



# Montana Department of Corrections

2018 Report to the  
Criminal Justice  
Oversight Council



# Montana Department of Corrections

## Director's Office

Steve Bullock, Governor

Reginald D. Michael, Director

August 29, 2018

Dear Governor Steve Bullock and Members of the Montana Legislature:

As Chairman of the Criminal Justice Oversight Council (CJOC), I am submitting a report outlining updates from this important advisory body. This is an exciting time to be involved in corrections in Montana. The criminal justice reform initiatives underway in Montana are the result of bipartisan leadership, from Governor Steve Bullock, the Commission on Sentencing and members of the 2017 Section D Budget Subcommittee. The 2017 Montana Legislature passed comprehensive criminal justice reform known as Montana's Justice Reinvestment Initiative. The bill package focused on "front loading" resources for justice-involved individuals in the early stages of the justice system to reduce the growing costs of incarceration.

With continued support and technical assistance from the Council of State Governments during Phase II of Montana's Justice Reinvestment Initiative, we have overseen successful implementation of broad reforms that increase community safety and improve the resources for justice-involved individuals.

As we began to implement and evaluate criminal justice reforms, we diligently monitored impacts. The benefits of justice reforms underway will take years to fully realize; however, we are optimistic that the initial effects will result in long-term gains.

Since inception on September 6, 2017; the CJOC has met quarterly to review execution of justice reinvestment legislation. Meetings have included updates from the following agencies:

- Board of Crime Control (MBCC)
- Board of Pardons and Parolee
- Council of State Governments (CSG)
- Court Administrator's Office
- Department of Corrections (DOC)
- Department of Health and Human Services
- Montana County Attorneys Association

In addition to agency updates, the DOC has submitted a request for justice reinvestment technical assistance grants, to enhance our information technology infrastructure and gain more effective data collection. We have discovered barriers to data collection between criminal justice agencies that make timely measurement of reform actions challenging, but we remain committed to greater information sharing.

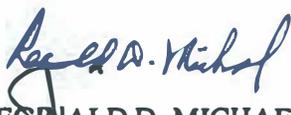
Grant requests have also included funding for a justice reinvestment coordinator to enhance collaboration and to fund a statewide 2018 Public Safety Forum in October. The forum, hosted in Missoula, will include updates from various criminal justice agencies and roundtable discussions on reform impacts.

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Finally, the CJOC has appointed a working group to draft potential statutory adjustments that will enhance reforms in Montana. Stakeholders on the working group include representatives from district court, city police, sheriffs, county attorneys, probation and parole, and public defenders.

On behalf of CJOC members, it has been our privilege to direct and review justice reforms in Montana. We are grateful for the opportunities provided by the 2017 Legislature, the discussions with criminal justice stakeholders, and the impacts of significant efforts statewide. I look forward to providing you future updates as we continue to measure our success.

Sincerely,



REGINALD D. MICHAEL  
Director

RDM:sj

c: Cynthia Wolken, Dep. Director  
Criminal Justice Oversight Committee



# Montana Department of Corrections

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## REVIEW OF MAJOR LEGISLATION

### HOUSE BILL 133

**Sponsor:** Rep. Nate McConnell, (D) Missoula  
**Goal:** Incarcerate those who pose the greatest risk to public safety and reserve limited criminal justice resources  
**Effective:** July 1, 2017

This bill was 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 enough to support the charge.
- Revises the persistent felony offender charge 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.

*Impacts:* Statewide, the criminal justice system has seen fewer individuals placed in county jails for offenses that do not pose a threat to public safety. Additionally, more individuals convicted of driving under the influence have been diverted to drug courts as opposed to placement in a secure treatment facility.

## SENATE BILL 45

**Sponsor:** Senator Margie MacDonald, (D) Billings  
**Goal:** To increase access to alternative courts  
**Effective:** October 1, 2017

- Revises the drug treatment court structure to empower the court in decision-making.
- Allows violent offenders to participate in mental health and drug treatment courts.

*Impacts:* We do not have data to illustrate full impacts at this time; however, anecdotally we have been advised that participation and support for alternative courts has increased because of this legislation.

## SENATE BILL 59

**Sponsor:** Senator 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  
**Effective:** May 17, 2017

- Creates a Criminal Justice Oversight Council (CJOC) to monitor the effects of the criminal justice reform package with assistance from the CSG.
- Codifies the Montana Incentives and Interventions Grid (MIIG).
- Requires the DOC quality assurance unit to measure program effectiveness and adherence to evidence-based standards.

**Impacts:** The CJOC has met quarterly since the effective date and appointments to the Council by the Governor. The DOC' Quality Assurance Office has formed an Evidence-based Program Review Committee whose responsibilities include regulation of all programming provided to individuals under the supervision of the Department. Additionally, the Department has submitted a grant to provide a mechanism of measuring program effectiveness and adherence to evidence-based standards from the University of Cincinnati.

***SB95 CONTINUED***

**Effective: July 1, 2017**

- **Requires the Office of the Court Administrator to develop a pretrial supervision program for felony defendants including a risk assessment.**
- **Requires the MBCC to develop a prosecution diversion grant program.**

***Impacts:*** The Office of the Court Administrator has received assistance from the Laura and John Arnold Foundation to implement the pretrial risk assessment tool. Pretrial supervision and the risk assessment that guides release decisions has been implemented in five pilot counties. Although we do have data to illustrate full impacts at this time, this process has led to decreased pressure on county jails and provided increased opportunities for low-risk individuals to maintain employment and housing.

