



2017 Montana Legislative Summary

Privacy Rights

Advancements in technology allow us to communicate and share information with the touch of a button, but legislation that ensures that our right to privacy remains intact has struggled to keep up. Without sideboards in place, government agencies gain unchecked access to surveillance of personal and sensitive information, often in the name of national security. Montana's Constitution guarantees that "the right of individual privacy ... shall not be infringed without the showing of a compelling state interest." This session, Montana made strides towards improving our digital privacy protection with the passing of three bills carried by Rep. Daniel Zolnikov (R-Billings), who carried similar bills in 2013 and 2015 that did not pass, but laid a strong foundation.

Government Surveillance

HB 149 (Rep. Zolnikov): Revise privacy laws regarding license plate readers

HB 149 prevents the use of license plate readers by law enforcement, with defined exceptions. Without regulation, these readers have been used to mass surveil everything from church parking lots to political conventions – a serious, unwarranted invasion of privacy. A number of amendments were put on the bill in the House Judiciary Committee that included adding exceptions allowing state/local law enforcement to use readers in limited circumstances for purposes of identifying vehicles associated with specific criminal involvement.

HB 146 (Rep. Zolnikov): Revising temporary roadblock laws

HB 146 provides guidance to law enforcement who seek to set-up checkpoints and roadblocks and limits their usage. Providing these sideboards will not only help law enforcement know when and how to use checkpoints, but will also prohibit using them to randomly check for criminal activity that does not have a legitimate public safety purpose. HB 146 had the support of the Montana Highway Patrol and brings Montana law into compliance with *City of Indianapolis v. Edmond*, where the United States Supreme Court ruled that roadblocks and checkpoints could not be used as dragnets for unspecified criminal activity.

Digital Privacy

HB 147 (Rep. Zolnikov): Requiring search warrant for government access to electronic devices

HB 147 expands Fourth Amendment protections by requiring state law enforcement agencies to obtain a warrant before accessing any electronic device. By extending the holding from the 2014 U.S. Supreme Court decision in *Riley v. California*, which only applied to cell phones, HB 147 acknowledges the sensitive nature and sheer amount of content stored on digital devices and ensures that they are protected from unwarranted searches. With a few questionable changes made along the way, the bill passed out of House Judiciary, House Appropriations, and Senate Judiciary unanimously along with sweeping support on the Floor - a much different result than the 2015 attempt to pass similar legislation.

HB 148 (Rep. Zolnikov): Generally revise privacy laws related to electronic communications

HB 148, an extension of HB 147 (also sponsored by Rep. Zolnikov), ensures that your digital content stays protected after you press send by restricting police access to third party databases containing your electronic records. For example, under HB 148, the police couldn't go to Verizon and ask for all of your text messages without a warrant signed by a judge. Important language requiring that notice be given to you if/when the government does attempt to access your data (with certain exceptions) was put on in House Judiciary, where it passed out of committee unanimously. Concerns raised by the Attorney General's office and the Department of Justice were addressed in Senate Judiciary and resulted in amendments allowing law enforcement agencies to access information by issuing investigative subpoenas as well as warrants. The ACLU supported this exception provided that subpoenas would be held to the same standard as warrants, which require a finding of "probable cause" that an offense had taken place. The Governor's office made these final changes to bill, and it was signed into law.

Reducing Mass Incarceration, Advancing Smart Justice

During the 2015-2016 interim, the Commission on Sentencing, made up of legislators, judiciary members, corrections officials, county and defense attorneys, and law enforcement agents, met to study Montana's corrections systems. After months of meetings with stakeholders and experts within the field, along with discussion and review of over 10 years of data provided by the Department of Corrections and the Council on State Governments, the Commission crafted policy suggestions for the 2017 legislative session meant to reduce the number of Montanans subject to state detention and supervision. Sen. Cynthia Wolken (D-Missoula) chaired the Commission and sponsored a large package of bills based on the Commission's findings. The ACLU followed the progress of each commission bill, but paid particularly close attention to Senate Bills 64 and 63, sponsored by Sen. Wolken, and HB 133, sponsored by Rep. Nate McConnell (D-Missoula).

