

**LAW & JUSTICE INTERIM COMMITTEE**  
*Draft Work Plan for the 2013-2014 Interim*

**For discussion on July 10, 2013**

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## INTRODUCTION AND OVERVIEW:

The Law and Justice Interim Committee (the LJIC) is one of several interim committees established by law and required to meet in the months between regular legislative sessions. Interim committees provide oversight for the various state agencies, perform interim studies as needed and as assigned by Legislative Council, and propose legislation for consideration at the next legislative session.

The LJIC is responsible for monitoring the activities of the Office of the State Public Defender (OPD), the Department of Corrections (DOC), the Department of Justice (DOJ), and any entities that are attached to those agencies for administrative purposes. The administratively attached entities that the LJIC monitors are:

- the Board of Pardons and Parole (attached to DOC);
- the Board of Crime Control (attached to DOJ);
- the Gaming Advisory Council (attached to DOJ); and
- the Public Safety Standards and Training (P.O.S.T.) Council (attached to DOJ).

The committee also serves as the liaison to the Judicial Branch.

The Legislative Council assigned two studies to the LJIC for the 2013-2014 interim:

- Senate Joint Resolution No. 3, a study of the operations of the Montana Board of Pardons and Parole; and
- Senate Joint Resolution No. 22, a study of current court procedures in family law cases and alternative solutions to improve the administration of justice.

This work plan outlines the agency oversight and study duties assigned to the LJIC and proposes a meeting schedule from June 2013 to August 2014. Once revised and adopted by the LJIC, the work plan will serve as a general "road map" of the committee's priorities for the interim. The work plan includes:

- a matrix to help the committee determine the level of involvement it would like to have in its oversight duties and the interim studies. The matrix begins on page 6;
- a list of topics that might interest the members and on which additional information might be requested during the interim, beginning on page 9; and
- a proposed schedule of activities for each committee meeting, beginning on page 11.

The LJIC members should be prepared to discuss and revise the work plan at its organizational meeting. Staff will then revise the plan as needed and the committee can adopt the final plan at its second meeting.

## AGENCY OVERSIGHT

Agency monitoring duties are set out in 5-5-215, MCA, and are discussed below. The LJIC should

perform these duties for each of the agencies assigned to it.

### Rule Review

The LJIC's staff attorney routinely reviews and summarizes the administrative rulemaking notices for the agencies monitored by the committee and will provide members with information on this process. In particular, staff pays particular attention to any rules considered to be out of compliance with legislative intent or with the rulemaking process set out in law. The Montana Administrative Procedure Act (MAPA) allows interim committees to:

- obtain and agency's rulemaking records to review them for compliance;
- submit written recommendations to the agency for the adoption, amendment, or rejection of a rule;
- require that a rulemaking hearing be held;
- participate in proceedings; and
- review the conduct of administrative proceedings.

Action Item: The LJIC should decide the level of involvement it would like to have in the rule review process, using the matrix provided on page 6.

### Program Monitoring, Required Reports, and Advisory Councils

The LJIC is required to monitor the operations of the agencies under its jurisdiction and should give specific attention to:

- identifying issues likely to require further legislative action;
- identifying opportunities to improve existing laws that govern the agency's operation and programs;
- determining whether the experiences Montanans have had with an agency can be improved through legislative action; and
- reviewing proposed agency legislation.

In addition to program monitoring, certain statutes require agencies under the jurisdiction of the LJIC to present to the committee or the Legislature reports on various topics. As part of its agency monitoring work, the LJIC must review these required reports to determine if the next Legislature should retain or eliminate any of these reports. The same review must be performed for advisory councils or commissions under the committee's jurisdiction.

A list of the required reports and the various advisory councils and commissions can be found on page 15 and 16 of this work plan.

