

CRIMINAL JUSTICE OVERSIGHT COUNCIL

DRAFT

2025 – 2026 BIENNIAL REPORT



DRAFT

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For review at July 2026 meeting



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This report is a summary of the work of the Criminal Justice Oversight Council,

specific to the 2025-2026 work as outlined in the 2025-2026 work plan¹ and House Joint Resolution 45 (2025)². Members received additional information and public testimony on the identified subjects, and this report is an effort to highlight key information and the processes followed by the 2025-2026 Criminal Justice Oversight Council in reaching its conclusions. To review additional information, including audio minutes, and exhibits, visit the Criminal Justice Oversight Council website:

<https://committees.legmt.gov/#/nonStandingCommittees/1>

This report is statutorily required by [5-5-235\(5\), MCA](#), MCA to be submitted to the governor and legislature

¹ <https://archive.legmt.gov/content/Committees/Interim/2025-2026/CJOC/Admin/CJOC-2025-2026-WorkPlan.pdf>

² https://bills.legmt.gov/#/laws/bill/2/LC3562?open_tab=sum

2025-2026 MEMBERSHIP

The Montana Criminal Justice Oversight Council members represent a broad scope of stakeholders and experts in Montana's criminal justice system. The council reports to the governor and the Montana State Legislature; its membership and duties are codified in [5-5-235, MCA](#).

Appointments are made and members serve terms in accordance to [5-5-235\(1\)\(a\), MCA](#).

Member	Role
Sen. Barry Usher, Chair	Member of the Senate
Hon. Luke Berger, Vice Chair	District court judge
Rep. Amy Regier	Member of the House of Representatives
Rep. SJ Howell	Member of the House of Representatives
Sen. Laura Smith	Member of the Senate
Hon. Mark Dunn	Judge who presides over a city or municipal court or who is a justice of the peace
Alan Doane	Attorney General's designee
Director Eric Strauss*	Director of the Department of Corrections
Director Koan Mercer**	Director of the Office of State Public Defender
Director Charlie Brereton	Director of the Department of Public Health and Human Services
Sheriff Brandon Kelm***	County sheriff
Scott Twito	County attorney
Eldena Bear Don't Walk	Member of a federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice
Jimmy Patelis	Member of the Board of Pardons and Parole
Shantelle Gaynor	Representative of crime victims who also serves on the board of crime control established in 2-15-2008, MCA .
Jessica Flint	Representative of civil rights advocates
David Armstrong	Representative of community corrections facilities
Amy Tenney	Representative of community corrections facilities

Criminal Justice Oversight Council Staff

Laura Sherley, Research Analyst | Abbie Cziok, Attorney | Ania Alduenda, Research Assistant

*Former Director Brian Gootkin resigned his position as Department of Corrections (DOC) Director in late 2025 after being nominated by the President to serve as the U.S. Marshal for the District of Montana. Director Strauss was appointed by the Governor and assumed the DOC Director role on January 6, 2026.

**Former Director Brett Schandelson resigned his position as Office of the State Public Defender (OPD) Director on November 19, 2025. Director Mercer assumed the OPD Director role on January 12, 2026.

***Sheriff Kelm was appointed September 30, 2025, after Sheriff Ross Canen resigned August 27, 2025.

BACKGROUND AND OVERSIGHT

SENATE BILL 59 (2017)

The Montana Criminal Justice Oversight Council (the council) was created by [Senate Bill 59](#) of the 65th Montana Legislature to monitor and report on the effects of criminal justice legislation and recommend solutions to address challenges facing the criminal justice system and its state and local partners. Its membership and duties are codified in [5-5-235, MCA](#)³.

2025 – 2026 WORK PLAN

The council adopted its 2025-2026 work plan on September 11, 2025⁴. Work plan topics include statutorily assigned responsibilities, study resolutions enacted by the 2025 Legislature and assigned to the council by the Legislative Council, and study topics suggested by council members.

STATUTORY DUTY

The council's duties outlined in [5-5-235, MCA](#) state:

“(4) The council shall:

- (a) provide direction and recommendations to the board of crime control regarding data to be included in the criminal justice data warehouse established in [44-7-126](#) and policies to govern the use of and priorities for the criminal justice data warehouse;
- (b) study and recommend solutions to address issues facing the criminal justice system and its constituent state and local agencies;
- (c) monitor the functioning of the criminal justice system; and
- (d) make recommendations to the legislature to address system issues proactively, manage limited resources, improve workloads, make improvements to state and local criminal justice systems, meaningfully address crime, and enhance public safety.

(5) The council shall submit a report to the governor and legislature in accordance with 5-11-210. The report must include a description of the council's proceedings since the previous report.

(6) The council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.”

Additionally, the council receives the following reports required by law⁵:

Reporting Entity	Description	Law and Timeline
Board of Crime Control	Criminal Justice Data Warehouse Biennial Report	HB 117 (2025) , by Sept 15, 2026
Recovery Residence Certifying Org.	Compliance Reports	MCA 53-24-311 , annual
Department of Corrections	Offenders Under Supervision During Previous FY	MCA 46-23-1016 , annual

³ Recodified in the Montana Code Annotated with the passage of [Senate Bill 162 \(2025\)](#).

⁴ <https://archive.legmt.gov/content/Committees/Interim/2025-2026/CJOC/Admin/CJOC-2025-2026-WorkPlan.pdf>

⁵ These reports can be found on the council's webpage: <https://committees.legmt.gov/#/nonStandingCommittees>

ASSIGNED STUDIES

The Legislative Council assigned the following studies to the council for the 2025-2026 interim:

SJ 36: INTERIM STUDY OF DEPENDENT NEGLECT STANDARDS FOR PROSECUTORS

Senate Joint Resolution 36⁶ requests that the council evaluate methods of standardizing prosecution of dependent neglect matters to improve outcomes for children and families, with specific consideration given to possible expansion of the Department of Justice's Child Protection Unit to handle all cases statewide.

At its July 2025 meeting, the council elected to recommend that the Legislative Council rerefer this study to the Children, Families, Health, and Human Services Interim Committee (see [Appendix A](#)).

