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**CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM
COMMITTEE**
67th Montana Legislature

SENATE MEMBERS

Diane Sands, Vice Chair
John Esp
Mary McNally
Albert Olszewski

HOUSE MEMBERS

Frederick (Eric) Moore, Chair
Barbara Bessette
Mary Caferro
Dennis Lenz
Gordon Pierson
Tom Welch

COMMITTEE STAFF

Sue O'Connell - Research Analyst
Alexis Sandru - Attorney
Fong Hom - Secretary

**MINUTES LOG
ZOOM CONFERENCE CALL**

August 28, 2020
Remote Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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ROLL CALL

Members Present:

Rep. Frederick (Eric) Moore, Chair
Sen. Diane Sands, Vice Chair
Rep. Barbara Bessette
Rep. Mary Caferro
Sen. John Esp
Rep. Dennis Lenz
Sen. Mary McNally
Sen. Albert Olszewski
Rep. Tom Welch

Members Excused:

Rep. Gordon Pierson (*joined the meeting in the afternoon*)

Staff Present:

Sue O'Connell, Research Analyst
Alexis Sandru, Attorney
Fong Hom, Secretary

Committee Action Summary

At its final meeting of the interim, the committee agreed to send eight bills to the 2021 Legislature based on its work on three interim studies, as follows:

- HJR 48/49-1, to require a new emergency protective services hearing within 5 business days of a child's removal from the home;
- HJR 48/49-3, to require the 2021-22 interim committee to review the results of ongoing judicial pilot projects for CPS cases and, if the results are promising, to establish a working group to consider how the pilot projects could be implemented statewide;
- HJR 50-1, to clarify the eligibility requirements for the Medicaid Medically Needy program;
- HJR 50-2, to require 30 days' notice that the Department of Public Health and Human Services (DPHHS) intends to terminate a person's participation in a Medicaid home and community-based services waiver program;
- HJR 50-3, to require that substantive changes to a home and community-based services waiver be made only through the administrative rulemaking process;
- HJR 50-4, to establish legislative intent for home and community-based services waiver programs;
- SB 202-1, to require consideration of less restrictive alternatives in adult guardianship proceedings; and
- SB 202-2, to revise monitoring requirements for guardians of adults.

The committee also:

- approved the early drafting and pre-introduction of five DPHHS legislative proposals;
- approved the draft final report for its HJR 48/49 study; and
- heard a presentation on the state's plan for implementing the Family First Prevention Services Act, which makes significant changes to the child welfare system.

AGENDA (Attachment 1)

CALL TO ORDER/ROLL CALL

08:00:13 Rep. Eric Moore called the meeting to order at 8:01 a.m. The secretary called roll. Rep. Pierson was excused and joined the meeting at a later time.

HJR 48/49 STUDY: CHILD PROTECTIVE SERVICES

Child and Family Services Division Update

08:03:13 Marti Vining, Administrator, DPHHS Child and Family Services Division, provided an update on the activities of CFSD.

Committee Questions/Discussion

08:17:29 Rep. Caferro asked about the continuation of COVID reimbursement for foster care parents through the fall. She also asked if the reimbursement would include subsidized guardians.

08:20:18 Laura Smith, Deputy Director, DPHHS responded.

08:22:31 Rep. Caferro urged the department to consider supporting subsidized guardianship as well as foster care parents.

- 08:24:02 Rep. Moore asked Ms. Vining about the data on children entering and exiting care for the last 12 months.
- 08:25:04 Ms. Vining discussed the chart showing children entering and exiting care. [\(Exhibit 1\)](#)
- 08:26:12 Ms. Smith provided more information on the public awareness campaign undertaken to encourage reporting of suspected abuse or neglect.
- 08:27:00 Sen. Sands asked if Montana still has the highest percentage of children in care. She also asked about the percentage of Native children removed from their homes and if there is an intensive recruitment effort for members of Native communities to serve as foster parents.
- 08:31:31 Sen. Sands said she would like to see how the new Indian Child Welfare Act (ICWA) specialist addresses the issue.

