



Law and Justice Interim Committee

64th Montana Legislature

SENATE MEMBERS

SCOTT SALES--Chair
DIANE SANDS--Vice Chair
DOUG KARY
SUE MALEK
MARY SHEEHY MOE
NELS SWANDAL

HOUSE MEMBERS

JENNY ECK
ELLIE BOLDMAN HILL
SARAH LASZLOFFY
STEVE LAVIN
DALE MORTENSEN
CAROLYN PEASE-LOPEZ

COMMITTEE STAFF

RACHEL WEISS, Lead Staff
JULIANNE BURKHARDT, Staff Attorney
LAURA SHERLEY, Secretary

MINUTES LOG

March 8, 2016

Room #137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. SCOTT SALES, Chair
SEN. DIANE SANDS, Vice Chair

SEN. DOUG KARY
SEN. SUE MALEK
SEN. MARY SHEEHY MOE
SEN. NELLS SWANDAL

REP. JENNY ECK
REP. ELLIE BOLDMAN HILL
REP. SARAH LASZLOFFY
REP. STEVE LAVIN
REP. DALE MORTENSEN
REP. CAROLYN PEASE-LOPEZ

COMMITTEE MEMBERS EXCUSED

STAFF PRESENT

RACHEL WEISS, Lead Staff
JULIANNE BURKHARDT, Staff Attorney
LAURA SHERLEY, Secretary

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

CALL TO ORDER AND ROLL CALL

00:00:02 Sen. Sales called the meeting to order at 10:01 a.m. The committee secretary called roll ([Attachment 3](#)).

AGENCY OVERSIGHT: JUDICIAL BRANCH -- Beth McLaughlin, Court Administrator

00:00:45 Ms. McLaughlin ([Exhibit 1](#))

00:03:27 Sen. Sands asked the necessity of the Judicial Branch IT finance report and why Ms. McLaughlin believes it is no longer useful.

00:04:57 Sen. Kary asked why Ms. McLaughlin believes it is not interesting to the public where the money is being spent in the Judicial Branch IT finance report.

00:05:53 Ms. McLaughlin continued her presentation ([Exhibit 2](#))([Exhibit 3](#)).

00:15:41 Rep. Hill asked if a parent waives the parent's right to an attorney, does the child also have a separate right to an attorney. Rep. Hill additionally asked if the mediators are also attorneys.

00:17:44 Sen. Swandal asked when the practice of splitting dependent/neglect cases started. Sen. Swandal additionally asked about when and why the upswing of abuse cases in Yellowstone County.

00:18:48 Sen. Swandal commented that the Judicial Branch should consider retired district court judges for mediators and have the Court Appointed Special Advocate or Guardian Ad Litem bring the conflicting parties together to discuss terms and limit the need for a courtroom hearing.

00:20:12 Rep. Hill asked if the Judicial Branch has considered bringing in additional funds to have retired district judges do child abuse and neglect cases.

00:21:17 Sen. Malek asked Ms. McLaughlin to go over the timeline of form development and completion of training for the HB 612 pilot project.

00:23:07 Sen. Malek asked if the program should be applicable to clients that could not be treated for substance abuse in 6 months.

00:24:32 Sen. Malek asked if the child can be kept out of the home and be in the program until the social worker deems the home appropriate.

00:24:53 Ms. McLaughlin continued her presentation ([Exhibit 4](#)).

00:31:51 Sen. Sands asked what kind of impact that legalization of marijuana would have on the young adult cases seen in the Judicial Branch.

00:36:29 Sen. Moe asked about Ethyl Glucuronide as a by product of alcohol consumption and using it for testing for alcohol in young adults.

00:37:45 Rep. Hill asked how long young adults are placed in custody before they are transferred to either a facility or back to their homes.

00:40:20 Sen. Malek asked if there is a push for higher education for the young adults in youth facilities and in the program.

Public Comment

None

AGENCY OVERSIGHT: DEPARTMENT OF JUSTICE - Mike Milburn, Deputy Chief of Staff, and Jon Bennion, Deputy Attorney General

00:44:17 Mr. Milburn

00:58:02 Sen. Swandal asked what the salary is for the Department of Justice medical examiners.