HJ 45: INTERIM STUDY ON THE IMPACT OF COLLATERAL CONSEQUENCES HAVE ON CRIMINAL RECORD EXPUNGEMENT

House Joint Resolution 45⁷ requests that the council study and determine the collateral consequences of criminal convictions and propose legislation to improve criminal record expungement laws, with a focus on improving the collateral consequences those with expunged criminal records face.

The council elected a medium level of study of this topic, including:

- Staff background paper on the legislative history of the Misdemeanor Expungement Clarification Act.
- DOJ presentation of the criminal record expungement process.
- Panel(s) or stakeholder discussion of collateral consequences associated with criminal record expungement.
- Final report of council's activities, findings, recommendations, and drafting of any council-requested legislation.
- Staff comparative analysis on criminal record expungement laws in surrounding states.

MEMBER TOPICS AND OTHER ISSUES

Complementary to its statutory duties and assigned studies, the council identified specific topics within its purview to study during the 2025-2026 interim. This process allows the council to delve more deeply into issues they consider to be of the greatest importance and produce recommendations in time for the next legislative session.

The following list includes the additional topics set by the council at its meeting on September 11, 2025.

- Siloed Behavioral Health and Criminal Justice Systems
- Recovery Residences
- Victim Services
- Fines, Court Fees, and Restitution
- Vicarious Trauma experienced in the Criminal Justice System
- Work and Street Time Credit
- Incarcerated People's Communication Services
- Human Trafficking

⁶ https://bills.legmt.gov/#/laws/bill/2/LC0504?open_tab=sum

⁷ https://bills.legmt.gov/#/laws/bill/2/LC3562?open_tab=sum

MEETINGS

The council met nine times between May 2025 and September 2026 (see [Appendix B](#)). In that timeframe, the council heard presentations and was provided with information from experts, heard public comment, and reviewed materials on topics related to:

- the HJ45 study;
- the criminal justice data warehouse;
- felony probation revocation;
- the federal and state definitions of bodily injury;
- the Integrated Correctional Programming Model (ICPM);
- the American Correctional Association (ACA) audit;
- victim and child victims services;
- the recovery residences registry and implementation of SB 94 (2023);
- arraignment court;
- human trafficking;
- credit for time served;
- behavioral health and criminal justice systems;
- vicarious trauma in the criminal justice system;
- the Community, Counseling, and Correctional Services (CCCS) STEP program;
- fines and fees in the criminal justice system;
- services provided by the Montana Community Corrections Association;
- the Montana Board of Pardons and Parole;
- county funding for pre-adjudication services;
- and agency updates from the Department of Corrections and the Office of the State Public Defender.

The council also toured the following facilities/programs:

Missoula County services funded by MacArthur Foundation grants
Missoula County Community Justice Department
Location: 2200 Mullan Rd. Suite B, Missoula, MT 59808

Montana Prerelease Center
Montana Correctional Services
Location: 2350 Mullan Rd., Missoula, MT 59808

Lewis and Clark County Children's Advocacy Center
Helena AWARE
Location: Lunch 347 Last Chance Gulch Ave, Helena, MT 59601

This accumulation and review of information allowed the council to identify any action items and final recommendations. All meeting materials, including full meeting agendas and presentation aids are archived online on the Montana Legislature website.⁸

⁸ <https://leg.mt.gov/>; or committee webpage: <https://committees.legmt.gov/#/nonStandingCommittees/1>

SUMMARY OF COUNCIL WORK

CRIMINAL JUSTICE DATA WAREHOUSE

INFORMATION GATHERING

[House Bill 117](#) requires the Montana Board of Crime Control (MBCC) to consult and collaborate with the council on the implementation of the Criminal Justice Data Warehouse (CJDW)⁹. The council consults with MBCC to prioritize data requests from contributing entities, coordinate research efforts, and establish policies governing the creation of reports generated from CJDW data queries.

This cycle, presenters highlighted project planning milestones, advancements in data exploration and integration, efforts to incorporate court data, and the recent onboarding of a dedicated data warehouse architect.

FINDINGS

MBCC continues to develop methodologies for obtaining historical data for future implementation, expand the pilot integration layer in Ravalli County law enforcement, advance discussions with courts to incorporate their data, and work to onboard a project manager.

At the council's July 2026 meeting, the members reviewed potential legislation to build on the MBCC's work and provide continued direction on the implementation of the criminal justice data warehouse.

HJ 45: INTERIM STUDY ON THE IMPACT COLLATERAL CONSEQUENCES HAVE ON CRIMINAL RECORD EXPUNGEMENT

INFORMATION GATHERING

The HJ45 study requests that the council examine the collateral consequences of criminal convictions and propose legislation to improve criminal record expungement laws, with particular attention to alleviating the ongoing challenges faced by individuals with expunged records.

To deepen its understanding of expungement law and practice, the council received the following information from experts and staff:

- A detailed briefing from the Department of Justice on the agency's record clearance process following an expungement order.
- Clarity on expungement terms (such as 'expunge' and 'seal') and the step-by-step process for misdemeanor expungement.
- Which crimes are eligible for expungement and the criteria specified in the Misdemeanor Expungement Clarification Act.
- An overview comparing Montana's record clearance laws with those in other states.

To further explore the collateral consequences of criminal convictions and the real-world impacts of record clearance, the council invited and heard perspectives from:

⁹ <https://mbcc.mt.gov/Data/Criminal-Justice-Data-Warehouse>

- national experts, who shared research on collateral consequences of criminal convictions;
- Montana stakeholders—including district court clerks, representatives of the Department of Corrections, and the Department of Labor & Industry—who discussed challenges and stigma faced by individuals with expunged records and ways record clearance laws could be improved; and
- legal professionals with firsthand experience assisting clients through the expungement process.

