

STUDY AND WORK PLAN

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For the
Law and Justice Interim Committee

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I. INTRODUCTION

What is a study plan? A study plan is a blue print for how the Law and Justice Interim Committee (LJIC) will approach its work during the interim. A study plan also assists the public and all of the stakeholders to plan for offering their testimony. Finally, a study plan is a working document, subject to change by the LJIC.

How is the study plan prepared and changed? This document started as a staff proposal based on the legislative poll results ranking each study in order of priority and on the Legislative Council's decisions and guidance. The LJIC adjusted this proposal to reflect its own goals and expectations. Significant deviation from this study plan must be approved by the LJIC membership. Meeting dates are tentative until the chairman approves the meeting agenda. If meeting dates change, prompt notice will be given to all members, to the public, and to the stakeholders.

How are committee resources allocated in a study plan? Staff and committee member time and the budget allocated to the LJIC are finite resources. This study plan outlines how these finite resources are allocated during this interim.

NOTE: Significant changes from the approved study plan (dated June 2005) have been highlighted and shown with "strikes" and "underlines" (i.e., old language is shown with a line through it and the new language is underlined).

II. OVERVIEW OF RESPONSIBILITIES

- A. Agency oversight
- B. Conduct assigned studies
- C. Follow-up on session issues
- D. Identify and study any emerging issues
- E. Coordinate with other interim committees as appropriate

III. DETAIL OF RESPONSIBILITIES

A. Agency oversight

(1) Assigned agencies:

- Department of Justice;
- Department of Corrections; and
- Judicial Branch.

(2) Statutory responsibility to conduct:

- administrative rule review;
- draft legislation review;
- program evaluation; and
- monitoring.

B. Conduct assigned studies

(1) **SJR 6:** Study of legal services for low and moderate income Montanans. The Legislature ranked this study 10th out of 22 requested studies. The following is a list of the tasks identified in the study resolution. After each bullet point is a list of the methods by which staff proposes to fulfill the study task.

- identify and examine scope of unmet needs;
 - *review the legal needs study done by Equal Justice Task Force of MT Bar Assoc.*
 - *receive testimony by stakeholders*
 - *panel presentations and roundtables*
 - *committee questions*

- identify what changes are needed in state law to facilitate the delivery of civil legal services to moderate and low income Montanans;
 - *staff analysis and report*
 - *round table and/or panel presentations*
 - *committee instructions*
- review funding sources, costs, and options;
 - *interviews with stakeholders*
 - *limited survey with help of stakeholders*
 - *staff analysis and report (LFD)*
 - *staff report on other states*
- recommend alternatives to direct representation by attorneys;
 - *invited guest testimony*
 - *panel presentations*
 - *round table discussions*
 - *committee questions, discussion, direction*
 - *staff report, if appropriate and time allows*
- review court's involvement and role;
 - *invited guest testimony*
 - *staff report, if appropriate and time allows*
- review how youth court recidivism may be reduced through referrals to needed legal services; and
 - *invited guest testimony*
 - *staff report if appropriate and time allows*
- any other aspect of access to justice for low-income Montanan's that is determined appropriate.
 - *committee direction and instructions to staff*

(2) **SJR 40:** Study the delivery of county attorney services. This study ranked 20th out of 22 studies. The Legislative Council recommends that this study be fulfilled as a staff "white paper *plus*" and not conducted as a full study. The resolution requests the following:

- review "the various means by which prosecution services and county civil legal services are being provided by county attorneys in Montana counties";
 - *legislative research and staff paper*

- review "the costs associated with the provision of prosecution services and civil legal services by county attorneys in Montana counties";
 - *legislative research and staff paper*
 - *targeted MACo & MCAA survey of cross-section of all counties*
- identify what "changes in state law" may be necessary "to facilitate the provision of prosecution services and civil legal services throughout the state";
 - *staff analysis and report*
- "review the funding sources currently available to address the provision of prosecution needs and county civil legal services needs";
 - *staff analysis and report*
 - determine "the level of public funding required to provide consistent, uniform, and professional prosecution services to the criminal justice system and civil legal advice to elected county officials";
 - *public testimony*
 - *round table discussion*
 - *committee action*
- address "any other aspect of the administration of prosecution services and county civil legal services by county attorneys for Montanans that is determined to be appropriate"; and
 - *committee discussions and actions*
- "include a specific list of options, including the option of no action, to be considered for recommendation to the 60th Legislature".
 - *committee final recommendations and report*

(3) **HJR 15:** Sentencing equity study. This study was ranked 15th out of 22 requested studies. The HJR 15 resolution requests that the appropriate interim committee (or that appropriate staff resources be allocated to) study disparities between minority enrollees in the criminal justice system and Caucasian enrollees with regard to:

- quality of counsel;
- arrest rates;
- detention in jail versus release on bail;
- the various uses of plea agreements and trials;
- rates of conviction;
- sentencing patterns;
- opportunities for effective treatment;
- rates of incarceration;
- rates in receiving deferred or suspended sentences and in granting of parole;
- differences in parole and parole revocations;
- rates of recidivism; and
- the transition from prison to post-prison life.

