

SENATE BILL NO. 11

INTRODUCED BY B. USHER

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE SYSTEM LAWS; CREATING A MONTANA CRIMINAL JUSTICE DATA WAREHOUSE; ~~ESTABLISHING A CRIMINAL JUSTICE COORDINATING COUNCIL AND PROVIDING FOR MEMBERS AND DUTIES; ALLOWING THE LEGISLATIVE FISCAL ANALYST AND LEGISLATIVE SERVICES DIVISION DIRECTOR DIRECT ACCESS TO THE DATA WAREHOUSE; REVISING DUTIES AND MEMBERSHIP OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL;~~ ESTABLISHING DATA PROJECT PRIORITIES FOR THE 2024-2025 INTERIM; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING DEFINITIONS; ~~AMENDING SECTIONS 5-12-303 AND 53-1-216, MCA;~~ AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

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

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

WHEREAS, any savings from efficiencies created from improved state and local criminal justice system

1 data collection, sharing, and integration or from improved policy choices can benefit both state and local
2 stakeholder and taxpayers, regardless of where in the system an improvement is made; and

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

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8
9 NEW SECTION. Section 1. Definitions. As used in [sections 1 ~~through 3~~ and 2], unless the context
10 clearly indicates otherwise, the following definitions apply:

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

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

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

16 (4) "Council" means the criminal justice ~~coordinating oversight~~ council established in ~~[section 3]~~
17 ~~53-1-216~~.

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

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

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

25
26 NEW SECTION. Section 2. Criminal justice data warehouse. (1) There is a criminal justice data
27 warehouse housed in the board of crime control. The purpose of the criminal justice data warehouse is to
28 receive, store, secure, and maintain data and information from contributing entities to assist state and local

1 officials to make data-informed decisions about the criminal justice system.

2 (2) (a) An agency and the court administrator shall contribute data and information to the criminal
3 justice data warehouse on request by the ~~council~~ board. A local government entity, a nongovernment entity, a
4 tribal government, or a federal government entity may submit data and information to the criminal justice data
5 warehouse.

6 (b) A contributing entity retains ownership of the data it contributes to the criminal justice data
7 warehouse.

8 (3) As the administering agency of the criminal justice data warehouse, the board shall:

9 (a) adopt a memorandum of understanding with the department of administration for the provision
10 of any technical assistance or services required to establish and maintain the criminal justice data warehouse;

11 (b) work in conjunction with the ~~council~~ department of administration to assure the confidentiality of
12 all records and data collected in the criminal justice data warehouse and to assure compliance with the
13 applicable state and federal laws governing the privacy of records, data, and personally identifiable information;

14 (c) consult and collaborate with the council to ~~manage~~ prioritize data to request from contributing
15 entities and research and data requests using data from the criminal justice data warehouse;

16 (d) (i) identify and seek federal grant money that may be used for the purposes of establishing and
17 maintaining the criminal justice data warehouse and achieving priorities established in law ~~for the council~~;

18 (ii) prioritize distribution of funds received pursuant to subsection (3)(d)(i) to contributing entities;
19 ~~and~~

20 (e) adopt a memorandum of understanding with each contributing entity. The memorandum of
21 understanding must describe the data and information being submitted and the schedule on which the data will
22 be submitted and identify the confidentiality of the information and any conditions or restrictions on the use of
23 the data or information: and

24 (f) grant the legislative fiscal analyst and the legislative services division director direct access to
25 the criminal justice data warehouse in a manner that complies with the regulations of the respective federal
26 programs.

27 (4) The board, ~~in coordination with the council~~, may:

28 (a) require an entity that contributes data or information to deliver the data or information in a

1 certain format and on schedules established for the criminal justice data warehouse;

2 (b) collaborate with the council and contributing entities to establish policies to address the
3 creation of reports generated through the query of records and data in the criminal justice data warehouse. A
4 nongovernment entity may only collaborate with respect to the data or information contributed by that
5 nongovernment entity; and

6 (c) adopt a standard memorandum of understanding that state and local criminal justice entities
7 and the courts may use to govern data-sharing agreements.
8

9 ~~NEW SECTION. Section 3. Criminal justice coordinating council -- membership -- duties. (1)~~

10 ~~There is a criminal justice coordinating council. The board shall provide staff assistance to the council.~~

11 ~~(2) The council consists of 21 members as follows:~~

12 ~~(a) two members of the house of representatives, one selected by the speaker of the house and~~
13 ~~one selected by the house minority leader;~~

14 ~~(b) two members of the senate, one selected by the president of the senate and one selected by~~
15 ~~the senate minority leader;~~

16 ~~(c) the following individuals selected by the chief justice of the Montana supreme court:~~

17 ~~(i) one district court judge;~~

18 ~~(ii) one district court clerk or a representative of the district court clerks;~~

19 ~~(iii) one magistrate or a representative of the magistrates;~~

20 ~~(iv) a city court judge or a representative of the city court judges; and~~

21 ~~(v) the court administrator or a representative of the office of court administrator;~~