### Review of Draft Legislation

Using the procedures set out in the Joint Rules, the LJIC should review legislative proposals from the agencies. This review typically happens in the late spring or early summer of the final year of the interim. Interim committees may then authorize legislative staff to begin drafting the agencies'

legislation. The review and authorization process *is not* an endorsement by the LJIC of the agency proposals. Instead, this process allows staff to get an early start on drafting bills so their time is free after the November elections to work on bills for the newly elected legislators. Agency bills drafted as a result of this process must be pre-introduced before the next legislative session and will be among the first bills heard by the new Legislature.

Action Item: The LJIC should decide the level of involvement it would like to have to provide oversight for the agencies assigned to it, using the matrix provided on page 6.

### ONGOING ISSUES OF INTEREST

The LJIC may want to receive periodic written or oral updates on topics that were the subject of recent legislation, recent LJIC attention, or issues that may emerge during the interim. A list of possible issues is provided on page 9. The list provides space for other issues identified by LJIC members.

Individuals members of the committee may seek additional information on issues that fall under the jurisdiction of the LJIC. These issues may be raised by constituents or may be emerging in Montana or other states, or may be a topic of interest to a particular member. If the committee chooses not to pursue further information on a topic, the individual committee member may submit a research request. Under rules adopted by the Legislative Council, a staff member may provide up to 16 hours of research for a request that is not included in the committee's work plan, unless the presiding officer of the interim committee approves additional research time.

Action Item: Discuss topics and determine what activity, if any, the LJIC wishes to pursue for the topic. Determine if there are other topics to add.

### MEETING SCHEDULE

The following dates are a tentative meeting schedule for the interim. It proposes 10 meeting days, including the organizational meeting. If the LJIC forms any subcommittees or wishes to travel to visit institutions, money must be allocated from the budget to cover those costs and the number of meeting days for the full committee may be reduced.

#### Proposed meeting schedule

- Wednesday, July 10, 2013 - organizational meeting
- Thursday/Friday, September 19-20, 2013
- Thursday, December 5, 2013
- Thursday/Friday, February 13-14, 2014
- Friday, April 25, 2014
- Thursday/Friday, June 26-27, 2014
- Friday, August 22, 2014

Committee members may change the dates or number of meetings as their schedules and the budget allow to better reflect their needs for the interim. For example, the proposed 2-day

meeting in September could be reduced to 1 day and the funding for that day could be used to assist committee members in traveling to parole hearings for the SJR 3 hearing. Alternatively, the extra meeting date could be added to a later meeting in 2014 if the committee feels the day would be better used later in the interim. However, because several LJIC members are also assigned to other interim committees and LJIC shares staff with the other committees, the LJIC must be careful when scheduling and rescheduling meetings to ensure that members and staff don't have other interim commitments.

Suggested activities for each meeting can be found on page 11.

TIME ALLOCATION

The LJIC Work Plan Decision Matrix in Appendix A starting on page 6 provides a list of the LJIC's duties, along with options for the level of involvement that the committee members would like to have with each topic. The options marked with asterisks would result in the following breakdown of committee time, assuming 72 hours of meeting time.

Item	Description	Time Allocation
SJR 3 Study	Board of Pardons/Parole	30% (21.5 hours)
SJR 22 Study	Family Law and Alternatives	20% (14.5 hours)
Statutory Oversight	Agency monitoring, required reports and councils/commissions, rule review, legislation review	25% (18 hours)
Other issues determined by committee		25% (18 hours)

If the committee members wish to devote more or less time to any of the listed items, the percentages in the table would change accordingly in the final work plan.