NOTE: Much of the data required to conduct the analysis requested in this study is not centrally collected, if collected at all. Thus, the LJIC approved the Legislative Council's recommendation that this study be conducted as a limited staff "white paper" that would:

- identify what data should be collected and how it should be reported to eventually fulfill the objectives outlined in HJR 15; and
- estimate the costs for developing that capacity.
- This staff paper would be presented to the LJIC in May 2006.

C. Follow-up on session issues

- (1) The Montana Public Defender Act (SB 146) provides that the LJIC:
 - monitor the audit findings for Missoula, Cascade, Lewis & Clark, Flathead, Gallatin, and Yellowstone Counties on "actual costs" for "public defender services"; and
 - request legislation to adjust (if necessary) entitlement share reductions for those counties based on audit findings and input from all parties.
- (2) Receive a report on any performance audit done on any prerelease center, regional prison, or private prison - HB 2 footnote narrative

D. Identify and examine emerging issues

The LJIC is directed by law to exercise its own initiative to:

- identify law and justice issues likely to require legislative attention in the next session;
- improve existing law through analysis of problems experienced with the application of the law by an assigned agency; and
- provide a forum for feedback from the state's citizens regarding the operation of assigned agencies.

E. Coordination with other interim committees

- (1) Regarding the SJR 37 study of child protective services, the Legislative Council requested that the LJIC "work with" the CFHHS interim committee "on issues that may fall within the LJIC's subject matter jurisdiction". SJR 37 requests an examination of:
 - the entire system;
 - the effectiveness of centralized intake;
 - the availability of prevention services and mediation;
 - the child's voice in the process;
 - the desired level of community involvement; and

- the potential reallocation of resources to provide safety and permanency "at the forefront".

(2) The SJR 38 study of identity theft was assigned to the Economic Affairs Interim Committee. The study is to examine:

- the scope of the state's authority to regulate in this area;
- consumer protection and prosecution;
- the criteria businesses should use to protect information;
- victim restitution and what processes might be needed for cross-jurisdictional authority;
- the education of consumers and businesses;
- what tools are available to regulators and law enforcement; and
- government records and privacy rights versus the public's right to know.

IV. ALLOCATION OF RESOURCES

The following table prioritizes the allocation of resources to one activity in relation to the other activities. The intent is to provide guidance to staff.

Study/Activity		Percentage allocation of total resources
SJR 6	Study of legal services for moderate and low-income Montanans	35% 30%
SJR 40	Study of county attorney services (<i>less than a full study, but more than a staff white paper report</i>)	25% 30%
HJR 15	Study of sentencing equity (<i>limited staff white paper</i>)	15%
Follow-up	SB 146 - Public Defender Act	10%
Statutory	Agency monitoring	10%
SJR 37	Coordination with CFHHS on child protective services (<i>requested by Legislative Council</i>)	5%
SJR 38	Coordination with EAC on identify theft	very minimal staff or committee time dedicated to these activities
Follow-up	Any performance audit re: Dept. of Corrections facilities	
Statutory	Emerging issues	
TOTAL	AVAILABLE RESOURCES	100%
		<i>*of total staff & committee hours available</i>

