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

**SENATE MEMBERS**

John Esp  
Mary McNally  
Albert Olszewski  
Diane Sands

**HOUSE MEMBERS**

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

**COMMITTEE STAFF**

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

**MINUTES LOG**  
**Zoom Conference Meeting**  
May 13, 2020  
Remote Room 102, 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 Remotely:**

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. Gordon Pierson  
Rep. Tom Welch

**Staff Present Remotely:**

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

## **AGENDA (Attachment 1)**

### **Committee Business Summary**

The Committee heard presentations related to its House Joint Resolutions 48/49 study of child protective services, focusing on:

- the effects of COVID-19 on the work of the Child and Family Services Division and on families that may be at risk for child abuse and neglect;
- implementation of the federal Family First Prevention Services Act in Montana, including the work of the Kinship Navigator Program authorized under that federal law; and
- work being done by the Fort Peck Tribes on health care services, including services to address child abuse and neglect and the social determinants of health.

The committee also received staff updates on DPHHS proposed and adopted rules, the medical marijuana program, and the DPHHS budget.

During its work session, the Committee:

- agreed not to pursue legislation related to the HJR 32 study of prenatal drug use and instead recommend that the 2021-2022 interim committee be provided with the results of work being done under an ongoing public-private partnership; and
- asked staff to draft legislation for review in June to:
  - require a shelter care hearing within 72 hours of a child's removal from the home to determine whether continued removal is needed;
  - require that DPHHS notify a Big Sky Waiver participant 30 days before a planned denial or revocation of services or equipment so the participant and DPHHS can review the need for the item before it is denied;
  - require changes involving service caps, prior authorization, or other significant policy changes to be made through the administrative rulemaking process rather than through policies that are adopted without a public comment process;
  - allow all medical expenses incurred by Big Sky Waiver participants to be counted toward Medicaid eligibility under the Medically Needy program;
  - clarify that waiver services, taken as a whole and not individually, are designed to keep individuals in the home or community and out of institutional care;
  - clean up the statute that governs reporting requirements for the Medicaid expansion workforce development program to incorporate language that was inadvertently deleted when two different bills involving the Medicaid expansion program passed in 2019; and
  - address a few of the changes recommended in the 2017 Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act.

### **RECONVENE/ROLL CALL - Presiding Officer Eric Moore**

13:00:00 Rep. Moore reconvened the meeting at 1:00 p.m. The committee secretary called roll; everyone was present remotely.

### **HJR 48/49 STUDY: CHILD PROTECTIVE SERVICES**

#### **Overview of Meeting Materials**

13:03:17 Sue O'Connell gave an overview of the HJR 48/49 Study and the documents associated with the study. ([Exhibit 1](#))

### **Child and Family Services Division Update**

13:05:55 Marti Vining, Child and Family Services Division Administrator, gave an update on how the division has continued to keep children safe and families strong during the COVID-19 pandemic.

### **Committee Questions of Ms. Vining**

13:11:05 Sen. Olszewski asked if hotline calls have increased or decreased.

13:12:04 Rep. Moore asked what the intake numbers will look like during the summer.

13:13:11 Sen. Sands asked about the workers who are doing in-person investigations during the COVID-19 crisis.

### **Family First Prevention Services Act: Montana Implementation**

13:15:54 Nikki Grossberg, Deputy Administrator, DPHHS, Child and Family Services Division ([Exhibit 2](#))

### **Committee Questions of Ms. Grossberg**

13:27:16 Rep. Lenz asked about the transition money for implementing the federal law.

13:28:27 Rep. Lenz asked if the implementation of the program will be in place by the end of May.

13:32:10 Sen. McNally asked Ms. Grossberg about the evidence-based prevention programs that have been approved and if Montana will adopt the models that have been approved or try to get some of our current practices and interventions in that list.

13:33:40 Rep. Caferro asked whether the CPS caseload numbers include only children who have been removed or all children interfacing with the system.

13:34:32 Rep. Caferro asked for a breakdown on the number of children still in the family but receiving services, in foster care homes, in higher levels of care, and in the process of reunification. She also asked whether the services covered by the Family First Act include foster care parents. She asked Ms. Grossberg what the support looks like for children in foster care.

### **Montana Kinship Navigator Program**

13:39:28 Heidi Lester, Program Manager, Montana Kinship Navigator Program

### **Committee Questions of Ms. Lester**

13:48:07 Sen. Sands asked if the program is targeting the Native American community and addressing the specific concerns in Indian Country.

