



Children, Families, Health, and Human Services Interim Committee

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66th 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, Staff Attorney
FONG HOM, Secretary

MINUTES LOG

September 13, 2019
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation 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 record 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 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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COMMITTEE MEMBERS PRESENT

SEN. JOHN ESP
SEN. MARY MCNALLY
SEN. ALBERT OLSZEWSKI
SEN. DIANE SANDS

REP. BARBARA BESSETTE
REP. MARY CAFERRO
REP. DENNIS LENZ
REP. FREDERICK (ERIC) MOORE
REP. TOM WELCH

COMMITTEE MEMBERS EXCUSED

REP. GORDON PIERSON

STAFF PRESENT

SUE O'CONNELL, Research Analyst
ALEXIS SANDRU, Staff Attorney
FONG HOM, Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

The Committee heard presentations related to three of its four interim studies, including:

- an in-depth presentation on how the Department of Public Health and Human Services:
 - ▶ assesses whether a child is in imminent or impending risk of harm and should be removed from a home;
 - ▶ develops treatment plans and establishes conditions that must be met for the child to return home; and
 - ▶ monitors whether parents are meeting the conditions for return.

- the impact that the increase in child protective services cases in recent years has had on the court system and steps that courts are taking to speed up and improve the handling of the cases;

- an overview of three Medicaid-funded home and community-based services programs for the elderly and people with physical disabilities; and

- a recap of the testimony by proponents and opponents to Senate Bill 202 in 2019. That bill, which failed, would have adopted the 2017 uniform guardianship law that was developed by a national commission.

The committee also received several DPHHS reports that are required by law and heard an agency update from DPHHS Director Sheila Hogan.

CALL TO ORDER AND ROLL CALL

08:05:35 Rep. Eric Moore called the meeting to order at 8:05 a.m. The secretary called roll. Rep. Gordon Pierson was excused. ([Attachment 3](#))

Overview of Agenda

08:06:38 Rep. Moore gave overview of the agenda.

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Administrative Rule Review - Alexis Sandru, Committee Attorney

08:07:19 Ms. Sandru ([Exhibit 1](#))

Committee Questions of Ms. Sandru

- 08:08:17 Rep. Moore asked about the statutory timeline for administrative rules and how the administrative rules are implemented.
- 08:10:05 Sen. Diane Sands explained the role of an interim committee with respect to the implementation of a rule.

Statutorily Required Reports - Sue O'Connell, Committee Research Analyst

08:12:51 Ms. O'Connell referred the committee to the statutorily required reports provided by DPHHS: TANF Parents as Scholars ([Exhibit 2](#)); Medical Marijuana Registry Statistics ([Exhibit 3](#)); Children's Mental Health Outcomes ([Exhibit 4](#)); Out-of-State Placement and Monitoring Report ([Exhibit 5](#)); HB 458 Quarterly Tracking of individuals placed at or released from the Montana Developmental Center ([Exhibit 6](#)). Ms. O'Connell asked the committee how they would like to receive the medical marijuana reports in the future.

Committee Questions

08:14:27 Sen. Esp asked what a resident provider is in the Medical Marijuana Registry Statistics report.

SB 202: UNIFORM GUARDIANSHIP LAW

Review of Staff Reports - Alexis Sandru

Overview of State Laws

08:15:19 Ms. Sandru ([Exhibit 7](#))

Uniform Laws and Montana Laws

08:17:08 Ms. Sandru ([Exhibit 8](#))

Review of Senate Bill 202 Testimony

Beth Brenneman, Disability Rights Montana

Beth McLaughlin, Supreme Court Administrator

08:17:17 Ms. Brenneman gave background information on the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) committee and on the Uniform Laws Commission. ([Exhibit 9](#))

08:28:39 Ms. McLaughlin explained why the judicial branch opposed Senate Bill 202.

08:37:09 Ms. McLaughlin discussed the June 2019 Supreme Court order establishing the WINGS group. ([Exhibit 10](#))

Committee Questions

08:39:26 Rep. Moore asked Ms. Brenneman if the Department of Public Health and Human Services was the protective agency that she was referring to in her presentation.

