishment of the Youth Justice Advisory Council pursuant to the Juvenile Justice Delinquency Prevention Act of 2002, as amended, and placed under the MBCC. Section 52-2-303, MCA, should be amended to reference the Youth Justice Advisory Council established in 2-15-206, MCA.

Concealed Weapons Advisory Council

The Concealed Weapons Advisory Council has been attached by executive order to the MBCC. This advisory council is established in section 45-8-329, MCA. This statute was originally enacted in 1995. As originally enacted the section directed the governor to negotiate reciprocity agreements with other states and the advisory council was to advise the governor during this process. However, this approach was revised by the legislature in 1999 so that the statute currently reads:

45-8-329. Concealed weapon permits from other states recognized -- advisory council.

(1) A concealed weapon permit from another state is valid in this state if:

- (a) the person issued the permit has the permit in the person's immediate possession;
- (b) the person bearing the permit is also in possession of an official photo identification of the person, whether on the permit or on other identification; and
- (c) the state that issued the permit requires a criminal records background check of permit applicants prior to issuance of a permit.

(2) The attorney general shall develop and maintain a list of states from which permits are recognized under this section for the use by law enforcement agencies in this state.

(3) A determination or declaration of a Montana government entity, official, or employee is not necessary to the existence and exercise of the privilege granted by this section.

(4) The governor shall establish a council, composed of interested persons, including law enforcement personnel and gun owners, to advise the governor on and pursue concealed weapon permit issues.

The 1999 revisions included some changes in the language used in subsection (4) concerning the advisory council so that instead of advising the governor on reciprocity issues, the council would advise the governor on and pursue concealed weapon permit issues. The statute does not specify membership. Nor does the statute reference section 2-15-122, MCA, which would normally be referenced in order to ensure members receive compensation and travel expenses as an advisory council. Finally, the statute does not provide for the attachment of the council to a department or other agency.

Staff reviewed the minutes of the last meeting of the advisory council, which was September 17, 2010. Based on that review, it seems that the advisory council is struggling to determine its identity, purpose, and duties. The discussion did not seem guided by a particular agenda or by goals and objectives and ranged from training, to public education, to comments about session legislation, to identification cards and permit forms.

Recommendation #9 - Concealed Weapons Advisory Council

Subsection (4) of section 45-8-329, MCA, should be stricken. The governor would still retain the discretion of creating the advisory council by executive order under section 2-15-122, MCA.

MBCC Reports

The MBCC produces several very useful reports, including:

- Montana Board of Crime Control Triennial (or Biennial) Report;
- Crime in Montana -an annual report of crime statistics and trends;
- Law Enforcement Personnel - an annual report detailing the number of personnel by agency, and providing information on gender, salary, incidents, and arrests; and
- Montana Hate Crimes - an annual statistical report.

The MBCC website also offers access to numerous other resources about grants, crime data, and plans and projects. The website also contains links to other resources.

There is no statutory requirement for the MBCC to report to the legislature. However, MBCC reports have been made available on the MBCC's website and to the Law and Justice Interim Committee upon request. Nevertheless, the legislature and members of the public would be well-served by more exposure to the wealth of information available through the MBCC.

Recommendation #10 - Montana Board of Crime Control Reports

Section 2-14-206, MCA, or section 44-4-301, MCA, should be amended to require it to submit its reports to the Law and Justice Interim Committee each interim in order to keep the legislature and the public aware of the information available from the MBCC.