22 ~~(d) the attorney general or the attorney general's designee;~~

23 ~~(e) the director of the department of corrections or the director's designee;~~

24 ~~(f) the director of the department of public health and human services or the director's designee;~~

25 ~~(g) the state chief information officer provided for in 2-17-511;~~

26 ~~(h) the state chief data officer;~~

27 ~~(i) the following individuals appointed by the governor:~~

28 ~~(i) one representative of civil rights advocates;~~

- ~~(ii) — one representative of community corrections providers;~~
- ~~(iii) — one representative of crime victims;~~
- ~~(iv) — one member of a federally recognized Indian tribe; and~~
- ~~(v) — one member who represents the office of state public defender; and~~
- ~~(j) — the following individuals appointed by the attorney general:~~
- ~~(i) — one member to represent cities, city attorneys, or city law enforcement agencies; and~~
- ~~(ii) — one member to represent counties, county attorneys, or county law enforcement agencies.~~
- ~~(3) — The council shall elect a presiding officer.~~
- ~~(4) — The duties of the council include:~~
- ~~(a) — approving requests for a project, report, or data analysis from the criminal justice data warehouse;~~
- ~~(b) — working in collaboration with the board to establish and manage the criminal justice data warehouse; and~~
- ~~(c) — completing other projects or analyses imposed by law.~~
- ~~(5) — Using the process established in legislative rules for executive agency legislative requests, the council may request legislation to enact changes to the criminal justice data warehouse that the council finds necessary.~~
- ~~(6) — (a) The council may establish an executive committee with duties as directed by the council. The executive committee must be composed of council members.~~
- ~~(b) — The council may establish a working group to perform studies or duties as directed by the council. If appointed, the working group shall meet regularly and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.~~
- ~~(7) — The legislature, as well as contributing entities, has priority to request projects, reports, or data analyses to be produced by a person authorized by the council. The council may deny a requested project, report, or data analysis when the council determines the request is unduly burdensome, voluminous, or cost-prohibitive.~~
- ~~(8) — Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-~~

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

NEW SECTION. Section 3. Projects for 2023-2024 interim. (1) In preparation for the 2025

legislative session, the board ~~and the criminal justice coordinating council~~ shall prioritize the following projects:

(a) create a unique identifier to link data from separate state and local criminal justice agencies and the judicial branch in a manner that is efficient and protects the confidentiality requirements for any personally identifiable information;

~~(b) consult with the council to determine research priorities to answer existing questions about the criminal justice system, to prioritize data collection, and to develop data warehouse governance policies;~~

~~(b)(c)~~ identify and define the data elements that the board and the ~~criminal justice coordinating~~ council shall collect to achieve the purposes of [sections 1 ~~through 3~~ and 2];

~~(c)(d)~~ identify willing local stakeholders to create up to four pilot projects to deposit existing local criminal justice data in the criminal justice data warehouse, identify technology needs, and document data processes;

~~(d)(e)~~ create a list of the current vendors used by state and local criminal justice agencies and the judicial branch;

~~(e)(f)~~ identify and apply for federal funds that would help the board and the criminal justice coordinating council begin and sustain work on the criminal justice data warehouse;

~~(f)(g)~~ document data processes that are used to deposit data in the criminal justice data warehouse;

~~(g)(h)~~ identify methods to share any state savings that could result from improved data collection and integration with local governments; and

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

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

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

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

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

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

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

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

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

Section 5. Section 5-12-303, MCA, is amended to read:

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

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

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

1 the data in any other way.

2 (b) The department of revenue shall provide the name and address of a taxpayer on written
3 request of the legislative fiscal analyst when the values on the requested return, including estimated payments,
4 are considered necessary by the legislative fiscal analyst to properly analyze state revenue and are of a
5 sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to
6 evaluate the effect of the return or payments on the analysis being performed.

7 (4) (a) The department of public health and human services shall provide the legislative fiscal
8 analyst direct access to the department's secure data warehouse as the phases of the secure data warehouse
9 project are implemented.

10 (b) The department of public health and human services shall consult with the legislative fiscal
11 analyst and shall establish user requirements to ensure the legislative fiscal analyst does not have access to
12 direct identifiers stored on the secure data warehouse. The department of public health and human services
13 shall consult with the legislative fiscal analyst and shall establish requirements to ensure the legislative fiscal
14 analyst does not have access to direct identifiers stored in other data systems where the data is not available
15 through the secure data warehouse after the phases of the secure data warehouse project are implemented.

16 (c) The data must be made available to the legislative fiscal analyst in a format that complies with
17 the regulations of the respective federal programs.

18 (d) The department of public health and human services shall submit quarterly reports in an
19 electronic format to the legislative finance committee and the children, families, health, and human services
20 interim committee in accordance with 5-11-210 on the following:

- 21 (i) the implementation of the phases of the secure data warehouse project;
22 (ii) the user requirements established by the department and the legislative fiscal analyst; and
23 (iii) the status of the legislative fiscal analyst's access to the secure data warehouse.

