

SJR 22: Guardianship Laws and Services

Draft Study Plan

Prepared for the Children, Families, Health, and Human Services Interim Committee
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INTRODUCTION

The 2015 Legislature approved Senate Joint Resolution 22, requesting a study of whether Montana's guardianship proceedings, programs, and services are adequate to meet the needs of elderly and developmentally disabled individuals. Legislators ranked the study eighth out of 15 study resolutions, and the Legislative Council in May assigned the study to the Children, Families, Health, and Human Services Interim Committee.

The study resolution stemmed from concern about Montana's aging population. The Department of Public Health and Human Services (DPHHS) estimates that by 2030, Montana will rank fifth in the nation in the percentage of residents over 65 years of age.

National studies note that many older Americans suffer from dementia and other mental impairments that diminish their ability to care for themselves or to make health-related decisions. Montana law allows for the appointment of guardians for individuals who cannot understand, make, or communicate decisions about their care. However, SJR 22 noted that no statewide training or standards exist for individuals who are appointed as guardians or for guardianship programs or services.

STUDY TASKS

SJR 22 asks that the Committee look at the following items as part of the study:

- existing guardianship laws to determine if they could be changed to improve protections for elderly and disabled individuals;
- guardianship services available to individuals through DPHHS;
- efforts at the local level to provide guardianship services;
- funding needs and availability for guardianship services, including an examination of current and potential funding sources;
- efforts in other states to establish uniform, statewide guardianship programs or otherwise improve guardianship services; and
- recommendations of national groups that work on matters related to guardianship for vulnerable citizens.

STUDY RESOURCES

The Senior and Long-Term Care Division of DPHHS oversees services to elderly and physically disabled individuals who need long-term care services. The division offers protective services to vulnerable adults and also offers training and resources for senior citizens and family members on elder law, including laws related to guardianship proceedings and arrangements.

The study also will seek the involvement of health care providers, advocacy organizations for the elderly and disabled, and organizations that offer guardianship programs or services, as well as attorneys and district court judges who handle guardianship proceedings. Their involvement will help give the committee a well-rounded view of how guardianship arrangements are made, how services are provided, and whether guardianship laws or programs could be strengthened to better protect individuals who are unable to make decisions about their own care.

Staff also will review guardianship laws and programs in other states, as well as any recommendations or model standards developed by national organizations.

OUTLINE OF STUDY ACTIVITIES

The study will include the following basic activities during the time periods noted:

1. **Compile background information: June 2015 through January 2016.** This stage will include several steps designed to provide the Committee with information about Montana guardianship laws and services, as follows:
 - a. staff briefing papers summarizing Montana's guardianship laws, state and local guardianship programs, the number of Montanans served by the programs, and the funding sources for those programs;
 - b. presentations by DPHHS and representatives of statewide advocacy organizations and local programs, to provide an overview of current needs and existing programs and services; and
 - c. presentations on guardianship laws and programs in other states and on national standards or recommendations for guardianship programs.

2. **Identify issues: January through March 2016.** Study activities during this period will include a review of the information compiled to date and Committee identification of topics or questions that members would like to address through further analysis or legislation. This phase of the study will help the Committee focus its attention on those study issues it considers to be of greatest importance, so members may obtain any additional information they would like to receive before identifying recommendations for the 2017 Legislature.
3. **Review and decide legislative options: March 2016 through August 2016.** After compiling the background information, identifying issues, and researching options, the Committee will discuss and act on recommendations for the 2017 Legislature.

The table on the following page provides a list of anticipated study activities and resources, as well as tentative dates for the activities and the amount of Committee meeting time each activity is anticipated to entail.

The time estimates on P.4 are based on the assumption that the Committee will adopt the proposal in the Draft Work Plan to devote 14.5% of its meeting time, or approximately 14 hours, to the HJR 16 study. If the Committee chooses a different allocation of time or a different level of involvement in the study, the activities would be revised accordingly.

Study Activity	Source	Activity	Meeting Date	Committee Time
(1) Review information on Montana's guardianship laws and proceedings, state-provided guardianship services, and projected need for guardianship services	Staff research, DPHHS	Staff materials and agency presentations	September 2015	2 hours
(2) Review information on local programs providing guardianship services and gauge whether existing state and local programs meet current and projected needs	Staff research, local providers, advocacy organizations	Staff materials and panel presentations	November 2015	2 hours
(3) Review national standards or recommendations for guardianship services and examples of programs in other states	National and out-of-state speakers	Panel presentation	January 2016	1 hour
(4) Review funding information and options	DPHHS, local providers, staff research	Presentations	March 2016	1 hour
(5) Review information, make recommendations, develop legislation as necessary	Committee members	Committee work sessions and public comment	March through August 2016	8 hours
			Total	14 hours