



## CHILDREN, FAMILIES, HEALTH AND HUMAN SERVICES INTERIM COMMITTEE 68th Montana Legislature

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### SENATE MEMBERS

Chris Friedel  
Jen Gross  
Theresa Manzella  
Mary McNally

### HOUSE MEMBERS

Ed Stafman, Presiding Officer  
Dennis Lenz, Presiding Vice Officer  
Mary Caferro  
Jennifer Carlson  
Jane Gillette  
Danny Tenenbaum

### COMMITTEE STAFF

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

## MINUTES LOG

August 26, 2022  
Room 137/Zoom  
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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### **MEMBERS PRESENT IN PERSON:**

Rep. Ed Stafman, Chair (D)  
Rep. Dennis Lenz, Vice Chair (R)  
Rep. Mary Caferro (D)  
Rep. Jennifer Carlson (R)  
Rep. Jane Gillette (R)  
Sen. Jen Gross (D)  
Sen. Mary McNally (D)  
Rep. Danny Tenenbaum (D)

### **MEMBERS PRESENT VIA ZOOM:**

Sen. Chris Friedel (R)  
Sen. Theresa Manzella (R)

### **STAFF PRESENT:**

Sue O'Connell, Research Analyst  
Alexis Sandru, Attorney (**Zoom**)  
Katya Grover, Secretary

## **AGENDA (Attachment 1)**

### **NO VISITORS' LIST**

### **COMMITTEE ACTION**

The committee wrapped up its interim work after hearing additional presentations and reviewing bill drafts related to its SJR 14 study of the adult mental health system and its HJR 45 study of the factors that trigger the removal of children from the home and the reunification of families in child abuse and neglect cases. In addition to the six bills the members approved in June, the committee voted to introduce the following bills as committee bills in the 2023 legislative session:

- HJR 45-1v3, revising several aspects of the child abuse and neglect laws including requiring a warrant to remove a child from the home under non-emergency circumstances and requiring law enforcement to be present when a child is removed; and
- SJR 14-2b, requiring the Department of Public Health and Human Services to implement the Certified Community Behavioral Health Clinic model by 2024 and consider including those services in the state Medicaid program.

Members also voted to informally object to MAR Notice No. 37-994, which provides a religious exemption from vaccination for children and staff at child care facilities. The objection prevents the department from adopting the rules until mid- to late January 2023.

### **CALL TO ORDER/ROLL CALL**

- 07:57:59 Presiding Officer Ed Stafman called the meeting to order at 7:57 a.m. The committee secretary took roll. [\(Attachment 3\)](#)
- 08:00:52 Sue O'Connell, Lead Researcher, discussed the additional materials that were distributed.

### **CHILD PROTECTIVE SERVICES STUDIES: HJR 44, HJR 45, AND HB 39**

#### **Statutorily Required Reports: Office of the Child and Family Ombudsman**

- 08:01:59 Dana Toole, Chief, Special Services Bureau, Montana Department of Justice, referred the committee to the Montana Department of Justice Office of the Child and Family Ombudsman 2021 Annual Report [\(Exhibit 1\)](#), and The First Knock at the Door: A Systemic Report [\(Exhibit 2\)](#). Ms. Toole distributed a brochure "Promoting the rights of Montana children & families" [\(Exhibit 3\)](#).

#### **Committee Questions of Ms. Toole**

- 08:32:44 Rep. Gillette asked if there are any correlations between "unable to locate" and "reported child fatalities."
- 08:33:23 Rep. Carlson asked Ms. Toole to comment further on the training needed by law enforcement.
- 08:37:20 Rep. Carlson asked if the office's data shows that discrepancies in reporting levels among counties are related to socio-economic levels.
- 08:39:27 Rep. Carlson asked Ms. Toole to discuss the missing children aspect.

- 08:42:44 Sen. Manzella asked about the differences in the databases used by the child welfare system.
- 08:43:52 Sen. Manzella asked if the office is receiving responses from DPHHS when it sends a written report on a particular case.
- 08:45:25 Rep. Caferro asked how bill draft HJR 45-1v3 might affect the number of children harmed in their homes.
- 08:49:55 Rep. Stafman asked if the warrant requirement in HJR 45-1v3 would create problems in cases involving alcohol or drug abuse.