Reports and informational materials provided to the council:

- [Beyond Confidentiality: Modernizing Criminal Record Clearance Policies in the Digital Age](#), Council of State Governments (CSG)
- [Montana Snapshot of Employment-Related Collateral Consequences](#), CSG Justice Center
- [50-State Comparison: Expungement, Sealing, and Other Record Relief](#), CCRC Restoration of Rights Project
- [Record Clearing by Offense](#), National Conference of State Legislatures
- Staff Summary: [Legislation History of Montana's Misdemeanor Expungement Act](#)

Additionally, the council received an update from the Department of Labor and Industry on the implementation of the department's new Office of Reentry¹⁰, which is intended to create a collaborative effort among state agencies to coordinate services and programs for those exiting or preparing to exit incarceration and reenter communities.

FINDINGS

The council repeatedly heard that technological innovations have fundamentally changed how information is accessed and shared. Criminal history information is now widely disseminated through digital databases and commercial background check companies. As a result, truly expunging a person's criminal history from the digital public forum is increasingly difficult. Employers, landlords, and others routinely access this information when evaluating applicants, causing individuals with a history in the justice system to face barriers to employment and housing.

Presenters spoke on Montana's current approach to criminal record sealing and how it poses significant challenges for individuals seeking to reintegrate into society. Petition-based systems like Montana's are complex, underutilized, and often fail to deliver meaningful relief because of procedural and statutory barriers. Presenters recommended that Montana evaluate the effectiveness of its record-sealing policies, prioritize clarity, expand eligibility, and consider automation to ensure relief mechanisms function as intended and genuinely support public safety and successful reentry.

Recommendations prompted by panelists feedback and council discussion:

- Standardize expungement terms/procedures.
- Provide clarity on the impact expunged records have on applications for employment, housing, or professional licensing.
- Expand record clearance eligibility
- Consider enacting automatic record clearance practices

In response to these recommendations and concerns about inconsistencies in record clearance procedures across the state, members reviewed potential legislation at their July 2026 meeting to standardize terms in the state's expungement laws. The proposed legislation also aims to provide additional clarity for employers, housing authorities, and professional licensing boards on how to respond to expunged records.

¹⁰ [House Bill 718 \(2025\)](#)

SILOED BEHAVIORAL HEALTH AND CRIMINAL JUSTICE SYSTEMS

INFORMATION GATHERING

Another topic identified for study during the council's 2025-2026 cycle was the persistent silos in care delivery and information sharing between behavioral health and the criminal justice system, often causing duplicated services and fragmented fiscal spending. To better understand the impact of this disconnect, the council heard from Missoula County Attorney Matt Jennings, who presented data and insights on the financial and human costs in Missoula County of repeatedly incarcerating individuals with untreated mental illness.

The council also received an update from the Department of Public Health and Human Services (DPHHS) on agency initiatives that intersect behavioral health and the criminal justice system in response to recommendations from the Behavioral Health Systems for Future Generations Commission.¹¹ Criminal justice-related recommendations from the commission include enhanced targeted case management for substance use disorder, critical time intervention care to support individuals discharged from institutional settings with intensive time-limited assistance for community reintegration, funding for 988 Lifeline marketing, incentives for providers to join the behavioral health workforce, and the expansion of certified community behavioral health clinics.

The council also received an overview of Montana's Rural Health Transformation Program. Funded through a federal initiative to stabilize and modernize rural health care delivery, the program focuses on five core initiatives: workforce development, sustainable access, innovative care models, community health and prevention, and technology innovation.¹²

FINDINGS

The council discussed the confusion and inefficiency stemming from fragmented funding and oversight of behavioral health and victim services within the state's criminal justice system, with members calling for clearer data and accountability. Members also advocated for greater investment by the RHTP initiative in programs and services that impact the state's criminal justice system, such as crisis receiving centers.

RECOVERY RESIDENCES

INFORMATION GATHERING

With the passage of [Senate Bill 94](#)¹³ (2023), Montana established requirements and standards for recovery residences operating in Montana and created a registry maintained by the Department of Public Health and Human Services (DPHHS). The legislation also requires recovery residences to be certified by a recognized organization to qualify for rental vouchers and transitional assistance funds from the Department of Corrections. This cycle, the council dedicated time to receiving updates on the implementation of SB94.

Reports and informational materials provided to the council:

- [National Sober Living Association 2025 Report](#)
- [Recovery Access of Montana 2026 Statutory Compliance & Forensic Audit Report](#)
- [STEP, Inc. Recovery Impact Handout](#)
- Staff Summary: [Legislative History of SB94 \(2023\)](#)

¹¹ [Behavioral Health System for Future Generations \(BHSFG\) Commission Report: Recommendations for Reform and Improve Montana's Behavioral Health and Developmental Disabilities Service Systems](#) – September 2024

¹² <https://dphhs.mt.gov/RuralHealthTransformationProgram/>

¹³ https://bills.legmt.gov/#/bill/20231/LC0277?open_tab=sum

Council members first received an update from DPHHS regarding the status of the recovery residences registry. The council then invited Montana's recovery residence providers to share feedback on the registry, the new standards and requirements, and to offer any recommendations for improvement.

The council also requested the Department of Corrections, DPHHS, certifying organizations (Recovery Access Montana and the National Sober Living Association), and local law enforcement to share any recommendations to improve collaboration and oversight of recovery residences.

FINDINGS

Overall, recovery residence providers and stakeholders applauded the passage of SB94. Providers found the standardization of requirements helpful in establishing residences, and stakeholders appreciated the increased clarity on how to assist and collaborate with the state's recovery residences.

Recommendations centered on improving oversight, clarifying reporting requirements, and improving verification processes. Recovery residence providers asked the council to consider standardizing certification requirements and increasing oversight of certifying organizations, citing concerns about inconsistent standards among certifying bodies. Stakeholders also called for greater clarity on reporting requirements, noting confusion about who was responsible for reporting and a lack of awareness of the requirements.

Moving forward, DPHHS pledged to address concerns related to the registry and to collaborate with county partners to ensure reporting requirements are understood.

