

STUDY SUMMARY:

HJ 34 STUDY OF PRETRIAL DIVERSION AND PRESENTENCE AGREEMENTS

BACKGROUND

House Joint Resolution No. 34 (HJ 34), sponsored by Rep. Barry Usher during the 2021 legislative session, requested a study of pretrial diversion programs and presentence agreements. The Legislative Council assigned this study to the Criminal Justice Oversight Council for the 2021-2022 interim session.

COUNCIL MEMBERS, 2021-2022

Rep. Barry Usher (<i>Chair</i>)	(406) 252-2888	barry.usher@mtleg.gov
Jimmy Patelis (<i>Vice Chair</i>)	(406) 671-9972	jimmy.patelis@mt.gov
Georgette Boggio	(406) 860-5219	gboggio@elkriverlaw.com
Ross Canen	(406) 377-1625	recanen@hotmail.com
Brian Gootkin	(406) 444-3930	brian.gootkin@mt.gov
Rachel Guernsey	(406) 590-8289	rachelguernseymft@gmail.com
Rep. Kathy Kelker	(406) 698-5610	kathy.kelker@mtleg.gov
Melissa Kelly	(406) 570-2366	mkelly@cccscorp.com
Judge Kurt Krueger	(406) 497-6410	kkrueger@mt.gov
Rhonda Lindquist	(406) 444-9049	rlindquist@mt.gov
Sen. Ryan Lynch	(406) 498-6625	ryan.lynch@mtleg.gov
Keegan Medrano	(406) 204-0288	medranok@aclumontana.org
Sen. Keith Regier	(406) 756-6141	keith.regier@mtleg.gov
Amy Tenney	(406) 447-3281	atenney@boydandrew.com
Scott Twito	(406) 256-2965	countyattorney@yellowstonecountymt.gov
Cynthia Wolken	(406) 444-3930	cynthia.wolken@mt.gov

STUDY PROCESS

The Criminal Justice Oversight Council directed staff to identify experts on pretrial diversion and presentence agreements who could present to the council. The study took place over three meetings. After a national overview, the council heard from experts in Montana: the court administrator, a judge, and a prosecutor.

OCTOBER 27, 2021

Meeting [Audio/Visual](#)

Amber Widgery, National Conference of State Legislatures

Robin E. Wosje, the Justice Management Institute

Ms. Widgery delivered a primer on pretrial diversion in the United States, including types of pretrial diversion, deflection programs, and problem-solving courts. Her presentation also reviewed state laws and recent legislation related to diversion programs. Ms. Wosje of the Justice Management Institute expanded upon prosecutor-led pretrial diversion programs, including program requirements and the relationship with supervision.

[Pretrial Diversion Slides](#)

Prosecutor-Led Diversion [Slides](#) and [Handout](#)

JANUARY 18, 2022

Meeting [Audio/Visual](#)

The Hon. Mary Jane Knisely, Yellowstone County DUI Court and Veterans Treatment Court

Beth McLaughlin, Court Administrator

Judge Knisely and Ms. McLaughlin expanded upon problem-solving courts for the council. Their presentations included information on treatment courts for DUI and drug offences. The Office of the Court Administrator tracks treatment court recidivism data closely, and IT staff are building a dashboard. A \$600,000 teleservices grant helps the court serve rural areas. Judge Knisely utilizes teleservices for some clients involved in her trauma-informed treatment court. The approximate cost per client in Judge Knisely's courts is \$4,500. Ms. McLaughlin gave a second presentation on the Montana Supreme Court pretrial pilot programs in Butte-Silver Bow, Lake, Lewis and Clark, Missoula, and Yellowstone Counties. Ms. McLaughlin included performance measurements in this presentation.

Montana Treatment Courts

[Montana Drug Court Information Packet](#)

[Montana Treatment Court Map](#)

Supreme Court Pretrial Diversion Pilot Project

[Pretrial Overview](#)

[Montana Pretrial Release](#)

[Pretrial Diversion Performance Measurement Overview](#)

JUNE 28, 2022

Meeting [Audio/Video](#)

Kirsten Pabst, Missoula County Attorney

Ms. Pabst discussed Calibrate, which is Missoula County's prosecutor-led pretrial diversion program for low risk, first time offenders. Successful completion of the voluntary program results in dismissal of criminal charges. The presentation included program history, funding sources, a case study, and process details.

After referral to the program, an offender undergoes a screening process that includes the Ohio Risk Assessment. Calibrate develops individualized case plans to address participant needs in several areas: addiction, education, mental health, housing, employment, medical, and social. Case plans may also include sanctions and reparations. Calibrate's success rate is 90%.