

Legislative Update

Law and Justice Related Legislation Enacted in 2017

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For the Law and Justice Interim Committee

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The 2017 Legislature considered numerous bills related to law and justice topics. This paper provides a brief summary of legislation enacted in these topic areas, excluding any provisions in HB 2. The topic areas are: civil procedure, crimes and criminal procedure, corrections, family law and minors, judges/justices and courts, law enforcement, mental illness or incapacity, and privacy. Although a bill might fit more than one topic area, this summary lists each bill only once.

The summary includes but is not limited to legislation recommended by the Law and Justice Interim Committee (LJIC) and two other study entities that recommended criminal-justice related legislation during the 2015-2016 interim. A bill requested by the LJIC will be marked with those initials. A bill requested by the Task Force on State Public Defender Operations will be marked with TF, and a bill requested by the Commission on Sentencing will be marked with COS.

Text of each bill can be found at the legislative website (www.leg.mt.gov), along with hearing audio/visual files and other information about the bill.

Civil Procedure

SB 293 Revises the interest that may be awarded on civil judgments.

Corrections

HB 426 Protects prepaid telephone accounts used by inmates in state prisons from expiration.

HB 650 Authorizes transfers and feeds and other necessary measures to implement the General Appropriations Act related to motor vehicles and corrections. Revises collection and allocation of various motor vehicle fees. Repeals the boot camp incarceration program. Sets a maximum payment to regional correctional facilities. Requires the Judicial Branch and the Office of State Public Defender to develop protocols for the appointment of counsel in treatment courts, and transfers the Board of Crime Control from the Department of Justice to the Department of Corrections.

SB 59 Creates a pretrial program for felony defendants and a prosecution diversion program. Creates an oversight council to review corrections and criminal justice changes enacted in 2017. Requires the Department of Corrections to adopt a program evaluation tool and an incentives and interventions grid for community supervision of offenders. COS

- SB 60** Revises presentence investigation laws to require a preliminary or final report be provided to a court within 30 days of a plea, verdict, or finding of guilty. Revises laws related to use of risk and needs assessments. COS
- SB 63** Revises laws related to supervision of probationers and of defendants serving a deferred or suspended sentence. COS
- SB 64** Revises the size and structure of the Board of Pardons and Parole, including qualifications and compensation of members. Revises processes used to grant hearings and parole, assign parole conditions, revoke parole, and train staff and members. COS
- SB 65** Revises laws related to housing options for offenders by establishing a legislative policy regarding housing for offenders. Establishes a supportive housing grant program, and allows the Department of Corrections to provide housing vouchers to certain offenders. COS
- SJ 3** Recommends an interim study to explore increasing access to tribal resources for members who are involved in the criminal-justice system. COS
- SJ 25** Recommends an interim study of the extent of the use of solitary confinement in state and county institutions.

Crimes and Criminal Procedure

- HB 40** Allows dissemination of confidential criminal justice information to the Adjutant General.
- HB 62** Requires the Department of Revenue to collect fees for public defender services. TF
- HB 77** Revises the public defender system and requires a director hired by the Department of Administration. TF
- HB 79** Modifies when a military member may be turned over to civil authorities for trial.
- HB 89** Establishes a holistic defense pilot project within the state public defender system. TF
- HB 133** Revises laws related to sentencing. Expands types of offenses for which fingerprints must be taken. Revises criminal endangerment and assault with a bodily fluid crimes. Revises mandatory minimums for certain sex crimes. Creates tiered sentencing for theft-based crimes. Reduces penalties for certain misdemeanors and drug offenses. Revises the

persistent felony offender designation, certain driving offenses, and DUI penalties. COS

- HB 168** Provides for expungement of criminal records for misdemeanor offenses in certain cases
- HB 208** Provides that it is unlawful to retaliate against a person who alleges waste, fraud, or abuse, and creates a civil liability and remedies.
- HB 482** Revises incest laws related to consent of stepchildren and to legal accountability when a person involved in the act is less than 18 years of age.
- HB 600** Revises laws related to victims' rights. Provides for enforcement of victims' rights and requires the Attorney General to develop a model victim's rights card. Also allows certain victim information to be shared with certain entities unless the victim requests otherwise.
- SB 17** Provides that juvenile offenders with no history of sexual offenses or for whom registration is not necessary to protect the public do not have to register as sexual offenders. LJIC
- SB 26** Revises laws regarding sexual intercourse without consent to provide a maximum penalty when the offender is 18 or younger and the victim is 14 or older, it is a first offense, and no force was used. Also provides that the offender does not have to register as a sex offender as long as no force was used. LJIC
- SB 29** Revises laws related to sexual crimes, including creating an aggravated sexual intercourse without consent crime and removing the requirement of force from the definition of "consent". Also revises the penalties for sexual intercourse without consent. LJIC
- SB 30** Extends the statute of limitations to 20 years for victims of sex crimes who are under the age of 18. The previous statute of limitations was 10 years. LJIC
- SB 111** Provides that it is unlawful to feed wild turkeys.
- SB 153** Creates an offense of strangulation of a partner or family member.
- SB 167** Revises laws pertaining to insurance offenses by providing a statute of limitations, consolidating criminal provisions related to insurance fraud, and providing for administrative or civil insurance fraud.