Family First Prevention Services Act Strategic Plan

- 08:32:57 Nikki Grossberg, Deputy Division Administrator for Child and Family Services [\(Exhibit 2\)](#)

Committee Questions/Discussion

- 08:36:27 Rep. Caferro asked Ms. Grossberg if there are any prevention programs for children with disabilities.
- 08:37:13 Sen. Sands asked Ms. Grossberg about recruitment and retention of social workers and Ms. Grossberg's proposal for budgeting and improving that situation by increasing wages and undertaking other initiatives. Ms. Smith responded.
- 08:41:41 Sen. Sands asked how COVID-19 impacts the social workers and the children that are being served. Ms. Smith responded.
- 08:43:42 Ms. Vining discussed the process and protocols of home visits.
- 08:45:49 Sen. Sands asked Ms. Vining if CFSD lost staff due to the COVID-19 pandemic.

Panel Discussion: Court Hearings Regarding Emergency Removals

- 08:50:16 Peter Ohman, Public Defender Administrator, Office of the Public Defender [\(Exhibit 3\)](#)
- 08:58:35 Jed Fitch, County Attorney of Beaverhead County
- 09:03:29 Scott Pederson, Deputy County Attorney, Yellowstone County
- 09:11:16 Beth McLaughlin, Supreme Court Administrator

Committee Questions/Discussion

- 09:23:43 Rep. Lenz asked Mr. Fitch about the current 20-day timeline for a show cause hearing.
- 09:29:38 Rep. Lenz asked Mr. Pederson about the benefits of having parents engaged in the process at an earlier point than the show cause hearing

- 09:35:33 Rep. Sands asked Mr. Pederson whether a person with Indian Child Welfare Act experience should be added to the working group in HJR 50-3.
- 09:39:38 Sen. Sands asked Ms. McLaughlin whether, because of the shortage of district judges, a standing master could be used to handle more child abuse and neglect cases.
- 09:46:12 Rep. Caferro asked Ms. O'Connell about other states implementing any of the concepts in the draft bills that the committee is looking at.
- 09:47:29 Rep. Caferro asked Mr. Ohman about the ways in which the Office of Public Defender has used federal IV-E funding for abuse and neglect cases and whether the office is looking at ways to reduce the out-of-home placement of children.
- 09:55:09 Rep. Caferro asked Mr. Ohman to share the Cornerstone model with committee.
- 09:56:31 Rep. Lenz asked Ms. McLaughlin to address the use of video conferencing in the district courts.

HJR 48/49 Draft Final Report

- 10:03:55 Ms. O'Connell referenced the three bill drafts: HJR 48/49-1 ([Exhibit 4](#)); HJR 48/49-2 ([Exhibit 5](#)); and HJR 48/49-3 ([Exhibit 6](#)).
- 10:05:27 Ms. O'Connell discussed the HJR 48/49 draft final report. ([Exhibit 7](#))

Public Comment on HJR 48/49 Study

- 10:07:35 Nannette Gilbertson, Montana County Attorneys Association
- 10:10:35 Mary Windecker, Behavioral Health Alliance in Montana

BREAK

AGENCY OVERSIGHT: LEGISLATIVE STAFF REPORTS

Administrative Rule Review

- 10:30:43 Alexis Sandru, Staff Attorney, gave a presentation on Administrative Rule Review. ([Exhibit 8](#))
- 10:32:34 Sen. Sands commented on receiving Ms. Sandru's rule reviews.