The Board of Crime Control has diligently sought out available funding to support a prosecution diversion grant program; however, no grants have yet been identified.

## SENATE BILL 60

**Sponsor:** Senator Cynthia Wolken, (D) Missoula  
**Goal:** To reduce the number of jail beds for those awaiting trial and overall backlog  
**Effective:** October 1, 2017

- Creates a 30-day limit for completion for most presentence investigation (PSI) 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.

*Impacts:* The DOC, Probation and Parole Division, is completing presentence investigations in accordance with required timelines. Feedback from judges has been positive and constructive and the Department is examining whether the timeline should be expanded, and/or additional information included in the report. The risk and needs assessment tool used by the DOC was validated upon creation by the University of Cincinnati and the DOC is actively seeking funding to re-validate the tool for the Montana population.

## SENATE BILL 62

**Sponsor:** Sen. Cynthia Wolken, (D) Missoula  
**Goal:** To increase treatment opportunities, especially in rural areas  
**Effective:** October 1, 2017

- 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 been diagnosed by a mental health professional as having a mental health disorder, have received the appropriate treatment and be in recovery.

***Impacts:*** The Montana Department of Labor and Industry, Board of Behavioral Health oversees peer support specialist certification. To apply for certification, a peer support specialist must complete a 40-hour peer support education program, attest to having a behavioral health disorder and submit a recovery program from the behavior health disorder. Applications must be completed annually and include a fingerprint/background check process and providing a licensure fee of \$125.

### Senate Bill 63

**Sponsor:** Sen. Cynthia Wolken, (D) Missoula  
**Goal:** Reduce the number of individuals under supervision for lengthy terms who are compliant and respond to violations in a clear and predictable manner  
**Effective:** May 19, 2017

- Codifies the MIIG and requires that the DOC 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 (PO) may file petition to terminate the time remaining on a sentence.
  - Defendant must have demonstrated compliance with supervision requirements.
    - For a deferred sentence – has served 2 years or one-half of the sentence, whichever is less.
    - For a suspended sentence – has 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 PO 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.

*Impacts:* The DOC Incentives and Interventions Grid was implemented statewide in May 2018. Training has been provided to judges and county attorneys outlining the content and use of the Grid. Implementation challenges have included defining when responses within the grid have been 'exhausted.'

In response to judicial and prosecutorial concerns, processes for early termination from community supervision includes formal notification to prosecutors. Currently, individuals under the supervision of the Department can petition the court on their own behalf for early termination based upon the criteria outlined in statute.

We do not currently have data to illustrate the full impacts of this bill. However, we are confident that through implementation, we have created a more efficient process and we are optimistic about realizing further benefits.

## **SENATE BILL 64**

**Sponsor:** Sen. Cynthia Wolken, (D) Missoula  
**Goal:** Create a professional Board of Pardons and Parole, a more predictable and consistent parole process and respond to violations in a clear and predictable manner  
**Effective:** July 1, 2017

- The Board is comprised of five full-time members.
- 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.

*Impacts:* The Board of Pardons and Parole is an efficient and professional agency developing clearly defined decision-making guidelines. The Board is a multi-disciplinary group with a strong understanding of risks to public safety, justice, victims' rights and offender rehabilitation. The research-based decision-making guidelines are completing pilot testing and are being finalized.

## Senate Bill 65

**Sponsor:** Sen. Cynthia Wolken, (D) Missoula  
**Goal:** Increase access to housing  
**Effective:** October 1, 2017

- The MBCC shall develop a supportive housing grant program.
- In cases in which inmates have been granted parole but are 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 a homeless shelter or homeless situation.

*Impacts:* Three communities have received funding from the MBCC. The communities awarded grant funds and their most recent updates include:

- **Ravalli County:** hired a Program Coordinator/Housing Specialist to act as the primary member of the Re Entry Service team. The program has begun a local intake form, created forms for landlords to request rent assistance, and set up processes to receive referrals from DOC.
- **Missoula County:** partnered with the District XI Human Resource Council and hired a Reentry Case Manager. The program has set up processes to partner with DOC and is working toward providing rental assistance to qualified individuals.
- **Billings City:** hired a Supportive Housing and Reentry Supervisor and contracted a Realtor Consultant. The program created a landlord directory and is building an infrastructure to provide financial assistance for a down-payment and rental assistance. The DOC receives quarterly reports to the above-listed grant recipients and requires that the programs collect data that will measure the efficacy of the program.

## **SENATE BILL 67**

**Sponsor:** Sen. Cynthia Wolken, (D) Missoula  
**Goal:** Ensure domestic violence treatment programs are evidence-based  
**Effective:** October 1, 2017

- The MBCC 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.

*Impacts:* The DOC has partnered with representatives from the CSG and victim advocate community to outline recommended offender intervention program standards. The draft standards will be provided to the MBCC in September 2018 for review. The recommended standards include data collection requirements for offender intervention programs.

### **SENATE JOINT RESOLUTION NO. 3**

**Sponsor:** Sen. Cynthia Wolken, (D) Missoula  
**Goal:** Identify ways to increase access to tribal resources

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

***Impacts:*** The State Tribal Relations Interim Committee has been tasked with studying mechanisms for increasing access to tribal resources for tribal members in the justice system. Two committee bills have been drafted and will be discussed at the September 2018 Committee meeting.