Panelist recommendations:

- Create certifying body oversight
- Establish consistent recovery residency certifying standards
- Ensure registry is accurate
- Clarify recovery residence reporting requirements
- Establish a method for verifying recovery residence registration and certification

Reports and informational materials provided to the council:

- [State Support for Children's Advocacy Centers](#), NCSL
- [Office of Victim Services Programs](#), Department of Justice
- [Guide to Montana's Children's Advocacy Centers](#), Children's Alliance of Montana
- [HJ29 \(2021\) – Study of Victim Services and Funding in Montana](#), Legislative Fiscal Division
- [Victim Service Needs Assessment Report \(2025\)](#), MBCC
- [Victim Services Flowchart](#), MBCC
- [Community-Based Victim Services](#), MBCC
- [CAC and CASA Community Based Systems](#), MBCC
- [Victim Services Needs Assessment Report](#), MBCC
- [Victim Services Programs Breakdown](#), MBCC

VICTIM SERVICES

INFORMATION GATHERING

Another topic identified for study during the council's 2025-2026 cycle was the availability and support of victim services in Montana. To understand the scope of services in the state, the council received a presentation from MBCC on its victim service mapping tool.¹⁴ This interactive, searchable map allows users to locate victim service providers by county, city, or service type. MBCC also provided an overview of the different categories of victim service providers and the range of services they deliver.

¹⁴ <https://tableau-ext.mt.gov/#!/site/MBCC/views/VictimServicesDashboard/VictimServicesDashboard?%3Aembed=y>

Later, the council hosted two stakeholder panel discussions with adult and child victim service providers to gather feedback on current services and identify areas for improvement. Panelists were asked to highlight gaps in services and suggest how the state could enhance or support victim services statewide.

Recommendations included:

- addressing service gaps, particularly in rural areas;
- increasing funding for victim services;
- supporting prevention, such as early education to prevent victimization;
- securing additional funding, staff, medical providers, and trauma-trained behavioral health professionals to support child advocacy work; and
- elevating victims' voices and increasing system accountability to ensure victims are heard throughout the criminal justice process and that investments directly address victims' needs

In response to panelists' recommendations regarding Child Advocacy Centers (CACs), the council invited CAC representatives to discuss how the state could better support their work. Members also received an overview of other states' laws regarding CACs.

FINDINGS

The council considered and approved a provisional bill draft to repeal the Crime Victim Compensation Account's sunset date, or expiration date. Additionally, the members reviewed potential legislation at its July 2026 meeting to define and establish in law the work of the state's CACs.

Potential statutory changes based on panelists' feedback:

- Repeal the sunset date on the Crime Victims Compensation Account (53-9-113, MCA)
- Reconsider existing financial caps and time limits in the crime victim compensation program for accessing benefits
- Define Child Advocacy Centers and multidisciplinary teams in law, providing an avenue for statutorily designated groups to respond to certain child abuse cases

FINES, COURT FEES, AND RESTITUTION

INFORMATION GATHERING

Montana imposes three main types of financial obligations in legal proceedings: fines, court fees, and restitution. Court fees cover administrative costs, such as filing documents. Fines are penalties paid to the government for offenses, while restitution compensates victims for harm caused by a crime. Although the allocation of collected monies may vary by jurisdiction¹⁵, Montana law generally requires that when an offender faces any combination of fines, costs, restitution, charges, interest, or other payments from the same criminal proceeding, 50% of all money collected must be applied to restitution. The remainder is directed toward other costs, including administrative and supervisory fees, as well as court-imposed fines¹⁶.

Prompted by a prior study¹⁷ requesting an examination of the state's criminal fines, fees, and forfeitures at state and local levels, the council dedicated time during its 2025-2026 cycle to reviewing Montana's legal financial obligations and exploring potential efficiencies.

¹⁵ 46-17-402, MCA

¹⁶ 46-18-251, MCA

¹⁷ [House Joint Resolution 30, 2023](#)

At its January 2026 meeting, the council heard from national research experts about legal financial obligations and recent legislative trends in other states, such as eliminating certain court fees, implementing ability-to-pay assessments, or increasing fees to fund jail maintenance. State magistrates Hon. Jessie Connolly and Hon. Kelly Mantooth also were invited to share perspectives on Montana’s system and any recommendations for efficiencies.

FINDINGS

Following the reported success of Sweet Grass County court’s notification and collection model, Judge Connolly was invited to explain its implementation and assess its potential as a template for other courts of limited jurisdiction. Although the model may not suit every court, the council discussed how similar strategies might be adopted in other jurisdictions, possibly with state financial support.

VICARIOUS TRAUMA EXPERIENCED IN THE CRIMINAL JUSTICE SYSTEM

INFORMATION GATHERING

Vicarious trauma—defined as “the cumulative inner transformative effect of bearing witness to abuse, violence, and trauma in the lives of people we care about, are open to, and are committed to helping”¹⁸—is an occupational challenge for people working and volunteering in victim services, law enforcement, emergency medical services, and other allied professions. The council chose to dedicate time during its 2025-2026 cycle to review the state’s

Reports and informational materials provided to the council:

- [Linking Systems of Care Template for Trauma-Informed Policy and Practice: Organizational Trauma-Readiness and Self-Assessment Checklist](#), MBCC and University of Montana
- [The Vicarious Trauma Toolkit](#), U.S. DOJ Office for Victims of Crime

current capacity to address vicarious trauma experienced by those working in the state’s criminal justice system.

The council hosted a stakeholder roundtable, bringing together experts who either treat vicarious trauma or work in the criminal justice system and are frequently exposed to it. Panelists were asked to share their unique perspectives on how the state could better support efforts to alleviate vicarious trauma among those involved in the criminal justice system.

FINDINGS

The roundtable discussion centered on the emotional toll of vicarious trauma on criminal justice workers. Panelists highlighted both statewide and regional efforts to provide training and support for those regularly exposed to trauma. They also discussed the unrelenting nature of law enforcement work, noting that officers often lack time to process traumatic incidents and are frequently unable to use sick leave for mental health days. Panelists discussed the need for improved support systems and better policies for first responders facing repeated trauma. As a result, the council considered draft legislation to expand the state’s sick leave laws and amend the definition of sick leave to ensure it covers secondary trauma.