SB 64 (Sen. Wolken): Generally revise laws related to the board of pardons and parole

The Commission on Sentencing identified prison and jail population growth and high recidivism rates as two of the top challenges facing our state's criminal justice system. A suggested area where new policy and reform could be enacted regarding these issues was in relation to Montana's growing community supervision population which, according to the Commission, is projected to reach 10,635 by 2023. SB 64 addresses these concerns by professionalizing the parole board and setting standards for what factors must be considered when an incarcerated person is eligible for parole. Amendments increasing the number of board members from three to five and imposing higher qualification standards and required work experience for board members were added in House Judiciary. Committee members also had concerns about completely revamping the system without what they deemed to be an adequate monitoring system in place to track the effects of the changes, which resulted in a third amendment to sunset the entire bill after four years. The Senate rejected the implementation of the House's sunset, which sent the bill to a bipartisan Conference Committee for further review. The Committee decided to remove the termination date, the bill moved easily through the rest of the process, and was signed by the Governor.

SB 63 (Sen. Wolken): Revise laws related to supervision of offenders/defendants

SB 63 will reduce recidivism and reform supervision of offenders by changing how and when an offender's probation is revoked and by creating alternative sanctions to revocation. The bill also addresses the scope of probation officers' authority to quickly sanction minor violations. The bill revises current statute by requiring that revocation hearings occur no more than 60 days after arrest and that the offender must be brought before the judge at least ten days prior to the hearing. SB 63 also provides probation officers with evidence-based tools to help prioritize resources for people who are most likely to reoffend and consider alternative sanctions for low and medium risk offenders, such as electronic monitoring or more frequent reporting to officers. After the bill handily passed the Senate and House, Sen. Wolken requested the Senate not concur in a House amendment which unintentionally limited the scope of facilities where offenders could be sent to serve out a sentence. SB 63 also moved smoothly through the process and was signed by the Governor.

HB 133 (Rep. McConnell): Generally revise sentencing laws

HB 133 is a much needed overhaul to Montana's sentencing laws, reducing jail and prison time for non-violent and first time offenses and giving many first time, low-level offenders a second chance to stay out of the criminal justice system. The bill implements a tiered system for various non-violent crimes like theft, identify theft, forgery, removes almost all mandatory minimum sentences, and creates a treatment option for certain drug related crimes. Amendments in the House reduced penalties for some thefts based on the value of the stolen item. Pressure from the business community, who were concerned that eliminating the first offense and the paper trail that comes from a booking would also eliminate the opportunity for someone to be charged with a second offense resulted in an amendment that allows law enforcement to fingerprint an individual who is charged with a misdemeanor even if no arrest occurs.

There were two major points of contention that resulted in lengthy back and forth over proposed amendments in multiple committees and both chambers. Legislators debated whether DUIs should be included in the "persistent felony offender" (PFO) statute and argued over mandatory minimum sentencing lengths for sexual assault cases involving minors. Unfortunately, in the end, the Senate made a sentence of aggravated driving under the influence the penalty for a fourth offense, where it had previously been the fifth. After a very lengthy process, the House and Senate agreed to maintain a mandatory minimum for sexual assault against a child and leave DUIs in the PFO statute. The ACLU does not support mandatory minimums for any crime and advocated for complete repeal of the PFO statute, but considering the scope of the 72-page bill, we are pleased that HB 133 passed the House and Senate and believe that it is an important first step in reform.

Freedom of Speech

The First Amendment is complicated. It protects journalists, activists, and also those who perpetuate hate speech. This session we were confronted with blatant attempts to criminalize protesters alongside more nuanced bills that would chip away at the freedom of the press and the ability of business owners to express political beliefs.