- SB 187** Prohibits the importation of animal carcasses from places with documented occurrences of chronic wasting diseases.
- SB 228** Exempts certain persons that provide needle and syringe exchange services from drug paraphernalia laws.
- SB 250** Revises laws regarding prosecutorial immunity for Marsy's Law.
- SB 258** Provides procedures for electronically issued search warrants.
- SB 310** Allows the Confederated Salish and Kootenai tribes to withdraw consent to be subject to the criminal jurisdiction of the state of Montana.
- SB 325** Provides legal protections for private employers regarding employment of individuals with criminal backgrounds.

Family Law, Minors

- HB 59** Limits the appointment of counsel to a putative father when child is subject to an abuse/neglect petition. TF
- HB 64** Revises child abuse and neglect court diversion pilot project to expand the project to persons receiving voluntary protective services.
- HB 111** Revises laws regarding maintenance of minor in possession conviction and adjudication information to eliminate reports to the Department of Public Health and Human Services.
- HB 135** Revises the Youth Court Act to allow for information sharing. Revises the records that must be sealed on a youth's 18th birthday, the access to and maintenance of electronic records, and the requirements for the Department of Corrections to transmit records to youth court.
- HB 173** Provides deadlines for treatment plans and permanency hearings for children in youth in need of care cases.
- HB 201** Provides that children in youth in need of care proceedings are represented by a court-appointed special advocate or other qualified person as guardian ad litem.
- HB 247** Clarifies that coercing a child in person to view sexually explicit material or acts constitutes sexual abuse of children.
- SB 22** Creates a civil process to terminate the parent-child legal relationship when the child is born as a result of sexual intercourse without consent or sexual assault. LJIC

- SB 123** Provides that nonresident parties may obtain a marriage license in any county.
- SB 172** Allows a denial of a hunting, fishing, or trapping license for failure to pay child support and other support debt or obligations.
- SB 197** Encourages the Office of Public Instruction to undertake efforts to prevent child sex trafficking.
- SB 229** Requires the release or disclosure of child abuse or neglect records to certain law enforcement, prosecutorial, and child welfare entities when a child has been exposed to a dangerous drug.

Courts, Judges and Justices, Juries and Jurors

- HB 44** Adds one district court judge to the 4th Judicial District and two judges to the 13th Judicial District.
- HB 124** Requires training for water commissioners unless a district court judge with jurisdiction determines otherwise.
- HB 278** Authorizes a sentencing judge to place an offender in residential treatment as a reasonable restriction or condition under a deferred or suspended sentence.
- HB 521** Authorizes a majority member of a limited liability company to represent the company in justice's court and small claims court.
- SB 20** Eliminates a previously required IT report from the duties of the court administrator.
- SB 28** Allows Water Court review of certain decisions of the Department of Natural Resources and Conservation.
- SB 45** Revises treatment court structure, including processes used to assign an incentive or sanction an offender and restrictions on the participation of violent offenders.
- SB 67** Revises laws related to offender intervention programs to require adoption and use of statewide standards for the services offered in the programs.
COS
- SJ 15** Determines that it would be an unconstitutional act of legislation, in violation of the Constitution of the State of Montana, and would violate the First Amendment right of the citizens of Montana, should the Montana Supreme Court enact Proposed Rule of Professional Conduct 8.4(g).

Law Enforcement

- HB 45** Revises medical examiner laws related to appointment and supervision, deputy medical examiners, and when certain examinations must be performed by state or deputy medical examiners.
- HB 146** Provides when temporary roadblocks may be used by law enforcement agencies.
- HB 237** Creates a crisis intervention team training program to be administered by the Board of Crime Control.
- HB 258** Requires county detention centers to allow inmates free calls to the inmate's attorney.
- HB 333** Authorizes the prescribing, dispensing, distributing, and administering of opioid antagonist medication to eligible recipients. Also provides disciplinary, civil, and criminal immunity.
- HJ 6** Recommends an interim study of methamphetamine use and illegal use of opioids in Montana.
- SB 25** Revises gaming laws.
- SB 57** Clarifies highway patrol funding sources and increases certain registration fees.
- SB 81** Provides that health care information regarding a deceased patient may be disclosed to a coroner for use in the coroner's investigation.
- SB 200** Revises laws related to disposition of certain property held by local law enforcement agencies or a state agency that employs a public safety officer.
- SJ 11** Defines the phrase "shall not be called into question" as used in Article II, section 12, of the Montana Constitution.

Mental Illness or Incapacity

- HB 24** Provides to vulnerable persons protections from financial exploitation, including reporting of financial exploitation by investment advisors and other qualified individuals and provision of certain records to law enforcement.
- HB 95** Removes limitations on the establishment of chemical dependency treatment facilities and programs.

HB 328 Revises mental health crisis intervention and jail diversion grant procedures and establishes priority for awarding of funds. Also allows tribal governments to apply for grants.

HB 495 Revises laws concerning discharge of patients from mental health facilities.

Privacy

HB 147 Requires a search warrant for government access to electronic devices unless informed consent is obtained or a judicially recognized exceptions exists.

HB 148 Revises laws related to electronic communications. Requires a search warrant and customer notice for disclosure of electronic communications by a provider of an electronic communication service. Allows the Attorney General to commence civil actions against governmental entities to compel compliance. Also allows a service provider to challenge certain warrants and voluntary disclosure of electronic communication information.

HB 149 Prohibits the use of license plate reader by the state or a local government except in certain situations. Creates preservation requirements and limits disclosure of collected information.