

1 SENATE BILL NO. 11
2 INTRODUCED BY B. USHER
3 BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE SYSTEM LAWS;
6 CREATING A MONTANA CRIMINAL JUSTICE DATA WAREHOUSE; ~~ESTABLISHING A CRIMINAL JUSTICE~~
7 ~~COORDINATING COUNCIL AND PROVIDING FOR MEMBERS AND DUTIES; ALLOWING THE~~
8 LEGISLATIVE FISCAL ANALYST AND LEGISLATIVE SERVICES DIVISION DIRECTOR DIRECT ACCESS
9 TO THE DATA WAREHOUSE; REVISING DUTIES AND MEMBERSHIP OF THE CRIMINAL JUSTICE
10 OVERSIGHT COUNCIL; ESTABLISHING DATA PROJECT PRIORITIES FOR THE 2024-2025 INTERIM;
11 ESTABLISHING REPORTING REQUIREMENTS; PROVIDING DEFINITIONS; PROVIDING AN
12 APPROPRIATION; AMENDING SECTIONS 1-1-207, 5-12-303, 46-1-1103, AND 53-1-216, MCA; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
14

15 WHEREAS, the lack of complete, consistent, and integrated criminal justice system data has stymied
16 legislative efforts to allocate financial resources and to enact policy changes that would improve outcomes for
17 offenders and crime victims; and

18 WHEREAS, the seemingly separate pieces of the state and local criminal justice system are
19 intertwined, and the state cannot make effective changes without supporting its local partners; and

20 WHEREAS, the Law and Justice Interim Committee studied criminal justice data needs and gaps as
21 part of an interim study; and

22 WHEREAS, as part of the study, state and local stakeholders and committee members spent hours
23 identifying problems and discussing solutions; and

24 WHEREAS, improved state and local criminal justice system data collection, sharing, and integration
25 will help change the current reactionary nature of the system; and

26 WHEREAS, improved state and local criminal justice system data collection, sharing, and integration
27 can create efficiencies to save money in the future by reducing or eliminating time-consuming and sometimes
28 redundant data entry; and

1 WHEREAS, any savings from efficiencies created from improved state and local criminal justice system
2 data collection, sharing, and integration or from improved policy choices can benefit both state and local
3 stakeholder and taxpayers, regardless of where in the system an improvement is made; and

4 WHEREAS, improved state and local criminal justice system data collection, sharing, and integration
5 ultimately drives public safety by informing funding, policy, caseload, and staffing decisions, as well as how
6 policy decisions can affect prison and supervision populations and recidivism.

7 WHEREAS, to ensure that data collection is a means to an end, the state must adopt a workable and
8 meaningful definition of recidivism to which data may be applied.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. Section 1. Definitions. As used in [sections 1 through 3 AND 2], unless the context
13 clearly indicates otherwise, the following definitions apply:

14 (1) "Agency" has the meaning provided in 2-15-102.

15 (2) "Board" means the board of crime control established in 2-15-2008.

16 (3) "Contributing entity" means an agency, the office of court administrator, a local government
17 entity, a nongovernment entity, a tribal government, or a federal government that submits data to the criminal
18 justice data warehouse.

19 (4) "Council" means the criminal justice coordinating OVERSIGHT council established in [section 3]
20 53-1-216.

21 (5) "Detention center" has the meaning provided in 7-32-2241.

22 (6) "Local government entity" includes a city, county, or consolidated city-county government entity
23 including but not limited to a county attorney office, law enforcement agency, detention center, court, or other
24 entity created by the city, county, or consolidated city-county government.

25 (7) "Nongovernment entity" includes a community corrections facility or program established under
26 Title 53, chapter 30, part 3, or other prereleases, treatment centers, or providers that contract with the
27 department of corrections.