APPENDIX A: LJIC WORK PLAN DECISION MATRIX

Agency Oversight		
Rule Review: Decide the level of involvement the LJIC would like to have in administrative rule review		
	<p><u>Moderate Involvement*</u></p> <ul style="list-style-type: none"> <li>• Receive brief rule report prior to each meeting</li> <li>• Legal staff will note issues of concern</li> <li>• Review in committee topics that legislators flag as important or of concern or that a committee member has asked to be placed on the agenda</li> </ul>	
Program Monitoring, Reports, Advisory Councils: Decide the level of agency oversight and review the LJIC would like to provide		
<p><u>Minimal Involvement</u></p> <ul style="list-style-type: none"> <li>• Initial introduction presentation by agency</li> <li>• Receive copy of any required report</li> <li>• Brief written summary of advisory councils and commissions and follow up as committee desires</li> </ul>	<p><u>Moderate Involvement*</u></p> <ul style="list-style-type: none"> <li>• All of minimal involvement AND</li> <li>• Agency presentation of required report, if possible</li> <li>• Receive an agency update from officials as needed or requested</li> <li>• Receive additional updates based on topics identified by members</li> </ul>	<p><u>Significant Involvement</u></p> <ul style="list-style-type: none"> <li>• All of minimal involvement AND</li> <li>• Receive an agency update from officials each meeting</li> <li>• Receive additional updates based on topics identified by members</li> <li>• Additional presentations by advisory councils and commissions to determine the recommendation to be made to the Legislature</li> </ul>
Legislation Review: Decide the level of oversight and review of agency legislation		
<p><u>Minimal Involvement*</u></p> <ul style="list-style-type: none"> <li>• Hear agency presentation on proposed agency bills; authorize pre-drafting of bills</li> </ul>		

Interim Studies: Discuss the assigned studies and proposed study plans. Determine the amount of committee time to devote to each study.

SJ 3: Study the Board of Pardons and Parole

Option A

- Staff research into selected issues from the study resolution
- Staff meetings with stakeholders

Deliverables

- Background briefing papers on topics identified in the study resolution
- Final report with findings; public comment on report
- Follow-up activities as requested by the committee, including draft legislation if desired

Option B\*

- Staff research into selected issues from the study resolution
- Staff attendance at relevant stakeholder meetings, as appropriate
- Individual legislators attend a Board hearing in local area, if requested and appropriate

Deliverables

- Background briefing papers on selected topics identified in the study resolution
- Individual and/or panel presentations on topics identified in the study resolution and identified by members
- Draft legislation
- Final report

Option C

- Staff research into all issues listed in the study resolution
- Staff attendance at relevant stakeholder meetings, as appropriate
- Committee travel to Board hearing in Deer Lodge, as appropriate
- Additional items identified by the committee

Deliverables

- Background briefing papers on topics identified by the study resolution and committee members or stakeholders
- Individual and/or panel presentations on topics identified by the study resolution
- Draft legislation
- Final report

SJ 22: Study of current court procedures in family law cases and alternatives

<p><u>Option A</u></p> <ul style="list-style-type: none"> <li>• Staff research into selected issues from the study resolution</li> <li>• Staff meetings/working groups with stakeholders</li> </ul> <p><u>Deliverables</u></p> <ul style="list-style-type: none"> <li>• Background briefing papers on topics identified in the study resolution</li> <li>• Staff updates at committee meetings, as requested by members</li> <li>• Final report with findings; public comment on report</li> <li>• Follow-up activities as requested by the committee, including draft legislation</li> </ul>	<p><u>Option B*</u></p> <ul style="list-style-type: none"> <li>• Staff research into selected issues from the study resolution</li> <li>• Staff attendance at relevant stakeholder meetings, as appropriate</li> </ul> <p><u>Deliverables</u></p> <ul style="list-style-type: none"> <li>• Background briefing papers on topics identified in the study resolution</li> <li>• Individual and/or panel presentations on issues identified in the resolution and identified by members</li> <li>• Draft legislation</li> <li>• Final report</li> </ul>	
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## APPENDIX B: Topics for LJIC Consideration

The following list of topics are suggestions for consideration only, not requirements for committee time. The list does not include reports that are required by law. Lines are left blank for committee members to suggest topics.

The table on page 5 provides 18 hours of committee time to be allocated to topics chosen by the members. This is approximately 20% of the committee's workload. If the committee wishes to devote more or less time to these issues, the percentages listed in the table would need to be reallocated accordingly.