V. PROPOSED WORK PLAN
Subject to change according by the LJIC

Meeting Date	Location	Major Agenda Items/Themes
<p>Mtg #1 Tues July 26, 2005</p>	<p>Room 102 State Capitol</p>	<ul style="list-style-type: none"> - Organizational Meeting - Overviews - Prioritize work - Adopt study plan
<p>Mtg #2 (2 days) Wed. & Thurs. Sept. 21-22, 2005</p>	<p>Room 102 State Capitol</p>	<p><u>Information gathering phase</u></p> <p><u>Day 1:</u> SJR 6- Legal Services for Low Income Study -- staff background report -- panel presentations (<u>including from a Native American speaker</u>), round table discussion</p> <p>SB 146: Progress report on Public Defender Commission activities and legislative audit (<i>Legislative Audit Division to be preparing to contract the audit work, identifying what is to be audited</i>)</p> <p><u>Day 2:</u> SJR 40 - County Attorney Services Study -- staff background report -- panel presentations, round table discussion</p> <p>SJR 37: Update on CFHHS (child protection study plan) Committee discussion and development of recommendations for the CFHHS to consider</p>
<p>Mtg. #3 Thurs. Nov. 17, 2005</p>	<p>Room 102 State Capitol</p>	<p><u>Identify and analyze issues</u></p> <p>SJR 6- Legal Services for Low Income: -- staff <u>analysis and report summary & progress report</u> -- guest speakers/<u>roundtable</u></p> <p>SJR 40 - Prosecution Services -- <u>staff summary & progress report</u> -- <u>quest speakers/ roundtable</u></p> <p>SJR 37: Update on CFHHS (child protection study)</p>
<p>Mtg. #4 Thurs. Jan. 19, 2006</p>	<p>Room 102 State Capitol</p>	<p><u>Identify policy goals and options</u></p> <p>SJR 6 - Legal Services for Low Income -- committee discussion and work session</p> <p>SB 146: Progress report on Public Defender Commission activities and legislative audit (<i>Contract for audits to be awarded by Jan. 15</i>)</p> <p>SJR 37: Update on CFHHS (child protection study plan)</p>

Meeting Date	Location	Major Agenda Items/Themes
Mtg. #5 Thurs. March 23, 2006	Room 102 State Capitol	<u>Analyze options, select one option for further consideration</u> SJR 6 - Legal Services for Low Income: -- staff analysis of approved options -- committee discussion and further action SJR 40 - County Attorney Services: -- Receive Staff Report and Analysis -- Testimony and Discussion -- Select option for further development
Mtg. #6 (2 days) Thurs. & Fri. May 11-12 2006	Room 137 State Capitol	<u>Preliminary recommendations</u> <u>Day 1:</u> SJR 6 - Legal services for low income -- committee discussion, work session, action to adopt preliminary recommendations and request of any draft legislation SB 146 - Update: <i>Audit of county costs to be completed and reported to Audit Committee by April 30</i> <u>Day 2:</u> SJR 40 - County attorney services -- committee discussion, work session, action to adopt preliminary recommendations and any draft legislation HJR 15 - Receive sentencing equity staff report -- instructions to staff on next course of action SJR 37: Update/coordination with CFHHS (child protective services) review proposed recommendations, as time allows and if prepared
Mtg. #7 (2 days) Thurs. & Fri. June 29-30, 2006	Room 102 State Capitol	<u>Further work on Committee recommendations and legislation</u> <u>Day 1</u> SJR 6 - Legal Services for Low Income Montanans SJR 40 - County Attorney Services SB 146 - Public Defender Act legislation HJR 15 - Sentencing Equity <u>Day 2</u> Agency Legislation: Review and approval or disapproval of drafting requests for agency legislation SJR 37: Update/coordination with CFHHS (child protective services) SJR 38: Update on EAC action regarding identity theft study, proposed legislation

Meeting Date	Location	Major Agenda Items/Themes
Mtg. #8 Thurs. Aug. 31, 2006	Room 102 State Capitol	Committee recommendations legislation: final approval Agency legislation: Final reviews and requests Finalize all other work: Approve draft of final report

LAW AND JUSTICE INTERIM COMMITTEE: SUMMARY OF WORK PLAN PROPOSAL

*Note: The shaded blocks mean that the activity will be on the meeting agenda.
They do not indicate the amount of time that the activity will have on the meeting agenda.*

*The * indicates which meetings will be 2-day meetings.*

	#1 July 26, 2005 organizational	#2 *Sept. 21- 22, 2005	#3 Nov. 17, 2005	#4 Jan. 19, 2006	#5 March 23, 2006	#6 *May 11-12, 2006	#7 *June 29-30, 2006	#8 Aug. 31, 2006
Rule review	overview	as needed	as needed	as needed	as needed	as needed	as needed	as needed
Review agency legislation	agency presentations							
Public comment	comments on study plan							
SJR 6 - Legal services for low income	set priorities, allocate time and resources	presentations background/discussion	identify and analyze issues	identify goals & options	analyze options	preliminary recommendations	further work/recommendations	finalize recommendations
SJR 40 - County attorney services		presentations background/discussion			staff report presented	preliminary recommendations	further work/recommendations (if needed)	finalize recommendations
HJR 15 - Sentencing equity study						staff report presented	further work/recommendations (if needed)	finalize recommendations
SB 146 - Public Defender Act implementation	progress report							
SJR 37- Work with CFHHS on child protective study	review study plan							
SJR 38 - Identity theft study by EAC	review the resolution							

LJIC Meeting Schedule 2005-2006 Interim CFHHS Mtgs (Tentative)	July 2005							August 2005															
	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa									
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