



## Law and Justice Interim Committee

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### 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

## MINUTES LOG

November 30, 2015  
Room 102, 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.

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#### **COMMITTEE MEMBERS PRESENT**

SEN. SCOTT SALES, Chair  
SEN. DIANE SANDS, Vice Chair  
SEN. DOUG KARY  
SEN. SUE MALEK  
SEN. MARY SHEEHY MOE  
SEN. NELS SWANDAL  
REP. JENNY ECK  
REP. SARAH LASZLOFFY  
REP. CAROLYN PEASE-LOPEZ

#### **COMMITTEE MEMBERS EXCUSED**

REP. STEVE LAVIN

#### **COMMITTEE MEMBERS ABSENT**

REP. ELLIE BOLDMAN HILL  
REP. DALE MORTENSEN

#### **STAFF PRESENT**

RACHEL WEISS, Lead Staff  
JULIANNE BURKHARDT, Staff Attorney  
KATYA GROVER, Committee Secretary

## VISITORS' LIST (Attachment 1)

## AGENDA (Attachment 2)

### COMMITTEE ACTIONS

The committee:

- Requested an update from the Department of Corrections on its compliance with the Prison Rape Elimination Act
- Requested more information about a curriculum development task force and any possible suggestions it might make related to K-12 sexual assault prevention education
- Requested information about Erin's Law (sexual assault/abuse prevention education) in other states
- Agreed to move the scheduled February 22-23 meeting date to time in early March

### CALL TO ORDER AND ROLL CALL

00:03:17 Sen. Sales called the committee to order at 8:02 a.m. The committee secretary called roll. (Attachment 3)

### SJ 24: STUDY OF SEXUAL ASSAULT IN MONTANA

#### Anne Munch Presentation

00:04:21 Ms. Munch introduced herself to the committee members and provided background information about the issues of sexual assault. (Exhibit 1) (Exhibit 2) After the meeting, Ms. Munch provided additional materials in response to the committee's requests. (Attachment 4)

00:09:12 Rep. Eck arrived.

00:48:11 Sen. Sands commented about co-ed dorms and sports as a contributing factor in sexual assaults.

#### **BREAK** (reconvened at 9:31 a.m.)

01:34:36 Ms. Munch provided historical background on sexual assault laws. (refer to Exhibit 2)

#### Committee Questions of Ms. Munch

01:44:06 Sen. Swandal asked to clarify the terms "harassment" vs. "embarrassment".

01:45:03 Sen. Moe asked if a woman sharing with someone a photograph voids the definition of harassment if that picture was later shared on social media.

01:59:29 Sen. Malek asked whether Ms. Munch has seen a difference in the number of prosecutions because of changes in how law defines "consent".

02:04:15 Sen. Moe asked about the difference in prosecution and in definition of "rape" on university campuses as opposed to off-campus areas.

02:08:42 Ms. Munch talked about statutes of limitations. (refer to Exhibit 2)

#### Committee Questions of Ms. Munch

02:13:28 Sen. Sands asked about statutes bringing charges against the Catholic church in the local community.

- 02:14:50 Sen. Sands asked Ms. Munch to comment on the differences between child sexual assault and adult sexual assault.
- 02:17:25 Sen. Malek asked why incest was not categorized as a violent crime in Montana.
- 02:18:21 Sen. Malek asked about the ages when a victim is considered a child in Montana.
- 02:20:09 Ms. Much talked about false reports. (refer to Exhibit 2)

#### Committee Questions of Ms. Munch

- 02:38:35 Sen. Malek asked about the need for victims to be present in court to testify at trial.
- 02:42:07 Rep. Eck asked Ms. Munch to provide the presentation materials to the committee members.
- 02:42:31 Sen. Sands asked Ms. Munch to comment on changes in training and practices of law enforcement nationally.
- 02:47:14 Sen. Sands asked Ms. Munch to comment on how she sees the role of the legislature in terms of changes with respect to sexual assault crimes.