00:58:44 Mr. Bennion
01:07:20 Sen. Sands asked if it would be helpful if the committee wrote a letter of support for the federal grant for the sexual assault kit program.
01:08:59 Rep. Eck asked if there would be value in testing evidence for DNA to use to identify serial offenders.
01:10:25 Rep. Eck asked if they can store DNA information from sexual assault kits for serial sexual assault cases and if there is an available database to store this DNA information.
01:12:13 Rep. Hill asked what sexual assault kits are sent from the counties to the Department of Justice versus how many are destroyed from the counties, and how long the DNA evidence is held.
01:14:17 Rep. Hill asked if the Department of Justice should have the rights to hold onto and store in a database the DNA evidence of the sexual assault kits.
01:15:39 Rep. Eck commented that it would be good to have a representative come in and talk about the sexual assault DNA database to the committee.
01:16:00 Sen. Kary asked for an update on a court case in Billings about a roll-your-own cigarette shop.
01:17:06 Sen. Kary asked if there have been charges filed in the that case.
01:17:44 Sen. Sands asked Mr. Bennion to discuss when the Supreme Court ruling on medical marijuana would be effective and affect medical marijuana operations.

Public Comment

01:20:21 Sue Smith, Great Falls, commented on preserving DNA evidence.

AGENCY OVERSIGHT: BOARD OF CRIME CONTROL -- Deb Matteucci, Executive Director

01:22:12 Ms. Matteucci ([Exhibit 5](#))
01:32:58 Rep. Eck asked what organizations are involved in the elder abuse programs.
01:33:59 Sen. Malek asked if the Board of Crime Control studies the incarceration rates in the nation and in the state.
01:34:50 Rep. Lavin asked if there is opportunity for grants to start up similar programs in other cities around the state.

Public Comment

01:36:33 Gary Mihelish, Chairman of Montana Mental Health Trust, commented on the need for crisis intervention training for local law enforcement.

AGENCY OVERSIGHT: ADMINISTRATIVE RULE REVIEW -- Julianne Burkhardt, Staff Attorney, LSD

01:40:40 Ms. Burkhardt ([Exhibit 6](#))([Exhibit 7](#))

LUNCH (Reconvened at 1:16 p.m.)

AGENCY OVERSIGHT: DEPARTMENT OF CORRECTIONS -- Mike Batista, Director and Adrienne Slaughter, Government Relations Director

03:16:03 Mr. Batista
03:37:56 Sen. Moe asked if the vocational programs give certification or have a credit

03:39:43 program with colleges that could count towards a degree.
 03:39:43 Sen. Sands asked what kind of efforts are made for cultural sensitivity in the Department of Correction programs.
 03:41:55 Sen. Sands commented that the cultural-based trauma cases are at a different level of expertise that the programs should continue addressing.
 03:42:29 Rep. Pease-Lopez asked if there is additional help to the reported one employee that works as the Native American liaison.
 03:43:42 Rep. Pease-Lopez asked if the Department of Corrections has considered incorporating care to bridge the gap for cultural sensitivity.
 03:45:05 Sen. Malek asked Mr. Batista to discuss the program development in Shelby.
 03:47:10 Sen. Malek asked the Chairman for further information regarding local overbuilding of jails in the state and the funds for the jails.
 03:48:01 Ms. Slaughter

Public Comment

None

SJ 24 STUDY: STUDY OF SEXUAL ASSAULT IN MONTANA

Panel 1: Prevention and Education - Interactive Demonstration of the Power Up Speak Out Program

Kelly Heaton, Executive Director, Domestic and Sexual Violence Services (DSVS) in Red Lodge

Travis Burdick, Lead Educator and Program Development, DSVS

Beth Wiley, Communications and Development Coordinator, DSVS

03:52:37 Ms. Heaton
 03:56:45 Ms. Wiley
 03:57:34 Mr. Burdick and Ms. Wiley ([Exhibit 8](#))([Exhibit 9](#))
 04:23:38 Ms. Heaton ([Exhibit 10](#))

Questions from the committee

04:29:56 Rep. Eck asked how they teach the children in their program how and when to say 'no' in certain situations.
 04:31:37 Sen. Kary asked why there are not training facilities or programs on reservations.
 04:32:48 Rep. Pease-Lopez suggested to the panel that they focus their marketing to certain groups of people rather than generic marketing.
 04:33:27 Sen. Moe asked how long the training is for the teachers of the program.

Panel 2: Prevention and Education - Butte-Silver Bow Program

Dan Murphy, Butte-Silver Bow Law Enforcement officer

04:34:33 Mr. Murphy ([Exhibit 11](#))

Questions from the committee

05:01:15 Rep. Laszloffy asked if Mr. Murphy has partnered with another law enforcement officer in another county or if his program is just present in Butte.
 05:03:30 Sen. Malek asked if Mr. Murphy would discuss the adverse childhood experiences that he mentioned in his presentation.
 05:06:16 Rep. Pease-Lopez asked if there is a correlation of methamphetamine in Montana with the rise in sexual assault.