28

1 (h)(l) identify information from other state agencies, including the department of public health and
2 human services, or from tribal governments or the federal government that could be included in the criminal
3 justice data warehouse or that would be necessary to answer criminal justice research questions posed by the
4 ~~criminal justice coordinating council.~~

5 (2) The board ~~and the criminal justice coordinating council~~ shall:

6 (a) report to the COUNCIL AND THE law and justice interim committee at each regularly scheduled
7 meeting between [the effective date of this act] and September 15, 2024, and to other legislative interim
8 committees or administrative committees as requested; and

9 (b) by September 15, 2024, submit to the COUNCIL AND THE law and justice interim committee,
10 legislative finance committee, and the governor's office of budget and program planning a report that includes:

11 (i) a summary of the work of the board ~~and the criminal justice coordinating council~~ to create the
12 criminal justice data warehouse;

13 (ii) recommendations for specific next steps to further implement the criminal justice data
14 warehouse and the associated costs and technology needs to accomplish those steps;

15 (iii) at least 3 examples of data sharing or integration projects the board ~~and the criminal justice~~
16 ~~coordinating council~~ have HAS completed; and

17 (iv) a list of policy and funding priorities identified for the 2025 legislative session.

18

19 NEW SECTION. Section 4. Recidivism. Any report produced by a state entity that requires the
20 disclosure of information regarding recidivism or recidivism rates must use the definition of recidivism provided
21 in 1-1-207.

22

23 NEW SECTION. Section 4. Transition. ~~Members of the criminal justice coordinating~~ OVERSIGHT
24 ~~council must be appointed within 30 days of [the effective date of this act].~~

25

26 **Section 5.** Section 1-1-207, MCA, is amended to read:
27 **"1-1-207. Miscellaneous terms.** Unless the context requires otherwise, the following definitions apply
28 in the Montana Code Annotated:

- 1 (1) "Bribe" means anything of value or advantage, present or prospective, or any promise or
2 undertaking to give anything of value or advantage, that is asked, given, or accepted with a corrupt intent to
3 unlawfully influence the person to whom it is given in the person's action, vote, or opinion in any public or official
4 capacity.
- 5 (2) "Peace officer" has the meaning as defined in 46-1-202.
- 6 (3) (a) "Recidivism" means a circumstance in which any sentence is imposed for a new felony or in
7 which a judge or the board of pardons and parole determines that a person convicted of a felony has violated
8 the person's terms of probation or parole within 5 years of the imposition of a sentence for a previous felony
9 conviction.
- 10 (b) The term does not include a violation that is a compliance violation, as defined in 46-23-1001.
- 11 (4) "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and
12 steamships, canal boats, and every structure adapted to be navigated from place to place."

13
14 **Section 6.** SECTION 5-12-303, MCA, IS AMENDED TO READ:

15 **"5-12-303. Fiscal analysis information from state agencies.** (1) The legislative fiscal analyst may
16 investigate and examine the costs and revenue of state government activities and may examine and obtain
17 copies of the records, books, and files of any state agency, including confidential records.

18 (2) When confidential records and information are obtained from a state agency, the legislative
19 fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential
20 records and information provided for under the laws administered by the state agency. The legislative fiscal
21 analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information
22 obtained from state agencies and may not disclose confidential records or information to legislators.

23 (3) (a) The department of revenue shall make Montana individual income tax information available
24 by removing names, addresses, and social security numbers and substituting in their place a state accounting
25 record identifier number. Except for the purposes of complying with federal law, the department may not alter
26 the data in any other way.

27 (b) The department of revenue shall provide the name and address of a taxpayer on written
28 request of the legislative fiscal analyst when the values on the requested return, including estimated payments,

1 analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

2 ~~(6)~~(7) This section does not authorize publication or public disclosure of information if the law
3 prohibits publication or disclosure or if the department of revenue notifies the fiscal analyst that specified
4 records or information may contain confidential information."
5

6 **Section 7.** Section 46-1-1103, MCA, is amended to read:

7 **"46-1-1103. Definitions.** As used in this part, the following definitions apply:

8 (1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person
9 is a drug offender under this part and would benefit from the provisions of this part.

10 (2) "Continuum of care" means a seamless and coordinated course of substance abuse education
11 and treatment designed to meet the needs of drug offenders as they move through the criminal justice system
12 and beyond, maximizing self-sufficiency.