Potential statutory changes based on stakeholder discussion:

- Allow first responders and criminal justice stakeholders to be able to take sick time for mental wellness or health even if it is not for a diagnosed physical illness or mental illness

¹⁸ United Nations Office on Drugs and Crime (2022). *Vicarious trauma experienced by judges and the importance of healing*

After running the draft legislation by the Montana Department of Administration (see [Appendix D](#)) and ensuring that the state's sick leave laws allow the use of accrued sick leave for things like mental health-related absences, specifically, anything involving examination or treatment by a licensed health care provider, the council chose not to pursue the proposed draft language.

CREDIT FOR TIME SERVED

INFORMATION GATHERING

Credit for time served is a legal practice in which the time a person spends incarcerated or under supervision is credited toward their sentence. In Montana, credit for time is calculated based on both pre- and post-conviction incarceration and is applied to the total sentence. In 2025, the Montana Legislature also established a work-time credit policy for probationers and parolees, allowing them to reduce their supervision requirements by engaging in work.¹⁹ The council chose to review the credit for time served policies of this state to identify potential efficiencies.

Informational materials provided to the council:

- Staff Summary: [Montana's Credit for Time Policy](#)

The council held a roundtable with stakeholders representing perspectives from county attorneys, the Department of Corrections Probation and Parole Bureau, Montana Board of Pardons and Parole, and Office of Public Defender to discuss Montana's credit for time served laws and what, if any, improvements should be made.

Potential statutory changes based on stakeholder discussion:

- Clarify "reasonable time served" for elapsed time credit
- Require location of where time was served to be included in PSI report
- Consider return to discretionary street time credit

FINDINGS

The roundtable discussion centered on recent policy changes to work time, good time, and street time, and on the frequent discrepancies in reported time in presentence investigation reports, disagreements over how time is recommended and documented (incentive vs. punishment), and increasing discretion that may result in continued inconsistencies.

INCARCERATED PEOPLE'S COMMUNICATION SERVICES

INFORMATION GATHERING

The council was provided with information from the Legislature's 2021-2022 study on inmate telecommunications contracts and costs²⁰, which examined inmate calling rates and looked at texting, e-mailing, and video rates. Additionally, the council heard updates from the Department of Corrections on how communication services are provided to those under the department's jurisdiction.

FINDINGS

The 2021-2022 study resulted in [Senate Bill 7 \(2023\)](#), which revised state prison and county detention center telecommunication laws by providing guidelines for managing and recording inmate communications while addressing security and administrative operations within these institutions.

¹⁹ [Senate Bill 217 \(2025\)](#)

²⁰ Final Report - *Senate Bill 303 (2021): Study of Inmate Telecommunications Contracts and Costs*

(<https://archive.legmt.gov/content/Committees/Interim/2025-2026/CJOC/Sept-2025/sb303-final-study-report-august-2022.pdf>)

HUMAN TRAFFICKING

INFORMATION GATHERING

Another topic identified by the council for study during the 2025-2026 cycle was Montana's response to human trafficking. Federal law defines "severe forms of trafficking in persons" as: "(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."²¹ The Montana Department of Justice reports that human trafficking cases in the state rose from 7 in 2015 to 143 in 2023, an increase of 1,900 percent²².

Reports and informational materials provided to the council:

- [Power and Control Wheel: Physical and Sexual Violence](#), Domestic Abuse Intervention Project
- [Power and Control Wheel: Sex and Labor Trafficking](#), Domestic Abuse Intervention Project
- [Closing the Revolving Door: Building Freedom and Justice for Trafficking Survivors](#), Safety + Justice Challenge and National Center for Victims of Crime
- [Help Stop Human Trafficking](#), Yellowstone Human Trafficking Task Force

To better understand the state's current landscape and response, the council heard from the Yellowstone Human Trafficking Task Force (YHTTF). The YHTTF collaborates with law enforcement, service providers, community groups, and volunteers in Yellowstone County and the surrounding areas to coordinate efforts to investigate and prosecute traffickers and buyers, assist victims of labor and sex trafficking, increase community awareness, and prevent future trafficking. In addition, the council heard impact statements from human trafficking survivor advocates on their personal experiences, as well as from a domestic violence shelter provider who spoke on responding to the needs of human trafficking survivors.

FINDINGS

In addition to discussing national responses to human trafficking and framing the issue in Montana, presenters stressed the importance of educating both the public and criminal justice stakeholders who most frequently interact with human trafficking survivors on how to recognize the warning signs of trafficking and provide trauma-informed care to victims and survivors.

Panelist recommendations:

- Strengthen survivor-centered laws
- Expand enforcement & capacity for victim specialists
- Disrupt human trafficking demand
- Regulate technology to close gaps and increase protections
- Expand and increase funding for victim services

EMERGING ISSUE: FEDERAL AND STATE DEFINITIONS OF BODILY INJURY

INFORMATION GATHERING

At the council's May 2025 meeting, council member and Yellowstone County Attorney Scott Twito brought forward an issue impacting the ability of the criminal justice system to protect domestic violence victims in Montana from their convicted abusers who possess firearms.

²¹ U.S.C. §7102(8)

²² <https://dojmt.gov/human-trafficking/#:~:text=Human%20trafficking%20occurs%20in%20Montana,must%20first%20know%20it%20exists.>

In the *U.S. v. DeFrance*, 124 F.4th 814 decision, the 9th Circuit dismissed an 18 U.S.C. § 922(g)(9) conviction for unlawful possession of firearms against a defendant, holding Montana’s domestic violence statute does not constitute a predicate domestic violence conviction. The 18 U.S.C. § 922(g)(9) was enacted to keep firearms out of the hands of convicted domestic abusers, and, until the *DeFrance* decision, the Montana criminal justice system was able to use the threat of federal prosecution under 18 U.S.C. § 922(g)(9) to prevent convicted violent domestic offenders from possessing firearms. However, after the *DeFrance* decision, Montana will be the only state in the nation where this federal prohibition is no longer valid due to the 9th Circuit’s reliance on the “categorical approach” to analyze the predicate conviction. The federal court believed Montana’s definition of “bodily injury” was too broad.