- 05:08:16 Sen. Moe asked how the curriculum of Mr. Murphy's program fits into the school's schedules.
- 05:10:13 Sen. Moe commented that getting the program into the schools by making the program part of the curriculum should be important to the schools.

Break (Reconvened at 3:19 p.m.)

Panel 3: Prevention and Education - Update on Work of the Health Enhancement Standards Negotiated Rulemaking Committee

Laura Sankey, Staff Attorney, Legislative Services Division (LSD)
Karin Olsen Billings, Administrator, Health Enhancement and Safety Division,
Montana Office of Public Instruction

- 05:19:36 Ms. Sankey
05:28:21 Ms. Billings

Questions from the committee

- 05:36:23 Sen. Kary asked Ms. Billings what suggestions about sexual assault the Office of Public Instruction has been able to offer.
- 05:37:20 Sen. Kary asked what the Office of Public Instruction's suggestions are for the outcome of the curriculum.
- 05:38:41 Sen. Kary asked if Ms. Billings would like to share curriculum outcomes suggestions with the committee.
- 05:38:59 Sen. Sands asked if the Office of Public Instruction has content standards for sexual assault preventative programs in youth, how do they implement Title 9.
- 05:44:07 Sen. Sands commented about retraining the organizations that are involved in adult sexual assault for youth sexual assault.
- 05:48:39 Sen. Moe asked Ms. Billings if the phrases "healthy relationships" and "consent" are in their training. Sen. Moe also called the committee's attention to public testimony about school education and sexual assault.
- 05:51:30 Sen. Malek asked Ms. Billings how the program addresses bullying and where the victim can get help and attention when needed.
- 05:54:06 Sen. Malek commented about training young adults to find the resources and help when and if there are no safe adults around.
- 05:55:00 Rep. Eck asked Ms. Sankey where the legislative authority parameters are for American Indian sexual assault education.
- 05:55:57 Rep. Eck asked for clarification of the legislature role in content standards for education.

PUBLIC COMMENT ON SJ 24 STUDY

- 05:59:23 Sen. Moe commented on the public testimony that was received by the committee members in their mailing packets.

PUBLIC COMMENT ON ANY ITEM WITHIN LJIC JURISDICTION BUT NOT ON THIS ADGENDA

- 06:00:50 Dan Fuchs, Montana Families United, Bozeman, commented on the recent medical marijuana ruling by the Montana Supreme Court.

COMMITTEE ISSUE: UPDATES ON OTHER INTERIM ENTITIES STUDYING LAW AND

JUSTICE TOPICS

Sue O'Connell, Research Analyst, LSD

- 06:02:35 Ms. O'Connell
- 06:08:33 Rep. Hill asked for clarification of the number and people reported in Ms. O'Connell's report so the committee will have a better understanding of who will be affected by the changes to the SB 423 bill.
- 06:09:36 Rep. Hill asked a followup question on the legalization of marijuana in the SB 423 bill.

Dave Bohyer, Research Director, LSD

- 06:10:41 Mr. Bohyer ([Exhibit 12](#))
- 06:18:52 Rep. Hill asked what soft cap for services means in Mr. Bohyer's handout.
- 06:20:33 Rep. Hill asked about requests for copies of the Office of Public Defender's attorney evaluation forms and if the same request was made for the Department of Justice lawyers.
- 06:24:50 Sen. Swandal asked what is being done in dependent/neglect cases when there are multiple children and they appointment multiple attorneys.
- 06:26:45 Rep. Hill asked Mr. Bohyer to clarify the discussion about getting reimbursement for attorney fees from indigent clients.
- 06:31:49 Rep. Hill asked if there have been constitutional challenges across the nation about indigent charges for the attorney.
- 06:33:13 Sen. Sales asked if there is a means test for indigent defense charges.
- 06:35:02 Sen. Sands asked if there is any decision to change indigent charges by the Task Force in the court case Mr. Bohyer mentioned.

Rachel Weiss, Research Analyst, LSD

- 06:36:26 Ms. Weiss ([Exhibit 13](#))
- 06:39:59 Sen. Malek asked if there is a separate group of judges meeting outside the Judicial Redistricting Commission.
- 06:40:45 Ms. Weiss continued her presentation ([Exhibit 14](#)).

PUBLIC COMMENT ON ANY ITEM WITHIN LJIC JURISDICTION BUT NOT ON THIS

AGENDA

- 06:47:55 Dan Fuchs, Montana Families United, Bozeman, spoke about veterans' access to affordable medical marijuana ([Exhibit 15](#)).
- 06:48:32 Glenn Oppel, Montana Chamber of Commerce, invited the committee members to a business law conference ([Exhibit 16](#)).

RECESS

- 06:49:54 Recess until Wednesday morning at 8 a.m.

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