Anti-Protest Bills and Protecting First Amendment Rights

HB 129 (Rep. Hill-Smith): Revising laws related to privacy in communications

HB 129, sponsored by Rep. Ellie Hill-Smith (D-Missoula), would have amended statute to create a crime for distributing and/or disseminating visual or print mediums depicting sexual conduct or exposure of intimate parts when the victim did not consent to its creation. Similar bills have passed in 34 states, 22 of which contain an intent provision aimed at protecting the free press. Without such a distinction, HB 129 unintentionally threatened to criminalize educational, artistic, and historical images. The ACLU testified in support of adding an intent provision in House Judiciary and proposed language that barred the criminalization of the press when publishing images pertaining to matters of public interest, which include footage of victims of torture at Abu Ghraib or holocaust victims. In the end the ACLU was unable to support the final version of the bill after language put on in the Senate categorized the intent to “financially profit” alongside the intent to harass and threaten. This would have criminalized media outlets and completely undermined the positive changes made in the House. The final draft was also deemed problematic by a number of other stakeholders and advocacy groups who, with the ACLU, teamed up to stop the amended bill in the Senate, where it died 50-0.

HB 571 (Rep. Usher): Create offense of concealing a person’s identity

This legislative session, Montana became one of at least 19 states that introduced legislation that would create new criminal charges targeting peaceful protesters. We have seen the devastating effects of law enforcement overstepping their authority when responding to protesters with rampant use of excessive force and arrest rates that overwhelm local courts. The true intent of HB 571 was to criminalize protesters. This targeted motive came out during the bill’s first hearing in House Judiciary, when both the sponsor and multiple proponents referenced footage they had seen on TV, specifically “incidents in North Dakota” and Ferguson, as proof that protesters wearing masks are the most aggressive and dangerous. The troublesome testimony, along with the bill’s vague language, raised concerns amongst committee members regarding free speech, racial profiling, and exactly who was at risk of arrest - someone wearing wearing face paint at a football game or a peaceful protester simply trying to stay warm or protect themselves from water cannons or tear gas behind a scarf. The sponsor attempted to quash these concerns by proposing a set of amendments during Executive Action that would have changed the charge from felony to misdemeanor, narrowed the list of offenses to which the charge could be applied, and allowed for religious exemptions. In the end, three Republicans agreed that even with the proposed the amendments, the bill could not be fixed and HB 571 was tabled in committee on an 11-8 vote.

HB 522 (Rep. Lanvin): Provide for qualified immunity for U.S. border patrol agents

HB 522, sponsored by Rep. Steve Lavin (R-Kalispell), attempted to give U.S. Customs and Border Protection agents “qualified immunity” and arresting authority when called to assist Montana law enforcement agencies. This bill was sold as a way to provide assistance for overworked, underfunded local law enforcement in a tough budget year. In reality, it granted new authority with no jurisdiction or responsibility, placing agents in strange limbo between state and federal law. HB 522 would have given federal agents the ability to go into our local jurisdictions and arrest Montanans for violation of state or local statutes and ordinances. Similar to HB 571, proponent testimony made it clear that the bill had a more nefarious goal than general relief for local authorities - the bill was viewed by many as a preemptive strike against Keystone XL Pipeline protests. The long list of liabilities and conflicts with federal code presented by opponents kept the bill from leaving House Judiciary, where it died after missing the transmittal deadline.