FINDINGS

In response to this concern, the council sent a letter to the Montana Congressional Delegation on September 19, 2025, requesting a review of the issue (see [Appendix E](#)). However, in an attempt to address the issue in a timely manner, the council also discussed ways to respond at the state level.

At the council’s May and July 2026 meetings, members reviewed potential legislation to prohibit persons convicted of a partner or family member assault misdemeanor from purchasing or possessing a firearm for 5 years following the date of conviction.

Potential statutory changes based on council discussion:

- Create a state penalty prohibiting an individual convicted of a misdemeanor PFMA from purchasing or possessing a firearm

COUNCIL RECOMMENDATIONS

Considering the council’s statutory direction to study and make recommendations to the legislature to address criminal justice system issues, manage limited resources, improve workloads, and make improvements to state and local systems, the council considered draft legislation related to the various topics it chose to dedicate time to study during its 2025-2026 cycle.

The council voted to send *** bills to the 70th Legislature. While the council discussed different approaches to resolving questions posed on several topics, not all topics resulted in recommendations for statutory changes. Details of the bills approved by the council are below. Each can be viewed by its LC# at <https://bills.legmt.gov/>.

LC# / Bill# (CJOC Draft #)	Short Title	Sponsor
TBD / TBD (CJOC PD1)	Repeal sunset date on the Crime Victims Compensation Account	TBD
TBD / TBD (CJOC PD3.2)	Revise laws related to partner and family member assault	TBD
TBD / TBD (CJOC PD4)	Define child advocacy centers	TBD
TBD / TBD (CJOC PD5)	Generally revise laws related to the misdemeanor expungement clarification act	TBD
TBD / TBD (CJOC PD6)	Establish criminal justice data warehouse priorities for the 20272028 interim	TBD

APPENDIX A – LETTER TO LEGISLATIVE COUNCIL RE: SJ36



Criminal Justice Oversight Council 69th Montana Legislature

PO BOX 201706
Helena, MT 59620-1706
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SENATE MEMBERS LAURA SMITH BARRY USHER - Chair	HOUSE MEMBERS SJ HOWELL AMY REGIER	PUBLIC MEMBERS DAVID ARMSTRONG HON. LUKE BERGER – Vice Chair ELDENA BEAR DON'T WALK CHARLIE BRERETON ROSS CANEN ALAN DOANE HON. MARK DUNN	PUBLIC MEMBERS JESSICA FLINT BRIAN GOOTKIN SHANTELE GAYNOR JIMMY PATELIS BRETT SCHANDELSON AMY TENNEY SCOTT TWITO	COMMITTEE STAFF LAURA SHERLEY, Lead Staff ANIA ALDUENDA, Secretary
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August 1, 2025

Dear Chair Bogner and Legislative Council members,

Senate Joint Resolution No. 36 (SJ 36) requested that an interim committee explore the standardization of prosecution in matters of dependent neglect in Montana. The Legislative Council assigned this study, ranked 36th in the study resolution survey, to the Criminal Justice Oversight Council (CJOC) along with one other study resolution. During the CJOC's meeting on July 23, members voted to request that the Legislative Council reassign the SJ 36 study to the Children, Families, Health, and Human Services Interim Committee (CFHHS). The CJOC believes that the SJ 36 study would require an extensive legislative response, which is better addressed in a legislative interim committee. Additionally, the composition of the CJOC does not adequately represent the stakeholders involved in this complex issue.

To effectively address SJ 36, CJOC believes that CFHHS and its stakeholders are better positioned to manage the study and workload. Additionally, the CJOC recommends that the study not only focus on the standardization of prosecution processes but also expand to include the standardization of offices involved in these matters.

The CJOC makes this request pursuant to section 5-5-217(3), MCA, which allows a statutory committee to recommend to the Legislative Council that a study be assigned to another interim committee or statutory committee.

Thank you for considering this recommendation. Please contact the CJOC staff or me with any questions.

A handwritten signature in black ink, appearing to read "Barry Usher".

Sen. Barry Usher, Council Presiding Officer

cc:
Rep. Jodee Etchart, Presiding Officer, Children, Families, Health, and Human Services Interim Committee
Sen. Dennis Lenz, sponsor of SJ 36
Jerry Howe, Executive Director, Montana Legislative Services Division

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APPENDIX B – COUNCIL WORK TIMELINE

Date	Agenda Items
May 28, 2025	Organizational ◇ Reviewed council procedures, proxies, & staff responsibilities ◇ Reviewed the outcome of legislation requested by the 2023-2024 CJOC ◇ Discussed study topics for 2025-2026 council work plan ◇ Reviewed proposed meeting dates Agenda Items ◇ Criminal justice data warehouse update, provided by MBCC ◇ Department of Corrections update, re: 2025 Legislative outcomes ◇ Felony probation revocation ◇ Federal and state definitions of bodily injury ◇ Integrated Correction Programming Model (ICPM)update ◇ American Correctional Association (ACA) audit review
July 23, 2025	Organizational/Action Taken ◇ Elected officers ◇ Reviewed draft 2025-2026 work plan ◇ Adopted meeting dates Agenda Items ◇ Victim services: MBCC victim services mapping ◇ Department of Corrections update and follow-up to council questions ◇ DPHHS update re: council topics and SB94 (2023) implementation update ◇ Arraignment court overview
Sept. 11, 2025	Organizational/Action Taken ◇ Adopted 2025-2026 work plan ◇ Adopted and sent letter to Montana Congressional Delegation re: federal v. state definition of bodily injury Agenda Items ◇ OPD agency updates ◇ Criminal justice data warehouse update ◇ HJ45: Conviction expungement procedures by the Department of Justice ◇ Human Trafficking: Yellowstone Human Trafficking Task Force presentation on current responses in Montana ◇ Victim Services: Victim service provider panel and child victim service provider panel ◇ Federal v. state definition of bodily injury: review of draft letter to Montana Congressional Delegation