08:40:04 Rep. Moore asked Ms. Brenneman if the Uniform Laws Commission's adoption of recommendations in 1997 and 2017 made major changes to the state laws.

08:41:24 Sen. McNally asked Ms. McLaughlin about reinstating the WINGS program.
08:43:20 Rep. Moore asked Ms. McLaughlin whether the potential cost to the judicial branch could have been estimated if SB 202 had been broken up into smaller bills.
08:45:47 Sen. Diane Sands requested that Ms. McLaughlin provide a list of the members of the District Court Council to the committee.
08:45:59 Rep. Dennis Lenz asked Ms. McLaughlin about the potential lack of training for people appointed as guardians.
08:48:07 Rep. Lenz asked Ms. Brenneman and Ms. McLaughlin to comment on whether having a partial guardianship would reduce the strain of time and finances as opposed to a full guardianship.
08:48:39 Ms. McLaughlin
08:49:50 Ms. Brenneman

PUBLIC COMMENT on the Senate Bill 202 Study

08:50:56 Jackie Jones, former WINGS member
08:57:37 Susan Gecho Gobbs, independent contractor with the Legal Services Developer Program

HJR 48/49 STUDY: CHILD PROTECTIVE SERVICES (Part I)

Review of Staff Reports and Agency Statistics - Sue O'Connell and Alexis Sandru

09:01:23 Ms. O'Connell discussed the following documents: Trends in DPHHS Child Abuse and Neglect Cases ([Exhibit 11](#)); Trends in Child Abuse and Neglect Court Cases ([Exhibit 12](#)); Terminology and Legal Standards ([Exhibit 13](#)); Keys Steps in the Legal Process ([Exhibit 14](#)); and Key Federal Funding Sources ([Exhibit 15](#)).

CPS Investigation, Removal, and Reunification Processes

Marti Vining, Administrator, DPHHS Child and Family Services Division (CFSD)

Ike Jessee, CFSD Training Development Specialist

09:14:45 Ms. Vining
09:19:03 Mr. Jessee gave a presentation on the CORE Training (Collaborative Resources Training) that DPHHS has been offering around the state to explain how the department evaluates and handles child abuse and neglect complaints.
[\(Exhibit 16\)](#)
09:20:30 Presentation Segment: CHILD MALTREATMENT: UNDERSTANDING THE CPS ROLE IN IDENTIFYING MALTREATMENT

Committee Questions on Child Maltreatment

- 10:27:12 Rep. Lenz asked Mr. Jessee to address the concept of impending danger assessment vs. immediate danger assessment for removal of children.
- 10:29:00 Ms. Vining explained the use of the assessment tool for impending or immediate danger threats. [\(Exhibit 17\)](#)
- 11:03:53 Presentation Segment: INTERVIEW PROTOCOL REQUIREMENTS

Committee Questions on Interview Protocol Requirements

- 11:09:54 Rep. Moore asked whether parents are notified that their child is being interviewed.
- 11:12:08 Sen. McNally asked if the protection plan is outlined anywhere.
- 11:15:23 Rep. Moore asked about the federal guidelines for the threshold of designating cases that deal with Native American children.
- 11:17:27 Presentation Segment: IMPENDING DANGER

Committee Questions on Impending Danger

- 11:33:27 Rep. Moore asked Mr. Jessee if safe sleep habits or substance abuse problems fall within the threshold of impending danger and whether or not substance abuse in the home rises to the level of impending danger.
- 11:35:59 Sen. Sands asked Mr. Jessee if the criminal use of drugs in the home is a safety concern for the child.
- 11:38:18 Rep. Lenz said that people with limited parental skills or those who are dealing with a mental illness or alcoholism pose a gray area for him. He asked Ms. Vining or Mr. Jessee to address those topics.
- 11:41:50 Rep. Lenz asked Ms. Vining about the thresholds for immediate danger and impending danger and the five threshold criteria that must be met before impending danger comes into play.
- 11:49:25 Sen. Sands asked about the number of children who are removed for immediate danger and how many are removed for impending danger.
- 11:50:34 Sen. Sands asked if the goal of the department is to find strategies to help families remain together as long as the child is safe.
- 11:53:01 Presentation Segment: SAFETY MANAGEMENT

Committee Questions

- 12:06:57 Sen. Sands asked Ms. Vining to talk about extended family placements vs. foster care.