#### **Update on Review of Statutes - Julianne Burkhardt, Staff Attorney, LSD**

- 02:50:54 Ms. Burkhardt reported to the committee members that she was not able to meet with those taking part in the informal group reviewing the statutes. She will have an update for the committee at the next meeting.

#### Committee Questions of Ms. Burkhardt

- 02:51:30 Sen. Sands asked about what happens during the meetings.

#### **Not in Our State Conference Review - Sen. Diane Sands**

- 02:52:22 Sen. Sands reported on the conference.
- 02:55:17 Sen. Moe also provided her feedback about the conference.

#### **Montana University System Update on System-Wide Adoption of Sexual Assault Investigation Best Practices and Prevention Training**

Clay Christian, Commissioner of Higher Education, Montana University System,  
Office of the Commissioner of Higher Education  
Lucy France, Office of the Commissioner of Higher Education

- 02:58:34 Commissioner Christian

#### Committee Questions of Commissioner Christian

- 03:09:32 Sen. Malek asked about the states that passed laws to allow campus officials to speak with the parents of students regarding alcohol abuse.

#### Committee Discussion on Reports Produced by MUS

- 03:10:05 Sen. Sands spoke about a report that Commissioner Christian could produce regarding what campuses are doing and asked for feedback about how the legislature would receive those reports.
- 03:11:48 Sen. Sands emphasized the importance for the public and legislature to see what the University System is doing.

03:17:44 Sen. Malek suggested the University System come up with a way to allow parents' access to students' records.

03:20:15 Rep. Eck asked Commissioner Christian to elaborate on the University Court System with respect to reporting alleged rape cases and about the Student Code of Conduct.

03:28:02 Sen. Moe expressed her concern about smaller campuses with respect to collecting and preserving evidence and asked Commissioner Christian to respond to that.

03:31:39 Sen. Moe commented on the confidentiality issues in the Student Code of Conduct and asked Commissioner Christian if he has any concerns regarding that.

03:33:35 Sen. Moe referred to Ms. Munch's presentation and commented on it.

03:34:35 Ms. France

Committee Questions of Ms. France

03:42:21 Sen. Sands said that there is a large disparity between the numbers in reports produced by the Student Advocacy Resource Center, SARC, and reports based on Title IX and asked Ms. France to comment on it.

03:46:37 Sen. Malek asked about the training with respect to students' understanding of the meaning of "consent".

03:53:53 Rep. Eck asked to explain about the online training.

**LUNCH** (reconvened at 12:45 p.m.)

**Sex Offender Treatment at Montana State Prison and Community Supervision of Sex Offenders**

Blair Hopkins, DOC Staff, MSP  
Dawn Handa, DOC Staff, Probation and Parole Division

04:49:33 Mr. Hopkins

Committee Questions of Mr. Hopkins

04:54:22 Sen. Swandal asked to clarify the term "statutory sexual assault".

04:56:01 Mr. Hopkins continued his presentation.

Committee Questions of Mr. Hopkins

05:04:47 Sen. Kary asked about tracking discharged inmates.

05:07:29 Sen. Swandal asked about some prerelease centers that decline to accept sex offenders.

05:08:17 Sen. Moe asked to clarify the meaning of "ISP". Sen. Moe also asked about the high percentage of incarcerated people who are sex offenders.

05:09:47 Sen. Malek asked to provide reasons as to why the number of incarcerated people is higher in Montana.

05:12:15 Sen. Swandal asked about homeless sex offenders.