Montana Medical Marijuana Act

- 10:33:16 Ms. O'Connell provided an update on the Medical Marijuana Act Registry Statistics. ([Exhibit 9](#))

State Revenue and Budget Updates

- 10:35:53 Amy Carlson, Legislative Fiscal Analyst, gave an overview of the state budget implications of COVID-19. ([Exhibit 10](#))

- 10:40:18 Sam Schaefer, of the Legislative Fiscal Division, gave a presentation on COVID-19 impacts on state revenues. (See [Exhibit 10](#))
- 10:45:51 Josh Poulette, of the Legislative Fiscal Division, gave a presentation on COVID-19 impacts on the Department of Public Health and Human Services. (See [Exhibit 10](#))

Committee Questions/Discussion

- 10:55:34 Rep. Caferro asked Mr. Poulette if the department can use increasing federal matching funds for purposes other than Medicaid or CHIP. Mr. Poulette and Ms. Carlson responded.
- 10:57:29 Jon Arnold, of the Legislative Fiscal Division, gave a presentation on the Medicaid Monitoring Report. ([Exhibit 11](#))

Committee Questions/Discussion

- 11:06:18 Rep. Moore asked Mr. Poulette about the enhanced federal matching rate for traditional Medicaid. Rep. Moore also asked if the Medicaid expansion matching rate has been affected by federal COVID-19 legislation.

SB 202 STUDY: UNIFORM GUARDIANSHIP LAWS

Proposed Committee Bill Drafts

PD 0001 (SB 202-1): Requiring consideration of less restrictive alternatives in adult guardianship proceedings

- 11:11:04 Alexis Sandru, legal staff, discussed PD 0001 (SB 202-1). ([Exhibit 12](#))

Committee Questions on PD 0001

- 11:11:45 Sen. Sands asked about the changes that were suggested by the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS).

PD 0003 (SB 202-2): Requiring monitoring requirements for guardians of adults

- 11:13:58 Ms. Sandru discussed PD 0003 (SB 202-2). ([Exhibit 13](#))

Committee Questions on PD 0003

- 11:18:47 Sen. McNally asked Ms. Sandru to explain the language on annual reporting.
- 11:20:01 Sen. Sands thanked the WINGS committee for working on this with Sen. McNally and the committee staff.

Public Comment on the SB 202 Study

- 11:21:12 Beth Brenneman, Disability Rights Montana
- 11:23:49 Ms. O'Connell referred the committee to written comments from the Montana Area Agencies on Aging Association ([Exhibit 14](#)) and an e-mail from Michael Batista, AARP ([Exhibit 15](#)).

2021 SESSION: BILL DRAFT HISTORIES

11:24:42 Sonja Nowakowski, Research Director, provided an update and overview of Legislative Services Division activities during the interim and online session-related resources for legislators.

LUNCH BREAK (reconvened at 12:30 p.m.)

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES UPDATE

COVID-19 and Other DPHHS Activities

12:30:44 Sheila Hogan, Director, highlighted accomplishments of the department during the past four years, including the development of strategic plans for DPHHS activities.

12:32:44 Director Hogan gave an update on the department's COVID-19 work.

Agency Legislation

12:52:27 Ms. O'Connell gave a brief overview of the purpose of the committee's review of proposed agency legislation. **(Exhibit 16)**

12:54:33 Director Hogan presented the following agency legislation proposals: Suicide Prevention Program **(Exhibit 17)**; Congregate Care Hearings **(Exhibit 18)**; Mandatory Reporters of Abuse and Neglect **(Exhibit 19)**; Voluntary Service Agreement **(Exhibit 20)**; and Title X Statutory Appropriation **(Exhibit 21)**.

DPHHS Statutorily Required Reports

Medical Marijuana Inspections

12:58:53 Erica Johnston, Operations Services Branch Manager, gave a presentation on inspections of medical marijuana providers. **(Exhibit 22)**

Committee Questions

13:05:56 Sen. Sands asked if it is worth the department's time or the committee staff's time to prepare statutorily required reports.

13:06:52 Ms. Johnston responded.

Data Warehouse

13:08:20 Ms. Johnston gave a presentation on the status of the data warehouse.

Committee Questions

13:13:35 Sen. Esp asked Ms. O'Connell if his questions about mortality statistics were answered in the e-mails the department had sent for the meeting. Ms. O'Connell said that Todd Harwell of the Health and Safety Division is working on that and she will forward the information when it is available.

13:14:16 Ms. Smith said she has communicated with the division and was told that the data will be ready soon.

