

SB 224 COMMISSION ON SENTENCING

Draft Work Plan for the 2015 - 2016 Interim

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INTRODUCTION AND BACKGROUND

Introduction

The Commission on Sentencing is a 15-member commission established for the 2015-2016 interim by Senate Bill No. 224 (SB 224), Laws of 2015. Senator Cynthia Wolken (D-Missoula) sponsored the bill.

This work plan outlines the Commission's duties and describes a study process from September 2015 to fall 2016 that the Commission could use to complete those duties. Once revised with directions from the commissioners and adopted by the Commission, the work plan will serve as a general "road map" of the Commission's priorities for the interim.

Commission Duties and Structure

SB 224 requires the Commission to:

- ▶ conduct an empirical study of the impact of existing sentencing policies and practices of Montana's criminal justice system, including state prison capacities, local jail and detention center capacities, community supervision and parole resources, judicial operations, public defense expenditures, and law enforcement responsibilities;
- ▶ identify strategies to safely reduce incarceration in state prisons and to promote evidence-based diversion programs and other effective alternatives to incarceration;
- ▶ investigate the factors contributing to recidivism, evidence-based recidivism reduction initiatives, and cost-effective crime prevention programs;
- ▶ consider issues regarding disparities in the criminal justice process, including but not limited to racial and ethnic disparity issues; and
- ▶ identify opportunities to streamline and simplify the criminal code and to balance sentencing practices and policies with budget constraints.

The Commission must prepare a report of findings and recommendations, including evidence-based analysis and data, to submit to the 65th Legislature.

Commission members were appointed by legislative leadership, the governor, the chief justice of the Montana Supreme Court, and the state's attorney general. Members include four legislators, one district court judge, the director of the Department of Corrections, a county attorney, a private criminal defense attorney, a probation and parole officer, a county sheriff, an employee of the Montana Department of Justice, an employee of the Office of the State Public Defender, and three public members appointed by the governor. Two of the 15 members must be enrolled members of a state-recognized or federally recognized Indian tribe in the state.

SB 224 was effective on April 23, 2015, and the legislation terminates June 30, 2017. The commissioners' terms will expire at that time. SB 224 requires the Commission to

make a recommendation to the Legislature as to whether the Commission should continue in existence beyond June 2017.

The Legislative Services Division will provide staff assistance to the Commission, as required by SB 224.

Technical Assistance from the Council of State Governments Justice Center

In late June, Montana applied to the Bureau of Justice Assistance and the Pew Center on the States to request formal justice reinvestment technical assistance for the Commission's work. Justice reinvestment (or JRI) is a data-driven process that can be used by policymakers to analyze a criminal justice system. The goals of JRI are to increase public safety and reduce corrections and related criminal justice spending, while reinvesting some of the savings in evidence-based strategies that are shown to reduce recidivism. The application process requires state policymakers from the executive, legislative, and judicial branches of government to sign a request letter and commit to working closely with the Commission and the technical assistance provider to supply data, input, guidance, and staff and communications support. Montana's request letter was signed by the governor, the chief justice of the Montana Supreme Court, the attorney general, and legislative leaders from both chambers and parties.

The Montana request was accepted and the Commission will be working closely with the technical assistance provider, the Council of State Governments (CSG) Justice Center, to engage in the JRI process. The CSG Justice Center is a "national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. [The CSG Justice Center] staff provides practical, nonpartisan advice and evidence-based, consensus-driven strategies to increase public safety and strengthen communities."¹

STUDY PROCESS

This work plan proposes a three-stage study process, including the following basic activities during the time periods noted:

- ▶ **Stage 1 - Compile background information:** September 2015 to January 2016. This stage is designed to help the commissioners develop an understanding of Montana's criminal justice system and the challenges experienced by the stakeholders in the system. This stage sets the foundation for the rest of the Commission's work. Activities or work products could include:
 - presentations from stakeholders to help the commissioners understand the stakeholders' work, roles, budget, and challenges;

¹The Council of State Governments, *About the Justice Center*, available from: <http://csgjusticecenter.org/about-jc/>; last accessed Aug. 11, 2015.

- presentations on existing evidence-based diversion programs or effective alternatives to incarceration;
 - a review by commissioners, staff, and stakeholders of any current strategies used or initiatives undertaken by stakeholders to address their challenges or that might inform the Commission's recommendations;
 - collection and review of available data related to criminal justice system functions; and
 - presentations from policymakers in other states to share their experiences with JRI.
- ▶ **Stage 2 - Identify and research issues:** January 2016 to July 2016. The focus of activities during this stage will be identification by the commissioners of problems the Commission might address through further analysis, legislation, or other action.
- ▶ **Stage 3 - Develop and finalize recommendations:** July 2016 to September 2016. After compiling background information, identifying issues, and researching options, the Commission will discuss and act on recommendations it wishes to make to the 2017 Legislature and to address through legislation or other methods.