05:13:27 Ms. Handa

### **Panel Presentation: Sex Offenders Treatment in the Community**

Andy Hudak, Co-founder and Current Legislative Chair, Montana Sex Offender Treatment Association  
Mike Sullivan, LCSW  
Brenda Erdelyi, LCSW

- 05:20:22 Mr. Hudak provided an initial overview on treatment of sex offenders, as well as research on brain responses to threats and trauma. **(Exhibit 3)**  
05:28:24 Mr. Sullivan reported on psychosexual evaluations of sex offenders. **(Exhibit 4)**

#### **Committee Questions of Mr. Sullivan**

- 05:41:53 Rep. Eck asked who chooses the evaluator.  
05:42:42 Rep. Eck asked who pays for evaluation and what the price is.  
05:43:26 Rep. Eck asked Mr. Sullivan to elaborate on the recidivism rates and success of treatment.  
05:46:26 Mr. Hudak continued his presentation. (refer to Exhibit 3)  
06:06:41 Ms. Erdelyi spoke about issues regarding community treatment of sex offenders. **(Exhibit 5)**

#### **Committee Questions**

- 06:18:34 Sen. Sands asked Ms. Erdelyi about housing assistance for sex offenders.  
06:20:09 Sen. Sands asked the panelists about young offenders and recommendations for changing the criteria for jobs and housing for them. Mr. Hudak answered.  
06:22:55 Sen. Sands asked about people who are waiting to be evaluated and put in the tier system. Mr. Sullivan answered.  
06:25:06 Rep. Eck asked about how evaluators are chosen.  
06:29:43 Rep. Eck asked Mr. Hudak to comment on the idea that only a certain percent of sexual offenders were sexually abused in their childhood.  
06:36:27 Sen. Malek asked Ms. Erdelyi about community placement and support with respect to sexual offenders.

### **Sexual or Violent Offender Registry Statutes, Process, and Evaluation for Tier Assignment - Jon Bennion, Deputy Attorney General, Montana Department of Justice**

- 06:41:24 Mr. Bennion **(Exhibit 6)**

#### **Public Comment on SJ 24 Study**

- 06:56:14 Robin Turner, Public Policy and Legal Director, Montana Coalition Against Domestic Sexual Violence  
06:57:52 Tara Walker-Lyons, Ravalli County **(Exhibit 7)**  
07:05:48 Beth Brenneman, Attorney, Disability Rights Montana

### **AGENCY OVERSIGHT: ADMINISTRATIVE RULE REVIEW AND REQUIRED REPORTS - Julianne Burkhardt, Staff Attorney, and Rachel Weiss, Lead Staff**

- 07:09:55 Ms. Burkhardt  
07:10:42 Ms. Weiss **(Exhibit 8)**

#### Committee Questions of Ms. Weiss

07:13:40 Sen. Sands asked about reports from last interim's committee work.

#### Public Comment on Any Item within LJIC Jurisdiction but Not on the Agenda

07:16:36 Casey Brock, Business Owner, Smokes 4 Less, commented that his business is unfairly treated by DOJ, which filed a lawsuit against his business. **(Exhibit 9)**

07:21:39 Sen. Sales referred to the letter from Rep. Zolinkov provided by Mr. Brock.

#### **COMMITTEE ISSUE: COMMISSION ON SENTENCING UPDATE - Rachel Weiss, Lead Staff**

07:22:16 Ms. Weiss gave updates on Commission on Sentencing. **(Exhibit 10)**

07:26:57 Sen. Sands distributed a report published by the Montana Board of Crime Control, Statistical Analysis Center. **(Exhibit 11)**

07:27:59 Sen. Swandal asked Ms. Burkhardt to include materials about statutory programs and laws with respect to sex offenders' registration and sentencing that other states have but Montana does not in her review of statutes.

#### **COMMITTEE WORK SESSION**

07:29:07 Sen. Sands asked Ms. Weiss to remind the committee members about topics of study for the next LJIC meeting.

#### Committee and Staff Discussion about the Next Committee Meeting Date

07:30:50 Committee members discussed a possible change in the date for the next committee meeting.

#### Committee Discussion on Topics for Study for Future Meetings

07:34:25 Committee members discussed topics of interest for future committee meetings and gave directions to staff.

07:40:14 Ms. Weiss reminded the committee members about the issues that they raised during the September meeting.

#### **ADJOURNMENT**

09:05:48 With no further business before the committee, Sen. Sales adjourned the meeting at 3:38 p.m.