Private Alternative Adolescent Residential Facilities

13:15:32 Ms. Johnston reported on the department activities in regulating Private Alternative Adolescent Residential Programs.

Committee Questions/Discussions

13:20:25 Sen. Sands asked if any changes are needed to the law that transferred regulatory authority for the programs to DPHHS.

Medicaid Expansion Required Reports

13:23:33 Ms. Johnston gave a brief demonstration of the online Medicaid dashboards that can be accessed from the homepage of the DPHHS website. Ms. Johnston discussed the Medicaid expansion information found on the Medicaid Expansion Dashboard:
dphhs.mt.gov/helpplan/medicaidexpansiondashboard

Committee Questions/Discussion

13:31:10 Rep. Moore asked about the 85,000 individuals who are enrolled in the program.

HELP-Link Workforce Development Program

13:34:26 Scott Eychner, Administrator for the Workforce Services Division, Department of Labor and Industry, gave an overview of the HELP-Link Workforce Development Program.

Committee Questions of Mr. Eychner

13:38:45 Rep. Caferro asked about the intent of the HELP-Link program.

13:40:07 Rep. Caferro asked about low enrollment in the program and what can be done to increase it.

13:42:39 Rep. Caferro said she would like to meet with Mr. Eychner to discuss the application process.

13:44:49 Sen. Sands asked about the enrollment process.

13:46:50 Rep. Caferro complimented Director Hogan and her staff for their work on the COVID-19 pandemic.

GENERAL PUBLIC COMMENT

13:49:06 G. Bruce Meyers, Executive Director of Native Nations, commented on the need for more caseworkers in the foster care program.

13:55:58 Mary Windecker, Behavioral Health Alliance of Montana, discussed a pilot project that looks at creating a quality database and indicators to look at evidence-based programs that are in place.

14:00:07 Sen. Esp expressed his appreciation of Director Hogan's willingness to respond to his concerns.

14:00:43 Beth Brenneman, Disability Rights Montana, thanked the Department for its work on COVID-19.

COMMITTEE WORK SESSION

14:02:43 The committee decided to take action on items related to its HJR 48/49 Study while waiting for a scheduled speaker to join the meeting.

HJR 48/49 Study: Child Protective Services

Draft Final Report

14:04:26 Ms. O'Connell presented the draft HJR 48/49 Study final report.

Motion/Vote

14:05:04 Sen. McNally moved to approve the HJR 48/49 final report. The motion passed unanimously by voice vote.

Motion on PD 0010 (HJR 48/49-1): Requiring a hearing within 72 hours of a child's removal

14:05:53 Rep. Lenz moved to approve PD 0010 as a committee bill.

Discussion on the Motion

14:06:48 Rep. Lenz gave his reasons for supporting PD 0010 and then proposed a conceptual amendment.

Motion for a conceptual amendment

14:08:22 Rep. Lenz moved a conceptual amendment to PD 0010, to change the 72-hour time period to 5 business days. He also said the bill would move forward at the request of both the Children and Families Committee and the State-Tribal Relations Committee. The State-Tribal Relations Committee had decided earlier in August to introduce the bill with a change to the timeframe for the hearing.

Discussion on the Motion

14:08:53 Rep. Lenz explained why he supported the State Tribal Committee's decision to allow 5 days for the hearing to occur.

14:09:36 Sen. Sands asked if Rep. Lenz considers the change to be a friendly amendment.

14:10:17 Sen. Olszewski supported the amendment.

Vote

14:10:40 The motion passed unanimously by voice vote.

Ms. O'Connell said that Rep. Pierson has given his proxy to Sen. Sands.

Motion to approve PD 0010 as amended

14:11:29 Rep. Lenz moved PD 0010, as amended.

Discussion on the Motion

- 14:11:56 Rep. Welch said he has reservations about the bill but the issues are important enough that the bill needs to move along.
- 14:12:51 Sen. Sands and Rep. Moore said they will vote to move PD 0010 forward.

