



Legislative Update: Commission on Sentencing Legislation

House Bill 133 – sponsored by Rep. Nate McConnell, (D) Missoula

Goal: to incarcerate those who pose the greatest risk to public safety and reserve limited criminal justice resources

- This bill is a significant overhaul to Montana’s criminal code and is designed to use criminal justice resources more effectively
 - Creates a tiered sentencing structure for several property offenses, such as theft, forgery, identity theft and issuing a bad check
 - Revises penalties for certain drug offenses and provides a lesser penalty for sharing drugs as compared to selling drugs
 - Revises the offense of criminal endangerment so that high blood alcohol concentration alone is not sufficient to support the charge
 - The persistent felony offender charge has been revised from a broad application of second felony to an offender who has previously been convicted of two separate felonies and who is being sentenced for a third felony committed on a different occasion. At least one of the three felonies must be a sexual or violent offense

Senate Bill 45 – sponsored by Sen. Margie MacDonald, (D) Billings

Goal: to increase access to alternative courts

- Allows violent offenders to be eligible to participate in drug treatment courts and mental health treatment courts.

House Bill 143 – transitioned into Senate Bill 59 – sponsored by Sen. Cynthia Wolken, (D) Missoula

Goal: to direct the creation of a pretrial supervision program and prosecution diversion program and to set up interagency oversight for criminal justice reform

- Requires the Office of Court Administrator to develop a pretrial supervision program for felony defendants including a risk assessment
- Requires the Montana Board of Crime Control to develop a prosecution diversion grant program
- Creates an Oversight Council to monitor the effects of the criminal justice reform package with assistance from the Council of State Governments
 - The Council includes DOC, a county sheriff, a tribal member, Board of Pardons and Parole, crime victims’ representative, community corrections contractors, legislators and the Supreme Court
 - The Oversight Council must submit by September 1 of each even-numbered year a report to the governor and legislature regarding justice reform implementation
- Codifies the Montana Incentives and Interventions Grid (MIIG)
- Requires the DOC quality assurance unit to measure program effectiveness and adherence to evidence-based standards

Senate Bill 60 – sponsored by Sen. Cynthia Wolken

Goal: to reduce the number of jail beds for those awaiting trial and overall criminal justice backlog

- Creates a 30-day limit for completion for most presentence investigation reports, requires that risk and needs assessments be included, and creates a PSI team
- Requires the DOC to regularly validate the risk and needs assessment tool

Senate Bill 62 – sponsored by Sen. Cynthia Wolken

Goal: to increase treatment opportunities – especially in rural areas

- Provides for the creation of licensed peer support specialists to assist those recovering from mental health and chemical dependency issues.
 - A behavioral health peer support specialist must have received diagnosis by a mental health professional as having a mental health disorder and treatment and must be in recovery

Senate Bill 63 – sponsored by Sen. Cynthia Wolken

Goal: to reduce the number of individuals under supervision for lengthy terms who are compliant and respond to violations in a clear and predictable manner

- Codifies the Montana Incentives and Interventions Grid (MIIG) and requires that the Department exhaust and document violation responses before initiating the revocation process
- Defines a compliance violation; e.g., a violation of the conditions of supervision is not a new criminal offense
- Revises the process to revoke a deferred or suspended sentence
 - DOC must show responses under the incentives & interventions grid have been exhausted and are documented in the offender's file
- Allows for earlier termination from community supervision
 - A prosecutor, defendant or probation & parole officer may file petition to terminate the time remaining on a sentence
 - Defendant must have demonstrated compliance with supervision requirements
 - For a deferred sentence - have served 2 years or one-half of the sentence, whichever is less
 - For a suspended sentence - have served 3 years or two-thirds of the sentence, whichever is less and has been granted a 'conditional release from supervision' and demonstrated compliance for 12 months
 - A P&P Officer shall recommend 'conditional release from supervision' when a probationer follows the conditions of supervision when a low risk offender has served 9 months; medium risk has served 12 months; moderate risk has served 18 months and high risk has served 24 months

Senate Bill 64 – sponsored by Sen. Cynthia Wolken

Goal: to create a professional Board of Pardons and Parole, a more predictable and consistent parole process and to respond to violations in a clear and predictable manner

- The Board will become a five member full-time body

- Outlined rules to establish parole guidelines that will structure and guide parole release decisions and the imposition of release conditions
- Revises arrest and initial hearing after arrest processes
 - A P&P officer may authorize a detention center to hold a parolee without bail for 72 hours after which the officer shall either authorize the detention center to release the parolee, initiate an intervention hearing or initiate the revocation process with an initial hearing
 - The initial (on-site) hearing must be conducted within 5 days after arrest and upon determination of probable cause, an officer must determine whether to initiate an informal (intervention) hearing or to hold the parolee for the final decision of the Board
 - If the violation(s) are established to be *compliance violations* and the Board has determined that the MIIG has been exhausted the Board may continue the parole without a change in conditions or they may modify or add terms and conditions which may include: up to 9 months in a secure facility or community corrections program
 - If the violations are determined not to be compliance violations the Board may revoke parole

Senate Bill 65 – sponsored by Sen. Cynthia Wolken

Goal: increase access to housing

- The Board of Crime Control shall develop a supportive housing grant program
- In the case an inmate with parole in hand is not approved for parole because they are unable to secure suitable living arrangements the department may provide rental vouchers not to exceed 3 months if the assistance will result in an approved parole plan
- DOC will maintain data on the number of individuals discharged from adult correction services into homeless shelter or a homeless situation

Senate Bill 67 – sponsored by Sen. Cynthia Wolken

Goal: ensure domestic violence treatment programs are evidence-based

- The Board of Crime Control shall adopt statewide offender intervention program standards to ensure that counseling and other services organized under the Domestic Violence Intervention Program are evidence-informed and designed to reduce the risk of future violent behavior

Senate Joint Resolution No. 3 – sponsored by Sen. Cynthia Wolken

Goal: to further identify ways to increase access to tribal resources because the Commission on Sentencing did not feel as though enough time had been allotted to properly discuss the issue

- Provides that the Senate and the House of Representatives request an study during the legislative interim to explore increasing access to tribal resources for tribal members who are in the Montana criminal justice system