12:07:57 Rep. Moore asked whether substance abuse should be reviewed and considered in making a kinship placement if substance abuse was a factor that led to the child's removal from home.

12:09:39 **Lunch Break** (reconvened at 12:30 p.m.)

AGENCY OVERSIGHT: HB 715/LEGISLATIVE FISCAL DIVISION UPDATES

Jon Arnold, Fiscal Analyst, Legislative Fiscal Division

Josh Poulette, Fiscal analyst, Legislative Fiscal Division *(by phone)*

12:35:23 Jon Arnold presented the Quarterly Financial Report for DPHHS. **(Exhibit 18)**

Committee Questions

12:41:34 Rep. Caferro asked Mr. Arnold to explain why money was transferred to the Montana Program for Automating and Transforming Healthcare (MPATH).

12:42:58 Rep. Caferro said the original appropriation for MPATH was \$70 million. She asked Mr. Arnold if the \$70 million was the baseline for the Medicaid Management Information System (MMIS) rebuild.

12:44:02 Rep. Caferro asked if leftover money from the \$13.5 million in House Bill 3 is to be reverted back to the General Fund.

12:44:52 Rep. Moore asked about the new format of the Quarterly Financial Report and how changes in expenditures would be reflected in future reports.

12:46:01 Jon Arnold discussed the Medicaid Monitoring Report and the Montana HELP Act Medicaid Expansion Report. **(Exhibit 19)**

Committee Questions

12:49:54 Rep. Moore asked about the spend down of 32% in the state special revenue account.

12:54:21 Rep. Moore asked about the Children's Health Insurance Program federal match going forward and the reduction in the federal medical assistance percentage (FMAP) for Medicaid.

12:54:52 Josh Poulette discussed the funding for CHIP.

12:57:05 Rep. Caferro asked about the assumption that the 3% growth will occur in CHIP enrollment.

GENERAL PUBLIC COMMENT

12:58:23 Jackie Jones, Montana Association of Community Disability Services, provided an update to the implementation of policies and procedures in DPHHS' Developmental Disability Program.

- 12:59:30 Beth Brenneman, Disability Rights Montana, reported on the closure of Acadia and urged the committee to look at the children's mental health system in Montana.
- 13:03:39 Mark Kelly, Funders for Montana's Children **(Exhibit 20)**
- 13:07:41 Shyla Patera, North Central Independent Living Services **(Exhibit 21)**
- 13:13:08 Laura Barnhill, Occupational Therapist, Benefis Health Systems, commented on medical issues that children have.
- 13:23:03 Margaret Keener, North Central Independent Living Services, urged the committee to consider people who have medical, health, and disabilities issues.

HJR 48/49 STUDY: CHILD PROTECTIVE SERVICES (Part II)

Overview: Court Involvement in the CPS System

Beth McLaughlin, Supreme Court Administrator

Montana Supreme Court Justice Ingrid Gustafson *(via video conferencing)*

- 13:26:44 Beth McLaughlin **(Exhibit 22)**
- 13:35:34 Montana Supreme Court Justice Ingrid Gustafson *(by remote video)*

Tribal CPS Programs

Marti Vining, Administrator, DPHHS Child and Family Services Division

Leah LaMere, Director of Social Services, Chippewa Cree Tribe *(by phone)*

- 13:56:29 Marti Vining discussed working with the Montana Indian reservations in addressing child abuse and neglect.
- 13:59:40 Leah LaMere discussed the Chippewa Cree Tribe's child protective services program.