Nov. 18, 2026 MISSOULA	Agenda Items ◇ Credit for Time Served: Stakeholder roundtable discussion ◇ Siloed Behavioral Health and Criminal Justice Systems: Presentation from Missoula County Attorney ◇ Vicarious Trauma in the Criminal Justice System: Stakeholder roundtable discussion ◇ Tour of Missoula County services funded by MacArthur Foundation grants ◇ Tour of the Montana Prerelease Center
Jan 15, 2026	Organizational/Action Taken ◇ Council legislation: Directed staff to work with representatives of the Montana Association of Clerks of District Court to draft provisional legislation for the council to consider re: terminology in Montana’s expungement laws Agenda Items ◇ Criminal justice data warehouse update ◇ Community, Counseling, and Correctional Services (CCCS) Step program update ◇ Fines and Fees in the Criminal Justice System: NCSL overview of recent policy changes and Montana Magistrates Association panel ◇ Department of Corrections update on agency workgroup ◇ HJ45: Panel on national research and Montana stakeholder panel ◇ SB 94 (2023): Montana recovery residences panel and program stakeholder panel
March 11, 2026	Organizational/Action Taken ◇ Council Legislation: Postponed action on CJOC-PD1 until May 8, 2026 meeting. Directed staff to redraft CJOC-PD2 with additional considerations and to work with council member Scott Twito to draft provisional legislation for council consideration creating a new state penalty/revising laws related to PFMA’s. Agenda Items ◇ Council Legislation: Reviewed draft potential council legislation (CJOC-PD1 and CJOC-PD2) ◇ Criminal justice data warehouse update ◇ Department of Corrections follow-up on agency workgroup and council questions ◇ Fines and Fees in the Criminal Justice System: Overview of legal financial obligation notification system and collection model ◇ Overview of the Montana Community Corrections Association ◇ Human Trafficking: Responding to Human Trafficking Survivors - Experiences, Needs, and System Engagement ◇ Federal vs. State Definition of Bodily Injury: Review of letter sent to Montana Congressional Delegation and discussion on next steps

May 8, 2026	Organizational/Action Taken ◇ Council Legislation: Approved CJOC-PD1 as a council bill. No action taken on CJOC-PD2.2. Directed staff to redraft CJOC-PD3 with additional considerations and to draft the following provisional legislation for the council to consider: ○ Define child advocacy centers ○ Revise terms/laws in Montana’s expungement law ○ Establish priorities for the criminal justice data warehouse for 2027-2028 interim Agenda Items ◇ Council Legislation: Reviewed draft potential council legislation (CJOC-PD1, CJOC-PD2.2, and CJOC-PD3) ◇ Criminal justice data warehouse update ◇ HJ45: Panel of county attorneys to speak to expungable crimes and eligibility criteria, and panel of persons/those who represent persons with expunged records ◇ Victim services: Panel of Child Advocacy Center representatives, and CAC tour ◇ Department of Corrections update on projects at women’s facilities
July 15, 2026	Agenda Items ◇ Council Legislation: Reviewed draft potential council legislation (CJOC-PD3.2, <i>draft</i> CJOC-PD4, CJOC-PD5, and CJOC-PD6) ◇ HJ45: Update from the DLI Reentry Office and staff presentation on other state record clearance laws ◇ Victim Services: Staff presentation of other state laws related to child advocacy center ◇ Montana Board of Pardons and Parole overview ◇ Review of county funding for pre-adjudication services ◇ Criminal justice data warehouse update ◇ Review of draft 2025-2026 biennial report
Sept. 2, 2026	◇ <i>TBD</i>

APPENDIX C – CJOC PD1: REPEAL THE SUNSET DATE OF THE CRIME VICTIMS COMPENSATION ACCOUNT

Unofficial Draft Copy

As of: 2026/02/11 08:56:58

Drafter: Laura Sherley, LC

69th Legislature 2025

CJOC-PD1

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CRIME VICTIMS COMPENSATION LAWS;
6 REPEALING THE SUNSET DATE ON THE CRIME VICTIMS COMPENSATION ACCOUNT; REPEALING
7 SECTION 14, CHAPTER 374, LAWS OF 2009, SECTION 1, CHAPTER 292, LAWS OF 2015, SECTION 27,
8 CHAPTER 285, LAWS OF 2015, AND SECTIONS 1, 2, AND 3, CHAPTER 139, LAWS OF 2021; PROVIDING
9 AN IMMEDIATE EFFECTIVE DATE."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12
13 NEW SECTION. Section 1. Repealer. Section 14, Chapter 374, Laws of 2009, Section 1, Chapter
14 292, Laws of 2015, Section 27, Chapter 285, Laws of 2015, and Sections 1,2, and 3, Chapter 139, Laws of
15 2021, are repealed.
16
17 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.
18 - END -

APPENDIX D – DEPARTMENT OF ADMINISTRATION STATE HUMAN RESOURCES DIVISION – FEEDBACK ON CJOC-PD2.2

Sherley, Laura

From: Davis, Karol Anne <karol.anne.davis@mt.gov>
Sent: Friday, April 17, 2026 4:58 PM
To: Sherley, Laura
Subject: RE: MT Criminal Justice Oversight Council - Proposed statutory changed
Attachments: DRAFT CJOC PD2.2 - For Review Only.pdf

Good afternoon, Laura -

Hope you week went well. Below is our feedback on the attached draft.

Under current statute, employees can already use accrued sick leave for things like mental health-related absences, specifically, anything involving examination or treatment by a licensed health care provider (Section V). The proposed Section IX would add coverage for "preventative medical or mental health care." It would be helpful to understand what Section IX is meant to cover that isn't already captured by Section V.

The proposed language is broad, which could lead to some gray areas for employees and managers trying to figure out what qualifies as "preventative medical or mental health care." For example, under current law if an employee wants to take time off to go hiking, they would generally use accrued vacation leave; however, under the proposed amendment, that same employee may argue that the time off for hiking falls into sick leave as "mental health care." In practice, that kind of ambiguity can sometimes push employers toward requesting medical documentation for absences that wouldn't normally require it. Adding some definitions or concrete examples of qualifying circumstances would assist in consistent application.