HB 501 (Rep. Knudsen): Generally revising laws related to boycotts of Israel

This session, Speaker of the House, Rep. Austin Knudsen (R-Culbertson), hopped on another unconstitutional, national bandwagon with the introduction of HB 501, which pledged Montana’s solidarity with Israel by promising to cut ties with companies supporting the pro-Palestinian movement. 19 states have enacted similar laws, commonly referred to as anti-Boycott, Divestment, and Sanctions (“BDS”) bills. By targeting companies and subjecting them to unjustifiable political and ideological tests, HB 501 would have infringed upon First Amendment Rights and set a dangerous precedent for the ability of government to investigate and punish political ideology (McCarthyism, anyone?). Under HB 501, any company looking to do business with a public agency in Montana would first have to sign a written certification that they were not involved in a boycott against Israel and commit to not doing so for the duration of the contract. Any company that was found participating in the BDS movement would be added to a list of “scrutinized companies.” According to the Board of Investments, Montana does not currently have any relationships with companies who are involved with boycotting Israel, but the message this bill would send to potential business partners is not a friendly one. By referring to economic boycotts as, “a tool of economic warfare,” HB 501 disregards our country’s long history of using economic pressure as a means of non-violent protest. Initially the bill remained stuck in Senate State Administration after a 4-4 vote, but later passed out of committee. Luckily, enough Senators realized that Montana can stand in solidarity with Israel without infringing upon First Amendment rights and mandating unnecessary political litmus tests. HB 501 died on the Senate Floor, 18 – 31.

Rights of Prisoners and the Accused

HB 258 (Rep. Hill-Smith): Require detention center to allow inmates free calls to attorney

HB 258 will provide inmates with free calls to their attorneys, eliminating the charge of \$0.24-per-call connection fee and \$0.12-per-minute that applied to most of Montana's adult correctional facilities. As dictated by the Sixth Amendment, all criminal defendants, regardless of their ability to pay, are constitutionally entitled to effective representation of counsel at critical stages of prosecution, including initial appearances, bond hearings, and preliminary hearings. Simply providing initial access is not enough if economic barriers stand in the way of an inmate's ability to fully utilize the provided counsel. HB 258 passed with broad support in both chambers.

SB 145 (Sen. Webb): Generally revise laws regarding when certain individuals may be transferred to Department of Corrections

Under current law defendants who are found "guilty but mentally ill," or GBM, are sentenced to the custody of the director of the Department of Public Health and Human Services, who has the authority to transfer patients from a mental health facility to a correctional facility if it will better serve the patients custody, care, and treatments needs. The current process is completely internal, with no oversight or regulation outside of state hospital and prison staff and with no communication with the patient. SB 145 sponsored by Sen. Roger Webb (R-Billings), who carried a similar bill that was vetoed in 2015, would have regulated and reformed the process to ensure the patient's 6th and 14th Amendment rights were protected. The bill would have provided patients with a hearing regarding their proposed transfer and an opportunity to be heard in person, to present testimony of witnesses, to confront and cross-examine witnesses, and the chance to appeal the decision to the court that originally sentenced them. The Department of Public Health and the Department of Corrections stood in opposition of the bill, eventually killing it in House Appropriations.

HB 277 (Rep. Regier): Revise speedy trial laws for felony offenses

HB 277, sponsored by Rep. Matt Regier (R-Kalispell), would have changed Montana code by requiring a mandatory minimum number of days to pass before a defendant could raise a Sixth Amendment speedy trial issue. Unfortunately, backlogged courts have led to varying interpretations of "speedy" and the denial of this right to countless defendants. This issue was addressed by the United States Supreme Court in the 1972 case *Barker v. Wingo*. Due to the unique circumstances surrounding individual cases, the Justices found that the definition of "speedy" could vary and laid out a four-part test that considered length of the delay, the reason for it, the defendant's assertion of the right, and prejudice towards the defendant. HB 277 did not mirror this four-part test in any way, which was apparent to the Senate Judiciary Committee, who tabled the bill.

HB 320 (Rep. Regier): Allow state to appeal a charge

Ignoring over a century of case precedent, including multiple United States Supreme Court cases, Rep. Regier attempted to nullify the Constitution's protections against "double jeopardy" with his introduction of HB 320. The bill would have given the government a second go at charges that had already been dismissed by the state for reasons such as lack of sufficient evidence. Arbitrarily granting the government a second bite at the apple would conflict with the Fifth Amendment guarantees that no person shall "be twice put in jeopardy of life or limb" for the same offense. Prosecutors have leeway to appeal specific, collateral orders, like suppression of evidence, but not the complete dismissal of charges. Luckily the members of House Judiciary voted against the bill 6-13, tabling it in committee.

