

HOUSE JOINT RESOLUTION NO. 5

INTRODUCED BY K. DUDIK, Z. BROWN, J. COHENOUR, C. KNUDSEN, R. LYNCH, M. MACDONALD,
D. MORTENSEN, J. WELBORN

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF DEFERRED PROSECUTION AND PRETRIAL DIVERSION PROGRAMS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, a deferred prosecution agreement allows a defendant and a prosecutor to agree to delay the prosecution for a criminal offense if the defendant abides by certain terms in the agreement; and

WHEREAS, if the defendant successfully completes the terms of the agreement, the criminal charge against the person can be dropped and will not appear on the person's criminal history; and

WHEREAS, a criminal conviction can have lasting effects on a person's housing and employment prospects even years after the offense; and

WHEREAS, ~~these agreements~~ DEFERRED PROSECUTION AND PRETRIAL DIVERSION PROGRAMS are often used to divert individuals charged with first-time or nonviolent offenses from the criminal justice system; and

WHEREAS, many crimes relate directly to the defendant's use or abuse of drugs or alcohol; and

WHEREAS, ~~deferred prosecution agreements~~ AND PRETRIAL DIVERSION PROGRAMS can allow a defendant to obtain and complete treatment; and

WHEREAS, Montana also has statutes allowing for ~~pretrial diversion programs~~ and deferred sentencing arrangements; and

WHEREAS, in 2017, the Montana Legislature established a prosecution diversion grant program to encourage local adoption of prosecution diversion programs but the program was not funded; and

WHEREAS, increasing access to diversion programs for certain defendants from the criminal justice system could reduce caseloads for prosecutors, public defenders, and judges, while also prioritizing jail and prison bed space for other offenders.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:



1 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
2 section 5-5-217, MCA, or direct sufficient staff resources to study how to establish deferred prosecution AND
3 PRETRIAL DIVERSION programs around the state and to encourage those currently in operation.

4 BE IT FURTHER RESOLVED, that the study should:

5 (1) identify current Montana jurisdictions that operate deferred prosecution OR PRETRIAL DIVERSION
6 programs and examine those programs' structure, funding, eligibility criteria, and procedures;

7 (2) review national best practices for deferred prosecution AND PRETRIAL DIVERSION programs;

8 (3) examine deferred prosecution AND PRETRIAL DIVERSION programs in other states, including their
9 structure, scope, and funding;

10 (4) review existing Montana statutes that create or support opportunities for individuals to be diverted from
11 the criminal justice system, including the prosecution diversion grant program established in 44-7-115, MCA, the
12 pretrial diversion agreement established in 46-16-130, MCA, and THE ability of a sentencing judge to defer
13 imposition of sentence as allowed by 46-18-201(1); and

14 (5) make recommendations to the next Legislature to encourage additional jurisdictions to establish
15 programs or to expand existing programs.

16 BE IT FURTHER RESOLVED, that the study should seek out the expertise and opinions of prosecuting
17 attorneys, the Department of Justice, criminal defense attorneys, the Office of State Public Defender, district court
18 judges, crime victims and their advocates, and other appropriate criminal-justice system stakeholders.

19 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
20 presented to and reviewed by an appropriate committee designated by the Legislative Council.

21 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
22 requirements, be concluded prior to September 15, 2020.

23 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
24 comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

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