There are a couple of cost considerations worth flagging. First, broader qualifying criteria for sick leave could shift how employees use their leave meaning some absences that would have come out of vacation balances might instead come out of sick leave. That matters at separation, because accrued sick leave is paid out at 25%, while vacation leave is paid out at 100%. If vacation balances grow as a result, the State's payout liability at separation would grow with them. Second, the broader scope of the proposed language at the end could also set a precedent, creating a basis for future requests, whether from employees or employee organizations, to expand sick leave benefits further.

We hope these notes are useful as you move through the review process. SHRD is happy to provide additional information or answer any questions you might have.

Have a great weekend!



KAROL ANNE DAVIS | Administrator
State Human Resources Division
Department of Administration
DESK 406.444.3885
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APPENDIX E – LETTER TO MT CONGRESSIONAL DELEGATION



Criminal Justice Oversight Council 69th Montana Legislature

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BARRY USHER - Chair	AMY REGIER	ELDENA BEAR DON'T WALK	BRIAN GOOTKIN	ABBIE CZIOK, Staff Attorney
		HON. LUKE BERGER – Vice Chair	JIMMY PATELIS	ANIA ALDUENDA, Secretary
		CHARLIE BRERETON	BRETT SCHANDELSON	
		ALAN DOANE	AMY TENNEY	
		HON. MARK DUNN	SCOTT TWITO	
		JESSICA FLINT		

September 19, 2025

Montana Congressional Delegation

The Honorable Steven R. Daines, U.S. Senator
320 Hart Senate Office Building
Washington, D.C. 20510-2604

The Honorable Ryan Zinke, Congressman
512 Cannon House Office Building
Washington, D.C. 20515-2601

The Honorable Tim Sheehy, U.S. Senator
G55 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Troy Downing, Congressman
1529 Longworth House Office Building
Washington, D.C. 20515

Dear Montana Senators and Congressmen:

You need to be aware of a recent and important issue that affects all law-abiding Montanans.

Recently, the 9th Circuit U.S. Court of Appeals issued a decision impacting the ability of the criminal justice system to protect domestic violence victims in Montana from their convicted abusers who possess firearms. In *U.S. v. DeFrance*, 124 F.4th 814 (decided December 30, 2024), the 9th Circuit dismissed an 18 U.S.C. § 922(g)(9) conviction for unlawful possession of firearms against a defendant, holding Montana's domestic violence statute does not constitute a predicate domestic violence conviction under the definition of a "misdemeanor crime of domestic violence" in 18 U.S.C. § 921(a)(33)(A)(ii).

Congress, aware of the deadly results of domestic strife combined with firearm use, enacted 18 U.S.C. § 922(g)(9) to keep firearms out of the hands of convicted domestic abusers. Until the *DeFrance* decision, the Montana criminal justice system was able to use the threat of federal prosecution under 18 U.S.C. § 922(g)(9) to prevent convicted violent domestic offenders from possessing firearms. The law was used judiciously, and according to the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the agency found the law was used in federal prosecutions in Montana fewer than 15 times in the last 10 years.

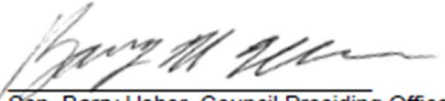
However, because of the *DeFrance* decision, Montana will be the only state in the nation where this federal prohibition is no longer valid due to the 9th Circuit's reliance on the "categorical approach" to analyze the predicate conviction. The categorical approach limited the court's analysis to the statutory language of the state conviction, preventing the court from examining the facts of the underlying conviction. The federal court believed Montana's definition of "bodily injury" was too broad. For that reason alone, it prevented Montana's domestic violence statute from serving as the predicate for a federal U.S.C. § 922 charge and conviction. This result cannot be what Congress intended when it carefully crafted U.S.C. § 922 protections.

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Changing Montana's bodily injury definition to preserve those federal protections was considered, but it was determined to be an impractical approach that would lessen protections for Montana domestic violence victims and likely negatively impact other parts of Montana's criminal code. We ask you to address this baffling result by working with Congress to amend the federal definition of "misdemeanor crime of domestic violence" in 18 U.S.C. § 921(a)(33)(A)(ii) to include an examination of the offender's actual conduct. By including this language, a conviction would not be confined to a review of the legal elements of the underlying charge. This recommendation is not without precedent. The United States Supreme Court has been critical of the categorical approach and has recommended the court focus on the factual record to determine whether the underlying conviction constitutes a crime of violence.

We implore you to investigate this issue on behalf of all Montanans so domestic abuse victims and law-abiding citizens alike can enjoy the federal protections that were removed by this court decision.

We hope you can fix this issue before this Council is required to act in the coming months.



Sen. Barry Usher, Council Presiding Officer
Montana Senate District 19

Hon. Luke Berger
Council Vice Presiding Officer
Montana 5th Judicial District Court

Representative Amy Regier
Montana House District 6

David Armstrong
Council Member
Representative of Community Corrections Facilities

Charlie Brereton
Council Member
Montana Department of Public Health and Human
Services Director

Hon. Mark Dunn
Council Member
Municipal Court Judge

Shantelle Gaynor
Council Member
Representative of Crime Victims

Jimmy Patelis
Council Member
Board of Pardons and Parole Member

Amy Tenney
Council Member
Representative of Community Corrections Facilities

Representative SJ Howell
Montana House District 100

Senator Laura Smith
Montana Senate District 40

Eldena Bear Don't Walk
Council Member
Tribal Member Representative

Alan Doane
Council Member
Montana Attorney General's Designee

Jessica Flint
Council Member
Representative of Civil Rights Advocates

Brian Gootkin
Council Member
Montana Dept. of Corrections Director

Brett Schandelson
Council Member
Montana Office of the State Public Defender Director

Scott Twito
Council Member
Yellowstone County Attorney

CC:
Kurt Alme, United States Attorney, District of Montana

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