HB612 – Child Abuse and Neglect Pilot Project

Montana Supreme Court
March 2016

The 2015 Legislature created and funded a pilot project to provide an alternative means of settling child abuse and neglect cases. The Supreme Court Administrator, in partnership with the Department of Public Health and Human Services, is responsible for designing and managing the system.

Budget:

- $300,000 OTO budget. Any funds remaining at the end of the biennium are reverted;
- The Judicial Branch must select a minimum of three pilot Judicial Districts (7 were selected) in which to offer the program; and
- The Judicial Branch must request on-going funding if performance measurements indicate the program can be successful.

Program Outline:

- Within two days of the removal of the children, the department can suggest the alternative resolution process to the parent(s);
- Parents receive a brochure about the program that provides in "plain language" how the process works and what they may gain and are waiving if agreeing to the alternative program;
- Assuming agreement from the parents, the case is assigned to a court mediator, who must – within 15 days – meet with the parents and social worker to create a treatment plan for returning the children home within six months; and
- Parties are not represented by attorneys in the mediation. The cases are not filed in District Court. Ultimately, a mediated case saves time for judges, public defenders and county attorneys.

Requirements:

- The department must select and refer appropriate cases;
- Cases must be resolvable in six months; generally would preclude cases where parents are struggling with a serious drug or alcohol addiction (such as methamphetamine);
- Parents must be able to knowingly consent to the waiver (this may preclude parents with significant, untreated mental health issues); and
- Cases in which the Indian Child Welfare Act applies are not eligible for the project because of certain federal statutes.

Progress to Date:

- One staff person manages the program including conducting any mediations;
- Spent the first several months developing the required waivers, identifying pilot districts and training social workers and supervisors; and
- To date one successful mediation has been done.

Options:

- Both the Judicial Branch and DPHHS are committed to making this work assuming appropriate cases can be identified;
- However, we are also committed to appropriate use of state resources;
- Continue to seek out cases and re-evaluate the program in June; and
- The mediator will also work on a pre-hearing mediation program, which will allow the Branch to bill some of his costs to a federal grant program.