HB 77 (Rep. Brodehl): Revise public defender system and provide for a director hired by Department of Administration

HB 77, sponsored by Rep. Randy Brodehl (R-Kalispell), is a much needed overhaul to the management structure of the Office of the Public Defender (OPD), providing for a director hired by the Department of Administration and measures to address budgetary issues and the increasing caseloads of OPD attorneys. The ACLU is optimistic about HB 77 and, hopefully, along with a provision requiring an interim study on the caseloads of Montana's hardworking public defenders, this bill will go a long way in relieving some of the burden on the OPD system. The bill also received the stamp of approval from legislators, who voted "yes" nearly unanimously in both the House and Senate.



Rights of Marginalized Groups

LGBTQ

HB 609 (Rep. Glimm): Generally revise privacy laws concerning protected facilities

HB 609, sponsored by Rep. Carl Glimm (R-Kila), was part of a dangerous and hateful trend that we have seen in legislatures across the country. Based completely on unfounded safety and privacy fears, this bill sought to mandate that individuals use the public facility (bathroom, locker room, etc.) according to the sex designated by their original birth certificate. The bill would have opened local governments and their school districts to extensive litigation and allowed anyone who encountered an individual perceived to be of the opposite sex in a public facility to sue the government entity or public school who controls that facility. More importantly, HB 609 would have compromised the safety and dignity of the transgender, intersex, and gender nonconforming communities in Montana. Due to the countless phone calls and emails to legislators, the courageous individuals who travelled to the Capitol to provide very personal opposition testimony, and the work of the multi-organizational Coalition for Dignity and Safety, HB 609 died in House Judiciary after three Republicans joined Democrats in voting no and a fourth abstained. This was a landmark accomplishment that should be viewed as step forward for LGBT rights in Montana – an anti-LGBT bill has never before been stopped in its first committee.

HB 417 (Rep. McCarthy): Generally revise laws related to non-discrimination

HB 417, sponsored by Rep. Kelly McCarthy (D-Billings), would have added sexual orientation and gender identity or expression to Montana's Human Rights Act. By adding sexual orientation and gender identity, LGBTQ Montanans would gain protection from discrimination when seeking housing and employment and when accessing public accommodations. HB 417 saw overwhelming support from individuals and business across the state, including 27 people who testified in person as proponents of the bill, 53 church leaders who signed a letter of support, and over 60 businesses who provided their signatures and pledged their support through written testimony. Unfortunately, as in all prior legislative sessions where this bill has been introduced, it died in the House Judiciary Committee. Democrats attempted to resurrect the bill via a blast motion on the House Floor, but that motion failed 43-55.

SJ 15 (Sen. Howard): Resolution opposing a proposed Montana Supreme Court rule

The American Bar Association recently adopted a new Model Rule of Professional Conduct that would prohibit discrimination in the provision of legal services – including discrimination against LGBT people. SJ 15, sponsored by Sen. David Howard (R-Park City) was a resolution opposing adoption of a similar rule in Montana, Proposed Rule 8.4(g), currently under consideration by the Montana Supreme Court. Sen. Howard argued that the proposed rule “infringes upon and violates First Amendment Rights, including Freedom of Speech, Free Exercise of Religion and Freedom of Association” by regulating the conduct of lawyers outside of courtroom and preventing them from declining to represent particular clients. Regardless of the sponsor's complete misinterpretation of the First Amendment, the Montana Supreme Court is given sole authority to regular attorneys under the Montana Constitution Article 7, section 2, which was affirmed by the 1974 decision *In the Matter of SENATE BILL NO. 630*. Unfortunately, this resolution passed both chambers of the legislature. Fortunately, a resolution is (according to House Speaker Knudsen) a “letter to Santa Claus” with no actual impact on the law or the decisions made by the Montana Supreme Court.