13 (3) "Drug" includes:

14 (a) a controlled substance, which is a drug or other substance for which a medical prescription or
15 other legal authorization is required for purchase or possession;

16 (b) an illegal drug, which is a drug whose manufacture, sale, use, or possession is forbidden by
17 law; or

18 (c) a harmful substance, which is a misused substance otherwise legal to possess, including
19 alcohol.

20 (4) "Drug offender" means a person charged with a drug-related offense or an offense in which
21 substance abuse is determined to have been a significant factor in the commission of an offense.

22 (5) "Drug treatment court" means a court established by a court pursuant to this part implementing
23 a program of incentives and sanctions intended to assist a participant to end the participant's addiction to drugs
24 and to cease criminal behavior associated with drug use and addiction.

25 (6) "Drug treatment court coordinator" means an individual who, under the direction of the drug
26 treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and
27 integrity of the drug treatment court.

28 (7) "Drug treatment court team" means a group of individuals appointed by the drug treatment

1 court that may consist of the following members:

- 2 (a) the judge, which may include a magistrate or other hearing officer;
- 3 (b) the prosecutor;
- 4 (c) the defense attorney;
- 5 (d) a law enforcement officer;
- 6 (e) the drug treatment court coordinator;
- 7 (f) a probation and parole officer;
- 8 (g) substance abuse treatment providers;
- 9 (h) a representative from the department of public health and human services; and
- 10 (i) any other person selected by the drug treatment court.

11 (8) "Memorandum of understanding" means a written document setting forth an agreed-upon
12 procedure.

13 (9) "Recidivism" ~~means any arrest for a serious offense that results in the filing of a charge and~~
14 ~~can carry a sentence of 1 or more years~~ has the meaning provided in 1-1-207.

15 (10) "Staff meeting" means the meeting before a drug offender's appearance in drug treatment court
16 in which the drug treatment court team discusses a coordinated response to the drug offender's behavior.

17 (11) "Substance abuse" means the illegal or improper consumption of a drug as defined in this
18 section.

19 (12) "Substance abuse treatment" means a program designed to provide prevention, education, and
20 therapy directed toward ending substance abuse and preventing a return to substance use."

21

22 **Section 8.** SECTION 53-1-216, MCA, IS AMENDED TO READ:

23 **"53-1-216. Montana criminal justice oversight council -- duties -- membership.** (1) (a) There is a
24 Montana criminal justice oversight council. The council consists of ~~16-18~~ members as follows:

25 ~~(a)~~—(i) two members of the house of representatives, one selected by the speaker of the house and
26 one selected by the house minority leader; and

27 (ii) two members of the senate, one selected by the president of the senate and one selected by
28 the senate minority leader;

1 18-503. Members of the council who are full-time salaried officers or employees of this state or any political
2 subdivision are entitled to their regular compensation. Legislative members must be compensated as provided
3 in 5-2-302.

4 ~~(13)~~(10) The council shall provide updates to the law and justice interim committee and the legislative
5 finance committee as requested."
6

7 NEW SECTION. Section 9. TRANSITION. MEMBERS OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL MUST
8 BE APPOINTED WITHIN 30 DAYS OF [THE EFFECTIVE DATE OF THIS ACT].
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10 NEW SECTION. Section 10. Appropriation. There is appropriated \$2,500 from the general fund to
11 the legislative services division for the biennium beginning July 1, 2023, for the purposes of paying for
12 additional travel costs related to the new member of the criminal justice oversight council.
13

14 NEW SECTION. Section 11. Codification instruction. (1) [Sections 1 through 3 AND 2] are intended
15 to be codified as an integral part of Title 44, chapter 7, and the provisions of Title 44, chapter 7, apply to
16 [sections 1 through 3 AND 2].

17 (2) [Section 3] is intended to be codified as an integral part of Title 53, chapter 1, part 2, and the
18 provisions of Title 53, chapter 1, part 2, apply to [section 3].
19

20 NEW SECTION. Section 12. Effective date. [This act] is effective on passage and approval.
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