If a topic is not selected by the committee to include in the work plan, an individual member may pursue the topic as an information request. Staff may work on an information request for up to 16 hours. After that amount of time is expended, further time can be granted by the committee's presiding officer or by the committee if it chooses to amend its work plan to include the topic.

Committee activities related to the following topics could include presentations, staff briefing papers, or other items as requested by the committee.

Topic	Reason	Activity (if any)	Date
Jail suicides	Previous LJIC area of interest, topic of two LJIC bills in 2013		
Re-entry initiative at Department of Corrections	Follow up on HB 68 (2013), which was a LJIC bill effective July 1.		
Updates on the HJR 16 study of state-operated institutions serving individuals with mental illness	Previous LJIC area of interest	This study is assigned to the Children and Families Interim Committee. Staff and any willing members serving on both committees would provide updates on the study as it progresses.	Periodic as requested

Topic	Reason	Activity (if any)	Date
Public defender system	Previous LJIC area of interest, topic of failed study resolution in 2013 Legislature; recent actions by the PD Commission to limit caseloads in certain judicial districts		
Restorative justice	HB 71 and HB 72 were enacted by 2013 Legislature and were LJIC bills		
DUI prevention/punishment	Previous LJIC area of interest, topic of several bills in 2013 session		
Human trafficking	2013 Legislature enacted HB 478, HB 488, and SB 259 to strengthen state laws related to human trafficking.		

## APPENDIX C: Meeting Plan Summary

The following is a tentative schedule of committee activities for each of the meetings planned for the 2013-2014 interim.

Date	Activity	Tasks/Policy Decisions
July 10, 2013	<ul style="list-style-type: none"> <li>▶ Organizational</li>   <li>▶ Agency Monitoring</li>   <li>▶ Assigned Studies</li> </ul>	<ul style="list-style-type: none"> <li>• Review, amend work plan, adopt if possible</li> <li>• Review, adopt meeting dates</li> <li>• Elect officers</li> <li>• Review legislative district resources</li>   <li>• Agency introductions</li> <li>• Rule review overview</li>   <li>• Review, adopt work plan for SJ 3 study</li> <li>• Review, adopt work plan for SJ 22 study</li> </ul>
September 2013	<ul style="list-style-type: none"> <li>▶ Organizational</li>   <li>▶ Agency Monitoring</li>   <li>▶ Assigned Studies</li>             <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Adopt work plan, if needed</li>   <li>• Rule review as necessary</li> <li>• Agency presentations/introductions as necessary</li>   <li>• SJR 3: Pardons and Parole <ul style="list-style-type: none"> <li>▶ Staff briefing paper(s) compiling existing information on Board and statutes</li> <li>▶ Panel presentations on corrections process, existing laws governing parole, Board philosophy and operations</li> </ul> </li>   <li>• SJR 22: Family Law <ul style="list-style-type: none"> <li>▶ Staff briefing paper(s) on existing procedures for resolving family law disputes and resources available to litigants</li> <li>▶ Panel presentation on resources available to litigants; limitations of current system</li> </ul> </li>   <li>• Update on topics as requested</li> </ul>

Date	Activity	Tasks/Policy Decisions
December 2013	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li> <li>▶ Assigned Studies</li> <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• SJR 3: Pardons and Parole <ul style="list-style-type: none"> <li>▶ Staff briefing papers, as necessary</li> <li>▶ Panel presentations on corrections and parole process, including information on how parolees are supervised in the community</li> </ul> </li> <li>• SJR 22: Family Law <ul style="list-style-type: none"> <li>▶ Panel presentations to identify stakeholder problems with existing process</li> </ul> </li> <li>• Update on topics as requested</li> </ul>
February 2014	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li> <li>▶ Assigned Studies</li> <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• SJR 3: Pardons and Parole <ul style="list-style-type: none"> <li>▶ Staff briefing paper on states w/o parole board or similar authority</li> <li>▶ Panel presentations, public comment on gaps in procedures, alternatives to current process</li> <li>▶ Issue identification/policy direction</li> </ul> </li> <li>• SJR 22: Family Law <ul style="list-style-type: none"> <li>▶ Overview of alternative processes or other solutions</li> <li>▶ Issue identification/policy direction</li> </ul> </li> <li>• Update on topics as requested</li> </ul>