13:50:15 Rep. Caferro asked if the program targets children who are placed in foster care homes and not with kin.

13:51:21 Brianna Routh, Assistant Professor in Health and Human Development and Extension Specialist, and Program Evaluator ([Exhibit 3](#))

### **Committee Questions of Ms. Routh**

None.

### **Prevention Efforts: Montana Programs**

13:56:17 Dr. Eric Arzubi

### **Committee Questions of Dr. Arzubi**

14:16:46 Rep. Moore asked if there will be an increase in substance abuse in the home during the coronavirus stay-at-home period.

14:17:30 Rep. Caferro thanked Dr. Arzubi for his collaboration with DPHHS.

### **Tribal Presentation**

14:18:45 Kenny Smoker, Director, Health Promotion/Disease Prevention Program, Fort Peck Tribes, discussed health care and prevention efforts on the Fort Peck Reservation and the changing health-related behaviors on the reservation.

### **Committee Questions of Mr. Smoker**

14:34:43 Sen. Sands asked Mr. Smoker to expand on the Indian Health Services status of legislation passed in 2019 that would allow a different certification procedure for a number of health care technician positions.

14:38:15 Sen. Olszewski discussed the sunset provisions for the community health aide program.

14:38:59 Sen. Sands asked about pregnant women and women who might have addiction problems getting services.

14:42:23 Rep. Caferro thanked Mr. Smoker for his work on the programs.

### **Public Comment on HJR 48/49 Study**

14:44:01 Denise Johnson, Communications Director, Montana Child Protection Alliance, commented on the Summary of Suggestions document. [\(Exhibit 4\)](#)

14:59:29 Rep. Dave Fern

15:07:23 Beth Brenneman, Disability Rights Montana

15:11:54 Dr. Eric Arzubi

### **AGENCY OVERSIGHT: STAFF REPORTS**

#### **Administrative Rule Review - Alexis Sandru, Staff Attorney**

15:15:52 Ms. Sandru referenced but did not discuss the Administrative Rule Review, March 2020 [\(Exhibit 5\)](#) and the Administrative Rule Review, May 2020 [\(Exhibit 6\)](#).

**Montana Medical Marijuana Act - Sue O'Connell, Research Analyst**

15:16:50 Ms. O'Connell referenced the document, "Chronic Pain Rates in Other States" ([Exhibit 7](#)) but did not discuss it. She informed the committee of the changes made in the medical marijuana program.

**Committee Questions**

15:20:04 Rep. Caferro asked about a special revenue account that was set up for alternative health care in Senate Bill 265.

**DPHHS Quarterly Budget Report - Josh Poulette, Legislative Fiscal Division**

15:20:46 Mr. Poulette ([Exhibit 8](#))

**Committee Questions of Mr. Poulette**

15:25:32 Rep. Moore asked for an update on Medicaid caseloads.

15:26:20 Sen. Sands asked if the funds in the Public Health and Safety budget are being used for public health purposes.

**SB 202: UNIFORM GUARDIANSHIP LAW**

**Status Report - Alexis Sandru**

15:27:55 Ms. Sandru gave an update on the SB 202 Study and the work of the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) group.

**Committee Questions**

15:30:21 Sen. McNally said she hopes to help develop legislation the committee could review.

15:31:09 Sen. Sands asked for more information on the differing viewpoints among WINGS members about the uniform law.

**Public Comment on SB 202 Study**

15:32:07 Beth Brenneman, Disability Rights Montana

**WORK SESSION**

**Committee Direction**

15:36:06 Ms. O'Connell discussed the committee's workload for the rest of the interim.

**Potential Committee Bills**

**Cleanup of 39-12-103, MCA -- HELP Act Reporting Requirements**

15:36:54 Ms. O'Connell ([Exhibit 9](#)).

### **Committee Questions on Cleanup of 39-12-103**

15:39:12 Rep. Moore asked about the bracketed language from the Code Commissioner in 39-12-103(4). Rep. Moore asked staff to insert the bracketed language into a bill draft for review at the next meeting.

### **SB 202: Uniform Guardianship Law**

15:39:58 Rep. Moore said he doesn't see a need for a committee bill.

Sen. McNally discussed the three small language changes that she got from Ms. Brenneman and asked that she have more time to review those changes.

15:41:14 Rep. Moore asked Sen. McNally to get that language to Ms. O'Connell for drafting purposes.