Immigrants and Refugees

SB 97 (Sen. Regier): Prohibit the application of foreign law in state courts

Sen. Keith Regier (R-Kalispell) revived a bad bill from past sessions, previously titled “Prohibit the Application of Sharia Law in State Courts,” slapped a less blatantly unconstitutional name on it, and introduced it to the 2017 legislature. SB 97 contained a litany of provisions that would have wreaked havoc in Montana courts, prohibiting consideration of foreign laws in private contracts and some business transactions. “Foreign law bans” have a sordid history in the US, first introduced as a response to the United States Supreme Court decisions prohibiting the use of the death penalty for minors and the mentally disabled, and then re-emerging when the Court began to strike down anti-LGBT statutes. Each time, proponents of foreign law bans clung to dicta in SCOTUS decisions which referenced, in passing, the more humane laws of other countries. This latest iteration is nothing more than attack on Muslim-Americans and we thank Governor Bullock for seeing through the smoke screen. SB 97 was vetoed on April 6th.

HB 611 (Rep. Skees): Generally revise state laws related to immigration and refugees

This bill sponsored by Rep. Derk Skees (R-Kalispell) sought to make sanctuary cities illegal in Montana despite the fact that no such “sanctuary” policies exist in the state. Republicans tried to sell the bill as a positive, proactive measure to help communities avoid becoming hideouts for undocumented immigrants and as a means to prevent local authorities from standing in the way of federal agents, specifically U.S. Immigration and Customs Enforcement (ICE). In reality, HB 611 was a 24-page laundry list of potential monetary penalties for local governments and provisions that would diminish trust between immigrant communities and state agencies - all in the name of a problem that doesn't exist. A review of the bill's fiscal note in House Appropriations, which contained a \$400,000 price tag for the biennium, managed to sway enough moderate Republicans to join Democrats in voting no to table the bill. HB 611 missed the transmittal deadline, which should have signaled the end of the road. Instead, Republicans managed to resurrect the bill in a tour de force of rule bending and inner-party arm-twisting. Luckily, their last-minute machinations were unsuccessful and HB 611 died on the Senate Floor.

Reproductive Autonomy

This legislative session saw the usual introduction of anti-choice legislation we have come to expect from legislators opposed to reproductive freedom. The hard work of the Montana Reproductive Rights Coalition, our legislator allies, and the assistance of Governor Bullock led to the eventual defeat of all three bills targeting abortion access in Montana. SB 282 and SB 329 were vetoed by Governor Bullock and HB 595, a constitutional amendment, failed to meet the required 2/3 vote of the legislative body.

SB 282 (Sen. Olszewski): Revise abortion laws concerning viable fetus

SB 282, sponsored by Sen. Albert Olszewski (R-Kalispell), would have banned abortion based on a medically questionable definition of a “viable fetus.” The bill flew in the face of over 40 years of United States Supreme Court precedent affirming the right to access abortion services. The Supreme Court has found again and again that states are prevented from setting a viability marker and that viability should only be determined by a doctor on a case-by-case basis. SB 282 would have undermined the ability of physicians to provide the best possible health care to their patients by limiting the ability to exercise professional judgement. Additionally, SB 282 would have forced women to undergo invasive procedures with no option for an abortion, even when the health of the woman was at risk. The Ninth Circuit has ruled twice in the last four years that restrictions like those in SB 282 are unconstitutional and contradict case precedent dating back to *Roe v. Wade*. SB 282 passed both chambers on nearly party line votes, but was vetoed by Governor Bullock on May 8th.



SB 329 (Rep. Regier): Adopt the Montana Pain-Capable Unborn Child Protection Act

SB 329 was yet another unconstitutional ban on abortion, this time based on an arbitrary 20-week gestation marker. Like other “fetal pain” bills, SB 329 was proposed as a means to protect the lives of unborn children. In reality, the bill was an attempt to establish a new legal framework for banning abortion in Montana by completely prohibiting abortion after 20 weeks gestation and allowing civil litigation to proceed against a medical provider if an abortion is performed. This action could be taken by a spouse, parents or guardians of a minor, a prosecuting attorney, or even the Attorney General. Similar to 282, the bill made it all the way to the Governor’s desk, where it was vetoed on May 4th.