The table on page 5 provides a list of anticipated study activities and resources, as well as a general timeline for the activities.

BUDGET AND PROPOSED MEETING SCHEDULE AND ACTIVITIES

Budget

The fiscal note for SB 224 assumed the Commission would need to hold two 1-day meetings and four 2-day meetings to complete its work. This work plan assumes the same number of meetings and outlines the possibility of an additional 1-day meeting in November 2016.

The funding included in SB 224 to pay the commissioners' salaries or compensation and travel expenses, as well as the Commission's administrative costs (secretarial support, copies, mailings, etc.), was line-item vetoed. However, the Legislative Council, the administrative committee that provides oversight to the Legislative Services Division during the interim, designated \$40,000 for the Commission. The Legislative Council also requested that the state agencies and local governments with employees serving on the Commission cover the travel expenses of those commissioners so the money allocated by the Council could be used to pay the expenses of the legislative and public members.

Proposed Meeting Schedule and Study Activities

SB 224 requires the Commission to meet at least quarterly. The proposed schedule would allow the commissioners to complete their work before the next legislative session. The proposal does not include specific meeting dates. Instead, it leaves those dates to be determined by the commissioners to fit their schedules and those of the CSG Justice Center and Commission staff. It anticipates that all meetings will take place in Helena.

Date	Study Activity	Tasks/Policy Decisions
September 2, 2015 (1 day)	<ul style="list-style-type: none"> ▶ Organizational ▶ Study Stage 1 	<ul style="list-style-type: none"> • Discuss commissioners' goals, ideas, needs • Discuss, amend, adopt work plan, if possible • Set next meeting date • Elect officers • Meet CSG Justice Center staff, receive overview of technical assistance, JRI approach • Review previous data work performed for the Department of Corrections • Listen to public comment • Discuss next steps and request additional information
November 2015 (2 days)	<ul style="list-style-type: none"> ▶ Organizational ▶ Study Stage 1 	<ul style="list-style-type: none"> • Adopt work plan, if needed • Set next meeting date(s) • Public launch of justice reinvestment project • Receive initial presentation from CSG Justice Center staff, including research on reducing recidivism and recent criminal justice trends • Gather background on criminal justice system through stakeholder presentations • Review existing diversion programs or other alternatives to incarceration, if possible • Listen to public comment • Discuss next steps and request additional information for future meetings

Date	Study Activity	Tasks/Policy Decisions
January 2016 (1-2 days)	▶ Study Stages 1 and 2	<ul style="list-style-type: none"> • Receive CSG Justice Center staff presentation on Montana-specific data and trends • Review disparate impact information/presentation, if possible • Review information requested at previous meetings • Listen to public comment • Discuss and identify areas of interest for further in-depth study • Request additional information for future meetings
April 2016 (1-2 days)	▶ Study Stages 2 and 3	<ul style="list-style-type: none"> • Receive CSG Justice Center staff presentation detailing policy options • Review information requested at previous meetings • Discuss and identify areas of interest for further in-depth study • Listen to public comment • Solicit further public and stakeholder comment on policy options • Request additional information for future meetings
July 2016 (1-2 days)	• Study Stages 2 and 3	<ul style="list-style-type: none"> • Receive CSG Justice Center staff presentation about policy framework/recommendations and impact analysis • Review information requested at previous meetings • Listen to public comment • Request additional information for future meetings • Direct staff to draft recommendations and/or legislation, as necessary

Date	Study Activity	Tasks/Policy Decisions
Fall 2016 (1 day)	► Study Stage 3	<ul style="list-style-type: none"> • Review of draft recommendations, legislation • Listen to public comment • Finalize recommendations, report, and any legislation • Identify legislative sponsors for any legislation • Optional: CSG Justice Center staff or expert presentation of administrative (nonlegislative) policy possibilities and implementation
December 15, 2016	Nonmeeting activity	<ul style="list-style-type: none"> • Legislation must be introduced by a legislator on this day if the legislation includes a "By Request of the Commission on Sentencing" designation.
January 2017	Nonmeeting activity	<ul style="list-style-type: none"> • Public event to release JRI report

Activities Between Meetings and Possible Additional Meeting

The commissioners will need to devote time between the meetings to work with stakeholders and the CSG Justice Center staff to gather data, research, and feedback from stakeholders and the public. That information will be used to develop policy options and recommendations, as well as inform future agenda items. While the work won't require the Commission as a whole, it will present time demands on individual commissioners.

An additional meeting, if needed, could be used by the Commission in November 2016 to discuss administrative (nonlegislative) policies and implementation and to review proposed legislation before finalizing it. It would take place in fall 2016, after the CSG Justice Center technical assistance relating to policy options that require legislative action is complete but before December to ensure any Commission legislation meets the December 15 deadline for the preintroduction of bills.

Action Item: The Commission should discuss, revise, and adopt a work plan for the 2015-2016 interim by the end of the Commission's second meeting.