Date	Activity	Tasks/Policy Decisions
April 2014	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li> <li>▶ Assigned Studies</li> <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• SJR 3: Pardons and Parole               <ul style="list-style-type: none"> <li>▶ Presentations, papers as requested</li> <li>▶ Examine implications of possible policy changes or alternatives</li> <li>▶ Further refine policy issues and options</li> </ul> </li> <li>• SJR 22: Family Law               <ul style="list-style-type: none"> <li>▶ Examine policy and cost implications of possible policy changes or alternatives</li> <li>▶ Further refine policy issues and options</li> </ul> </li> <li>• Update on topics as requested</li> </ul>
June 2014	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li> <li>▶ Assigned Studies</li> <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• Agency presentation of requested legislation</li> <li>• SJR 3: Pardons and Parole               <ul style="list-style-type: none"> <li>▶ Develop initial policy recommendations</li> <li>▶ Review of draft legislation or other materials, as needed</li> <li>▶ Additional policy direction, as needed</li> </ul> </li> <li>• SJR 22: Family Law               <ul style="list-style-type: none"> <li>▶ Develop initial policy recommendations</li> <li>▶ Review draft legislation or other materials, as needed</li> <li>▶ Additional policy direction, as needed</li> </ul> </li> <li>• Updates on topics as requested</li> <li>• Review of draft legislation to date, if any</li> </ul>

Date	Activity	Tasks/Policy Decisions
August 2014	<ul style="list-style-type: none"> <li>▶ Agency Monitoring</li>   <li>▶ Assigned Studies</li>   <li>▶ Other Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• Final action on agency legislative requests</li>   <li>• SJR 3: Pardons and Parole <ul style="list-style-type: none"> <li>▶ Final action on bill drafts or other study-related items</li> </ul> </li> <li>• SJR 22: Family Law <ul style="list-style-type: none"> <li>▶ Final action on bill drafts or other study-related items</li> </ul> </li>   <li>• Review/approval of draft final report or outline</li> <li>• Final action on nonstudy bill drafts</li> </ul>

## APPENDIX D: Required Reports

### Department of Justice

- Domestic violence fatality review commission - report to LJIC prior to each regular session (2-15-2017, MCA)

### Board of Crime Control

- Status and performance of restorative justice grant programs - annually to LJIC (Ch. 237, L 2013)

### Department of Corrections

- None

### Board of Pardons and Parole

- None

### Judicial Branch

- Judicial Information Technology Status Report - annually to LJIC (3-1-702, MCA)
- Evaluation of out-of-home placements/programs/services of juveniles involved with youth probation - annually to LJIC (41-5-2003, MCA)

### Office of the State Public Defender

- Biennial report - each interim (47-1-105, MCA)

## APPENDIX E: Advisory Councils or Commissions

### Department of Justice

- Domestic Violence Fatality Review Commission (section 2-15-2017, MCA)
- Gaming Advisory Council (section 2-15-2021, MCA)
- Criminal Intelligence Information Advisory Council (44-5-501, MCA)
- Advisory Council on Concealed Weapons Permit Issues (45-8-329, MCA)

### Board of Crime Control

- None

### Department of Corrections

- None

### Board of Pardons and Parole

- None

### Judicial Branch

- Judicial Nomination Commission (section 3-1-1001, MCA)
- Judicial Standards Commission (section 3-1-1101, MCA)
- District Court Council (section 3-1-1602, MCA)
- The Judicial Branch also includes other Commissions and Boards established by the Supreme Court but not created by a specific statute. A list of those Commissions and Boards is available at: <http://courts.mt.gov/supreme/boards/default.mcp>

### Office of the State Public Defender

- None



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