Vote

The motion to approve PD 0010 as amended passed 9-1, by voice vote with Rep. Pierson voting aye by proxy and Sen. Esp voting no.

Motion on PD 0012 (HJR 48/49-3): Provide for continued interim legislative review of Child Protective Services matters

- 14:15:04 Rep. Lenz moved to approve PD 0012 as a committee bill.

Motion to amend

- 14:16:00 Sen. Sands moved to amend the bill to add a person with ICWA experience to the working group and to require that at least two members of the working group be from rural communities.

Discussion on the amendment

- 14:16:10 Rep. Lenz asked Sen. Sands whether any two of the members could be from rural communities or whether specific members should be from rural areas.

Vote

- 14:16:20 Sen. Sands' motion to amend passed unanimously by voice vote with Rep. Pierson voting aye by proxy.

Motion on PD 0012 as amended

- 14:18:12 Rep. Lenz moved to approve PD 0012 as amended.

Discussion on the Motion

- 14:18:51 The committee discussed the appropriation amount for the bill.
- 14:22:00 *Rep. Pierson joined the meeting at 2:22 p.m.*

Motion/Vote

- 14:24:27 Sen. Sands moved to strike "AN AMOUNT" and add "\$10,000" to PD 0012. The motion passed unanimously by voice vote.

Motion

- 14:25:07 Rep. Lenz moved to approve PD 0012 as twice amended.

Discussion on the Motion

- 14:25:35 Sen. Olszewski said he will vote no on the motion.

Vote

14:28:02 The motion passed on a roll call vote, 6-4, with Senators McNally and Sands and Representatives Bessette, Caferro, Lenz, and Pierson voting yes. Senators Esp and Olszewski and Representatives Moore and Welch voted no.

TRIBAL PERSPECTIVE: CPS AND SENIOR AND LONG-TERM CARE SERVICES

14:28:31 Patricia Courchane, Department of Human Resources Development, Confederated Salish-Kootenai Tribes, gave a presentation on the tribes' CPS and long-term care services, the relationship and the interaction with state programs, and the resources available for nursing home care or assisted living facilities. She also discussed the impact of COVID-19 on tribal services.

Committee Questions/Discussion

14:33:54 Sen. Sands asked Ms. Courchane about working with the urban Indian health centers.

GENERAL PUBLIC COMMENT

14:35:06 Shyla Patera commented on COVID-19 and emergency preparedness.

BREAK (reconvened at 3:00 p.m.)

HJR 50 STUDY: SENIOR AND LONG-TERM CARE

Review of Bill Drafts

HJR 50-1: Clarifying Requirements for the Medically Needy Program

15:01:44 Ms. O'Connell gave a presentation on PD 0006 (HJR 50-1) ([Exhibit 23](#)); PD 0007 (HJR 50-2) ([Exhibit 24](#)); PD 0008 (HJR 50-3) ([Exhibit 25](#)); and PD 0009 (HJR 50-4) ([Exhibit 26](#)).

15:05:18 Ms. O'Connell discussed the document "HR 50: Senior/Long-Term Care Bill Draft Considerations" which summarized each of the HJR 50 bills, described potential fiscal impacts, and posed questions for committee consideration. This document was provided in the June 29 meeting packet. ([Exhibit 27](#))

Committee Questions/Discussion

15:06:53 Rep. Welch asked about correcting language on Page 1 of PD 0006 (HJR 50-1) at the end of line 6 and the beginning of line 7.

Public Comment on the HJR 50 Study Proposed Legislation

15:08:09 Shyla Patera, North Central Independent Living Services

15:11:48 Beth Brenneman, Disability Rights Montana

15:17:50 Travis Hoffman, Summit Independent Living, Missoula

15:24:25 Joel Peden, Advocacy Coordinator, Montana Independent Living Project

Early Drafting of Agency Legislation

Motion/Vote

15:32:02 Sen. Sands moved to approve early drafting of the DPHHS-proposed legislation. The motion passed unanimously by voice vote.