Committee Questions

- 14:04:45 Sen. Sands asked Ms. LaMere about placing a Native American child with an extended family when the child has relatives on various reservations.
- 14:06:26 Sen. Sands asked Ms. LaMere about treatment programs in the state.
- 14:08:11 Sen. Sands said that the use of methamphetamine is still the major incident that results in a child's removal from the home. She asked if that was correct for reservations as well as the state.
- 14:09:58 Rep. Moore asked Ms. Vining if the data that shows children being removed or reunified included numbers from the reservations.
- 14:10:19 Rep. Lenz asked Ms. Vining about the interaction between the tribes and DPHHS in the removal of a child on the reservation.

- 14:14:45 Rep. Moore asked Ms. Vining whether the Indian Child Welfare Act (ICWA) governs any cases involving an Indian child, even off the reservation.
- 14:14:58 Sen. Olszewski asked about the requirements for being considered an Indian child.

PUBLIC COMMENT on the HJR 48/49 Study

- 14:21:02 Ashley Eakin, concerned citizen
- 14:26:01 Trudy Fisher, Great Falls
- 14:27:49 Denise Johnson, Director of Communications, Montana Child Protection Alliance
- 14:38:43 Keith Newmeyer
- 14:42:00 Sen. Sands objected to Mr. Newmeyer's public comment on a point of order.
Rep. Moore noted her objection.
- 14:43:49 Raye Newmeyer
- 14:45:49 Debbie Westlake ([Exhibit 23](#))
- 14:55:54 Deanna Lenz, concerned citizen
- 14:58:12 Jackie Jones, Montana County Attorneys Association
- 14:59:30 Beth Brennehan, Disability Rights Montana

Brief Break (reconvened at 3:03 p.m.)

HJR 50 STUDY: SENIOR AND LONG-TERM CARE

Overview of Medicaid-Funded Home and Community-Based Services Program

Sue O'Connell, Committee Research Analyst

Barb Smith, Administrator, DPHHS Senior and Long-Term Care Division

- 15:04:29 Ms. O'Connell ([Exhibit 24](#))
- 15:05:20 Barb Smith ([Exhibit 25](#))

Committee Questions of Ms. Smith

- 15:13:50 Sen. McNally asked about the Big Sky Waiver offering assisted living services.
- 15:17:38 Rep. Moore asked about the point in time at which a person's Medicaid eligibility is determined.
- 15:36:19 Rep. Caferro asked about the list of changes in the policy of services and if Ms. Smith could cite whether it was required by federal law or rules.
- 15:37:30 Rep. Caferro asked if there was a separate count for children on the waiver.
- 15:38:03 Rep. Caferro asked about the children on the waiting list and why there are so few children being served on the waiver now.
- 15:40:39 Rep. Moore asked about the average costs per slot on the one-page handout that Ms. Smith included in her packet of materials. ([Exhibit 26](#))
- 15:41:17 Sen. Esp asked if Ms. Smith's presentation will be posted on the DPHHS website.

Tribal Perspective

Carrie Bearchief, Director, Blackfeet Eagle Shields Senior Center *(by phone)*

15:43:18 Ms. Bearchief discussed the services that the Eagle Shields Senior Center offers.

Committee Questions of Ms. Bearchief

15:54:50 Rep. Caferro asked if the waiver program on the reservation is 100% federal Medicaid funds.

PUBLIC COMMENT on the HJR 50 Study

15:57:01 Rose Hughes, Executive Director, Montana Health Care Association

16:05:23 Joel Peden, Montana Independent Living Project

16:18:20 Travis Hoffman, Advocacy Coordinator, Summit Independent Living, Missoula

16:20:59 Beth Brennehan ([Exhibit 27](#))

AGENCY OVERSIGHT: DPHHS UPDATE

Sheila Hogan, Director, Department of Public Health and Human Services

16:24:17 Director Hogan gave an update on the following:

16:24:27 DPHHS' strategic plan

16:25:31 Early Childhood and Family Support Division

16:28:12 School rules on lead testing

Committee Questions

16:30:05 Rep. Moore asked if the lead testing in water is part of a national effort.