### **Shelter Care Hearings for Child Abuse and Neglect Cases**

15:41:29 Ms. O'Connell asked if the committee is interested in reviewing a bill draft that Sen. Sands has requested for the 72-hour shelter care hearings.

### **Committee Questions on Shelter Care Hearings**

15:42:24 Rep. Lenz expressed interest and said the bill would have more power coming out as a committee bill.

15:44:32 Rep. Caferro asked Sen. Sands to explain what the bill proposes to do.

15:44:52 Sen. Sands said she is asking staff to begin drafting a committee bill that that supports a model program to be adopted across the state.

15:45:32 Ms. O'Connell further explained the two pilot projects: the Montana Pre-Hearing Conference (PHC) ([Exhibit 10](#)) and the 72-hour Shelter Care Hearing.

15:46:30 Sen. Sands explained the 72-hour shelter care hearings.

15:47:16 Rep. Caferro asked about the costs of the pilot programs and where the funding would come from.

15:48:40 Rep. Moore requested that Ms. O'Connell draft a bill on the 72-hour shelter care hearings for consideration by the committee at its next meeting.

### **HJR 32 Study: Prenatal Drug Use**

15:49:18 Ms. O'Connell ([Exhibit 11](#))

### **Committee Questions on HJR 32: Prenatal Drug Use**

15:52:06 Sen. Sands and Rep. Moore agreed that there is no need to move forward on any legislation.

### **HJR 48/49 Study: Child Protective Services**

15:53:14 Rep. Moore asked for another update from the Child and Family Services Division at the next meeting.

15:53:39 Sen. Sands asked about the federal money going to the department and the disbursement of those moneys.

15:54:03 Rep. Moore requested that the LFD provide more information on where the CARES Act money is going.

15:54:28 Rep. Lenz discussed his three areas of concern with the HJR 48/49 study.

15:57:52 Rep. Moore asked for further information on the influence of COVID-19 in abuse and neglect reports. He said that further research is not needed for the study and that he doesn't think any bill drafts will gain bipartisan committee support except for the shelter care hearing bill.

15:58:52 Sen. Sands said that she would like to hear from the public health people who work on preventing child abuse and neglect.

16:00:32 Rep. Moore commented that benchmarking against surrounding states is never a bad idea and finds it useful to see how Montana is doing amongst surrounding states.

16:00:55 Rep. Lenz realizes that the department should have Family First fully implemented and asked if the Legislature should provide direction on how that should look like.

16:02:07 Sen. McNally suggested the committee hear from local public health people about the home services.

16:04:03 Sen. Sands said that Family First is a federal law and her concerns are what are the costs to actually provide all those services when we are still suffering from the ramifications of the cuts previously made.

16:04:39 Rep. Moore said that Family First is a federal law that changes the parameters of how federal dollars flow to the states for child protective services and what activities are eligible for either federal reimbursement or federal match.

16:05:12 Rep. Lenz noted the law has the potential to change the paradigm in the state.

16:05:58 Rep. Caferro said the committee should remember that Family First shifts the paradigm but doesn't provide new money. She is cautious about doing any new programs.

#### **HJR 50 Study: Senior and Long-Term Care**

16:08:14 Rep. Moore said that the committee's work on the study may focus more on priorities for existing programs than on creating new programs.

16:08:59 Rep. Welch said, based on the budget updates from LFD, it wouldn't be a good time to add new programs.

16:09:27 Rep. Lenz commented on the constraints that expected budget difficulties create for the study.

16:10:34 Rep. Caferro said that she would like staff to work with the advocates on the ideas presented on May 11: a 30-day notification before services are terminated, looking at policies that should be in rule for more public

review, Medicaid spend down program requirements, and the general purpose statement for waiver services.

16:12:05 Rep. Moore asked that a revenue estimate update be put on the agenda for the next meeting.

**Other Health and Human Services Oversight Activities**

16:13:50 Ms. O'Connell said it has been discussed that the committee would tour some of the state facilities and meet in person in June. She said the department wants more time to monitor the situation related to facility tours before arrangements are made for June.

16:14:30 Rep. Moore asked if the final meeting is in August, and if the June meeting is a one day.

16:15:01 Rep. Caferro asked if the committee will meet in person or remotely for the June meeting.

16:15:29 Rep. Moore asked if Ms. O'Connell could arrange an update on the funding sources for the CARES Act.

**ADJOURNMENT**

16:16:10 Rep. Moore adjourned the meeting at 4:16 p.m.