HB 595 (Rep. Skees): Constitutional amendment to define person

HB 595 would have asked Montana voters to amend our state constitution’s definition of person to include “all members of the species *Homo sapiens* at any stage of development.”

This type of legislation, known as a “Personhood Bill,” would ban birth control, emergency contraception, life-saving procedures for ectopic pregnancies, and abortion. Under HB 595, an estranged spouse, potential grandparents, child protective services, or law enforcement could assert the rights of the fetus from the time of conception. In 2008, 2010, and 2012 anti-choice extremists failed to qualify this type of referendum for the ballot. As a constitutional amendment, HB 595 only needed to pass both houses of the legislature to appear on the November, 2018 ballot – Governor Bullock cannot veto a legislative referendum. Fortunately, Skees was not able to garner the necessary 2/3 vote of the legislature and the bill died on the Senate Floor.

QUICK TAKE

VOTER SUPPRESSION

HB 357 (Rep. Skees): Generally revise laws related to strengthening voter identification

HB 357 sponsored by Rep. Derek Skees would have required Montanans to show a valid, government issued photo identification before we can vote in our elections - DEAD.

HB 212 (Rep. Essman): Ballot Interference Prevention Act to restrict ballot collection

Rep. Essman attempted to bar the collection and submission of ballots by individuals and organizations in Montana, a tool frequently used to boost voter turnout - DEAD.

SB 352 (Sen. Olszewski): Referendum on prohibition of ballot collection by certain individuals

Sen. Olszewski sponsored SB 352, which contains the same restriction provided in HB 212 but in the form of a referendum, appealed to legislators who like to “let the voters decide.” SB 352 will, unfortunately, be on the ballot in 2018 - PASSED.

Abolition

HB 366 (Rep. Hertz): Abolish death penalty and replace with life without parole

Rep. Adam Hertz (R-Missoula) sponsored HB 366 to replace the death penalty with “life without parole.” This has been a decades long fight in Montana, with similar bills introduced in 2013 by Rep. Doug Kary and again in 2015 by Rep. David (Doc) Moore. Faith leaders, advocacy groups, and criminal justice reform advocates have joined forces session after session to repeal this archaic, broken, and cruel practice. HB 366 was tabled in House Judiciary by a narrow margin of 9-10. Ground gained on abolition during the last few legislative sessions will not go to waste – the organizations who make up the Montana Abolition Coalition will be right back at it in 2019 with a greater base of bipartisan legislator support.

Interim Work

Over the course of each session, legislators identify particular issues they believe require a more in depth analysis than the 90 session allows. After the legislature adjourns, “study bills” that have passed are assigned to bipartisan committees that meet multiple times over the course of the interim break. These interim committees analyze the issues specified in the study bills alongside experts on the issue, stakeholders, and community members. Their findings are then used to propose legislation for the following session.

SJ 3 (Sen. Wolken): Interim study of tribal resources for members involved in criminal justice system

Montana is home to seven American Indian reservations and 13 tribes. American Indians/Alaska Natives make up 7% of the Montana population, yet American Indians account for 27% of all arrests that relate to failure to appear for court or for violations of conditions related to community supervision. The passing of SJ 3, sponsored by Sen. Wolken, will allow an interim committee to determine the feasibility of sending tribal members back to their tribal communities to complete the conditions of their sentences along with other methods to help increase access to tribal resources for tribal members who are in the state criminal justice system.

SJ 25 (Sen. Webb): Interim study of use of solitary confinement

SJ 25, sponsored by Sen. Roger Webb (R-Billings), will allow an interim committee to investigate the extent of the use of solitary confinement in state and county institutions in Montana. Solitary confinement is the most expensive form of incarceration and the least effective in rehabilitation. The ACLU has been working for years to find and advocate for better alternatives in our state institutions and detention centers. This study will focus on current solitary confinement practices used with juveniles and individuals with mental illness and create a much needed opportunity for stakeholders to weigh in on policy-based solutions for the 2019 session.