16:30:49 Sen. Olszewski asked if there was any data on Montana school buildings that have copper piping with lead in it. The question was redirected to Tim Davis.

16:31:31 Tim Davis, Department of Environmental Quality

16:33:02 Sen. Esp asked if either Ms. Hogan or Mr. Davis had looked into the financial ramifications for school districts in complying with these proposed rules.

16:33:26 Director Hogan distributed a paper on Lead Testing School Water Supply System-Funding and Technical Assistance Summary to the committee.
[\(Exhibit 28\)](#)

16:34:34 Sen. Esp asked Mr. Davis about the use of copper pipe and lead solder in the construction of schools.

16:39:18 Rep. Caferro asked Director Hogan about the objections to the rule on testing for lead, including the lack of transparency on the part of the department and the cost. She asked who was notified when the rules first came out.

16:43:53 Rep. Caferro asked Mr. Davis why the rules focus on schools and on children in

particular and if there is any federal funding being proposed to address this issue. Rep. Caferro also asked about any changes schools need to make if elevated levels of lead are found.

- 16:47:54 Rep. Moore asked Mr. Davis about the air quality language within the proposed rules. The question was redirected to Director Hogan.
- 16:48:59 Sen. Esp asked Director Hogan if the comment period would be extended.
- 16:50:38 Rep. Caferro asked for an update on Peer Support for people who have mental illness and substance use disorder.
- 16:51:16 Rep. Bessette asked Director Hogan about electronic verification visits (EVV). The question was deferred to Erica Johnston.
- 16:51:50 Erica Johnston, Operations Branch Manager
- 16:52:18 Rep. Moore asked for a report on the First Years Initiative.
- 16:54:23 Director Hogan gave an update on the Medicaid Expansion Waiver.
- 16:56:23 Director Hogan distributed a newspaper article regarding the department's work on the First Years Initiative. [\(Exhibit 29\)](#)
- 16:56:43 Rep. Lenz noted his belief that people who are testifying before the committee should not disparage the people who are working in the department.

COMMITTEE WORK SESSION

Direction to Staff on Study and Oversight Activities

- 16:59:43 Ms. O'Connell distributed a copy of the protection plan that Mr. Jessee discussed. [\(Exhibit 30\)](#)
- Ms. O'Connell asked for guidance on how to proceed on the SB 202 Study and asked if there were any administrative rule review issues the committee wanted to follow up on. She suggested that members of the committee try to observe some of the CPS cases in the courtroom and said she would work with DPHHS to arrange observations for members who were interested.

Discussion on the November Meeting in Billings

- 17:01:02 Ms. O'Connell discussed agenda topics for the November meeting in Billings.

Senate Bill 202 Study Discussion

- 17:01:51 Rep. Moore asked about the original version of SB 202.
- 17:02:23 Ms. Sandru said she did not include the changes the bill would have made, but she thought the handout that Ms. Brenneman gave the committee summarized the key changes.
- 17:03:07 Rep. Moore asked for a comparison of the uniform law versus current law.
- 17:04:12 Rep. Moore said that it might be useful to allot an hour in the November meeting to look at a summary of what SB 202 tried to do.
- 17:05:33 Sen. Esp suggested visiting the Billings Community Crisis Center.

17:06:12 Rep. Moore suggested looking at something related to the long-term care study.

Discussion/Decision on Legislative Week Participation

17:06:45 Rep. Moore asked if anyone on the committee would be interested in coming to Helena on Wednesday and scheduling a "white board" session on senior and long-term care financing.

17:07:28 Sen. Sands commented on the reformatting of the interim committees to include people who are on the appropriations process.

17:08:14 Ms. O'Connell discussed the proposed schedule for Legislative Week activities.

17:11:20 Rep. Caferro thanked the committee for doing a good job and for recognizing her birthday.

ADJOURNMENT

17:11:51 With no further business before the committee, Rep. Moore adjourned the meeting at 5:11 p.m.

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