24 (5) The board of crime control shall provide the legislative fiscal analyst direct access to the
25 criminal justice warehouse established in [section 2] in a manner that complies with the regulations of the
26 respective federal programs.

27 ~~(5)(6)~~ Within 1 day after the legislative finance committee presents its budget analysis to the
28 legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement

recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This information must be filed in the respective offices and be made available to the legislature and the public. In preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

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

Section 6. Section 53-1-216, MCA, is amended to read:

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

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

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

~~(b)(iii)~~ one district court judge selected by the chief justice of the Montana supreme court;

~~(c)(iv)~~ the director and the deputy director of the department of corrections;

~~(d)(v)~~ a county sheriff and a county attorney appointed by the attorney general; and

~~(e)(vi)~~ the following individuals appointed by the governor:

~~(i)(A)~~ one member of a federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

~~(ii)(B)~~ one member of the board of pardons and parole;

~~(iii)(C)~~ one member who represents the office of state public defender and also serves on the board of crime control established in 2-15-2008;

~~(iv)(D)~~ one representative of crime victims who also serves on the board of crime control established in 2-15-2008;

~~(v)(E)~~ one representative of civil rights advocates; and

~~(vi)(F)~~ two representatives of community corrections providers, one of whom must represent a

1 treatment facility and one of whom must represent a prerelease center.

2 (b) When appointing members as required in subsection (1)(a), the governor and attorney general
3 shall consider appointing individuals who also serve on the board of crime control established in 2-15-2008.

4 (2) The legislative services division shall provide clerical and administrative staff services to the
5 council.

6 (3) The council shall elect a presiding officer, who must be a legislator.

7 (4) The council shall:

8 (a) provide direction and recommendations to the board of crime control regarding data to be
9 included in the criminal justice data warehouse established in [section 2] and policies to govern the use of and
10 priorities for the criminal justice data warehouse;

11 (b) study and recommend solutions to address issues facing the criminal justice system and its
12 constituent state and local agencies;

13 (c) monitor the functioning of the criminal justice system; and

14 (d) make recommendations to the legislature to address system issues proactively, manage limited
15 resources, improve workloads, make improvements to state and local criminal justice systems, meaningfully
16 address crime, and enhance public safety.

17 ~~(a) review the recommendations of the commission on sentencing established in Chapter 343, Laws~~
18 ~~of 2015;~~

19 ~~(b) receive and analyze data collected by agencies and entities charged with implementing the~~
20 ~~recommendations of the commission on sentencing and that are collecting data during the implementation and~~
21 ~~management of specific recommendations;~~

22 ~~(c) assess outcomes from the recommendations the commission on sentencing has made and~~
23 ~~corresponding criminal justice reforms; and~~

24 ~~(d) request, receive, and review data and report on performance outcome data relating to criminal~~
25 ~~justice reform.~~

26 ~~(5) Data evaluation performed by the council must:~~

27 ~~(a) assess the current electronic records utilized by criminal justice agencies;~~

28 ~~(b) review and list all variables collected in each agency's information management system;~~

~~(c)—establish a baseline for historical data comparisons;~~

~~(d)—determine whether data is linked to specific offenders through a unique identifying factor;~~

~~(e)—review archival data and agencies' data retention policies;~~

~~(f)—determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;~~

~~(g)—review any established data protocols for pretrial services;~~

~~(h)—assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and~~

~~(i)—review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.~~

~~(6)—The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets.~~

~~(7)(5)~~ The council shall submit a report to the governor and legislature, as provided in 5-11-210. The report must include:

~~(a)—a description of the council's proceedings since the previous report;~~

~~(b)—a summary of savings from criminal justice reforms and recommendations for how the savings should be reinvested to reduce recidivism;~~

~~(c)—a description of performance measures and outcomes related to criminal justice reforms; and~~

~~(d)—a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work.~~

~~(8)—The council may appoint a working group to track any legislation resulting from criminal justice reforms and to perform other detailed analysis as directed by the council. If appointed, the working group shall meet regularly and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.~~

~~(9)(6)~~ Using the process established in legislative rules for executive agency legislative requests, the council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.

~~(40)(7)~~ The judicial branch, the department of corrections, the department of public health and human services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide ~~data~~ and information and assistance as requested by the council.

~~(11)(8)~~ Appointments made under subsection (1) must be made within 60 days after July 1, 2019. A vacancy on the council must be filled in the manner of the original appointment. If a vacancy on the council remains unfilled by the appropriate appointing authority for more than 60 days, the council may vote to appoint a member to serve on the council until the appropriate appointing authority makes an appointment.

~~(42)(9)~~ Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council who are full-time salaried officers or employees of this state or any political subdivision are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.

~~(43)(10)~~ The council shall provide updates to the law and justice interim committee and the legislative finance committee as requested."

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

NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

- END -