

# STUDY SUMMARY: HJ 36 STUDY OF COMPENSATION FOR WRONGFULLY CONVICTED PERSONS (2019-2020)

## BACKGROUND

The House Joint Resolution 36 study, sponsored by Rep. Joel Krautter in the 2019 legislative session, requested that an interim committee explore options related to appropriate compensation for individuals who have experienced a wrongful criminal conviction. HJ 36 requested the study include the type of compensation, eligibility requirements, application and adjudication processes, the entity to administer the compensation, any additional services or compensation, and the sources of funding for the claims. The study also requested a review of plans developed in other states, by the federal government, and in the District of Columbia.

The 2019-2020 Legislative Council assigned HJ 36 to the Law and Justice Interim Committee (LJIC) along with three other interim studies.

In September 2020, the LJIC voted to forward to the 2021 Legislature a bill proposal to establish a compensation program in Montana for wrongfully convicted individuals.

## STUDY PROCESS

When selecting priorities for its interim work, the LJIC members assigned a lower priority to the HJ 36 study. The committee requested an initial panel discussion to review the study topics including:

- post-exoneration experiences of individuals who were wrongfully convicted;

- the number and unique needs of individuals reentering society after a wrongful conviction; and
- ideas for reentry assistance and compensation types, including models from other states and the District of Columbia.

The committee launched the HJ 36 study almost immediately, hearing from a panel of stakeholders at its September 9, 2019, meeting. Cory Marble, a man who had experienced a wrongful conviction and exoneration, and his father shared their experiences with the criminal justice system, Cody's eventual exoneration, and his struggles and adjustment after the exoneration. Then staff from the state and national chapters of the Innocence Project and from the state chapter of Americans for Prosperity discussed compensation programs in other states, their reasons for supporting a compensation program in Montana, and their recommendations for how Montana should structure any legislation proposing a compensation program.

The LJIC received legislation from other states, including Nevada and Kansas. After considering draft legislation at a May 12, 2020, meeting, the LJIC asked its staff to organize a work session with local, state, and national stakeholders to discuss the draft in more detail. On May 29, 2020, the LJIC spent several hours with participants discussing the strengths and weaknesses of the draft bill. Participants included representatives from organizations lobbying to establish a compensation program, the Montana Association of Counties, the Montana Association of County Attorneys, and state agency staff from the Department of Justice and the Risk Management and Tort Division of the Department of Administration.

## STUDY OUTCOMES

After considering and revising the preliminary draft bill to establish a compensation program in Montana in July 2020, the LJIC voted on September 14, 2020, to adopt it as a committee bill for the 2021 Legislature. The draft bill was assigned the number LC 485, and Rep. Kathy Kelker, D-Billings, volunteered to be its primary sponsor.

## STUDY MATERIALS

- HJ 36 study webpage: <https://leg.mt.gov/committees/interim/2019ljic/hj-36-study/>
- HJ 36 text: <https://leg.mt.gov/bills/2019/billhtml/HJ0036.htm>
- LC 485, as approved at the September 14, 2019, LJIC meeting: <https://leg.mt.gov/content/Committees/Interim/2019-2020/Law-and-Justice/Legislation/Sept-2020-drafts/hj36-1-ljic-september-2020.pdf>
- LC 485 webpage (to track the bill during the 2021 Legislative Session): [http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P\\_SESS=20211&P\\_BLTP\\_BILL\\_TYP\\_CD=&P\\_BILL\\_NO=&P\\_BILL\\_DFT\\_NO=485&P\\_CHPT\\_NO=&Z\\_ACTION=Find&P\\_ENTY\\_ID\\_SEQ=&P\\_SBJT\\_SBJ\\_CD=&P\\_ENTY\\_ID\\_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=&P_BILL_NO=&P_BILL_DFT_NO=485&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

- September 9, 2019, panel discussion: <http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20190909/-1/37143?mediaStartTime=20190909110118&mediaEndTime=20190909121600&viewMode=2>
- May 12, 2020, discussion on draft legislation: <http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20200512/-1/37604?mediaStartTime=20200512113136&mediaEndTime=20200512131136&viewMode=2>
- May 29, 2020, roundtable session with HJ 36 stakeholders: <http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20200529/-1/37681?mediaStartTime=20200529135449&mediaEndTime=20200529153449&viewMode=2>
- July 13, 2020, LJIC discussion of preliminary draft: <http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20200720/-1/37713?mediaStartTime=20200713155112&mediaEndTime=20200713163135&viewMode=2>
- September 14, 2020, LJIC meeting: <http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20200914/-1/37832>