SB 202 Study: Uniform Guardianship Law

Motion on PD 0001 (SB 202-1): Requiring consideration of less restrictive alternatives in adult guardianship proceedings

15:33:19 Sen. McNally moved to approve PD 0001 (SB 202-1) as a committee bill.

Discussion on the Motion

15:34:19 Sen. McNally said that the bill simply puts language in guardianship laws requiring that less restrictive options be looked at.

Vote

15:34:40 The motion passed unanimously by voice vote.

Motion on PD 0003 (SB 202-2): Requiring monitoring requirements for guardians of adults

15:35:04 Sen. McNally moved to approve PD 0003 (SB 202-2) as a committee bill.

Vote

15:36:00 The motion passed, 9-1, on a voice vote with Sen. Esp voting no.

HJR 50 Study: Senior and Long-Term Care

Motion on PD 0008 (HJR 50-3): Requiring rulemaking for substantive changes affecting home and community-based services

15:37:38 Sen. Sands moved to approve PD 0008 (HJR 50-3) as a committee bill.

Discussion on the Motion

15:37:44 Sen. Sands said the transparency required in the rulemaking process is a way for the committee to have oversight of the department and for the public to understand the implications of department's proposals.

Vote

15:38:00 The motion passed unanimously on a voice vote.

Motion on PD 0006 (HJR 50-1): Clarifying requirements for the Medically Needy Medicaid Program

15:38:20 Rep. Caferro moved to approve PD 0006 (HJR 50-1) as a committee bill.

Vote

15:38:50 The motion passed unanimously on a voice vote.

Motion on PD 0007 (HJR 50-2): Requiring a 30-day notification before termination of participation in a Medicaid home and community-based waiver program

15:38:20 Sen. McNally moved to approve PD 0007 (HJR 50-2) as a committee bill.

Vote

15:38:30 The motion passed unanimously on a voice vote.

Motion on PD 0009 (HJR 50-4): Establishing that home and community-based services must be considered in total when services are authorized

15:39:00 Rep. Caferro moved to approve PD 0009 (HJR 50-4) as a committee bill.

Vote

15:39:00 The motion passed, 9-1, with Sen. Esp voting no.

HJR 48/49 Study: Child Protective Services

15:41:51 Ms. O'Connell asked that the committee approve changes to PD 0012 (HJR 48/49-3) to clarify the review would be limited to the 2021-2022 interim.

Motion to approve changes to PD 0012 (HJR 48/49-3)

15:43:00 Sen. Sands moved to approve the changes to PD 0012 as Ms. O'Connell discussed.

Vote

15:43:20 The motion passed unanimously by voice vote.

Further Discussion on the HJR 48/49 Final Report

15:44:05 Sen. Esp discussed adding information about the department's practice principles and models to the final report. Ms. O'Connell asked if Sen. Esp wanted that added to the final report or if that would be something a future committee could follow up on. Sen. Esp suggested adding that in the final report.

Assignment of Sponsors for Committee Bills

15:45:56 Ms. O'Connell discussed assignment of sponsors for committee legislation ([Exhibit 28](#)), and the committee assigned the bills as follows:
Sponsor of HJR 48/49-1 (PD 0010), HJR 48/49-3 (PD 0012) – Rep. Lenz
Sponsor of SB 202-1 (PD 0001) and SB 202-2 (PD 0003) – Sen. McNally
Sponsor of HJR 50-3 (PD 0008) – Sen. Sands
Sponsor of HJR 50-2 (PD 0007) – Sen. McNally
Sponsor of HJR 50-1 (PD 0006) and HJR 50-4 (PD 0009) – Rep. Welch

Other Business

15:49:35 Ms. O'Connell discussed the Staff Evaluation Forms.

15:49:50 Sen. Sands said she wanted the committee members to know that she plans to sponsor a bill to include religious programs in the Private Alternative Adolescent Residential Programs regulations.

15:50:33 Rep. Moore thanked all the members of the committee and staff and left his closing comments with the committee.

ADJOURNMENT

15:59:53 Rep. Moore adjourned the meeting at 4:00 p.m.

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