#### **Family First Prevention Services Act**

- 08:53:20 Ms. O'Connell discussed the briefing paper, "Family First Prevention Services Act." ([Exhibit 4](#))

#### **Opportunities and State Action**

- 08:54:55 Marilyn Kennerson, Regional Program Manager, Children's Bureau, U.S. Department of Health and Human Services
- 09:03:00 Diane Moore, Administrator, Utah Child and Family Services Division

#### **Department of Public Health and Human Services**

- 09:10:40 Nikki Grossberg, Administrator, Child and Family Services Division, discussed the department's Family First Prevention Services Act plan.

#### **Questions from the Committee**

- 09:15:42 Rep. Gillette asked Ms. Grossberg for more information regarding the work that DPHHS is doing with the University of Montana.
- 09:16:47 Rep. Gillette asked Erica Johnston, Executive Director, DPHHS Economic Security Services, about the funding for the Parents as Teachers Program.
- 09:19:06 Sen. Manzella asked Ms. Grossberg whether the use of family support teams has reduced the number of removals.
- 09:20:21 Rep. Carlson asked Ms. Grossberg about the availability of treatment settings that allow children to remain with their mothers.
- 09:22:00 Rep. Gillette asked Ms. Johnston and Ms. Grossberg if fathers could attend treatment with their children.

#### **Bill Draft HJR 45-1: Revise Child Abuse and Neglect Laws**

##### **Revisions and Additional Requests**

- 09:23:50 Alexis Sandru, Staff Attorney, discussed the revisions to HJR 45-1 ([Exhibit 5](#)) and referred the committee to the briefing paper, "Explanation of Revisions to HJR 45-1" ([Exhibit 6](#)).

#### **Current DPHHS Processes**

- 09:27:08 Ms. Grossberg discussed the department's current efforts to reduce removals and the potential effects of HJR 45-1v3.

09:31:51 Chad Parker, Deputy Chief Legal Counsel, Department of Public Health and Human Services, introduced himself.

### **Public Comment on HJR 45-1**

09:33:50 Denise Johnson, Montana Child Protection Alliance  
09:38:16 Nanette Gilbertson, Montana County Attorneys Association  
09:41:10 Matt Kuntz, Executive Director, NAMI Montana  
09:43:28 Natalece Washington, National Association of Council for Children  
09:47:59 Chase Rosario, Attorney, Lewistown  
09:51:36 Brenda George, Director, Children's Alliance of Montana  
09:53:52 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence

### **Questions from the Committee**

09:56:45 Rep. Stafman asked Mr. Parker to elaborate on two points in Director Brereton's letter ([Exhibit 7](#)) regarding HJR 45-1v3, objecting to the warrant requirement and the probable cause standard.

09:57:10 Rep. Stafman asked Mr. Parker about avoiding federal case law that seems clear that a warrant is required.

10:05:09 Rep. Stafman asked Ms. Sandru for her comments.

10:05:18 Ms. Sandru discussed a Washington state case that was used in initially drafting the bill.

10:06:29 Rep. Stafman asked Mr. Parker about the Washington case.

10:08:36 Rep. Gillette asked Ms. Grossberg about instances of inappropriate removals and how the department makes the family whole again.

10:12:55 Rep. Tenenbaum asked Mr. Parker about his views on *Demaree v. Pederson*, an Arizona case that he said provides the standard that HJR 45-1v3 incorporates.

10:15:04 Rep. Tenenbaum asked Mr. Parker about the Ninth U.S. Circuit Court of Appeals decision saying that exigent circumstances encompass physical injury or physical sexual abuse and if the department thinks that that standard is too stringent.

10:16:30 Sen. Manzella asked Mr. Parker whether a warrant requirement would be a good check and balance to solve situations where a parent might be reported for suspected abuse.

10:18:45 Sen. Manzella asked Mr. Parker about failure to report known or suspected child abuse or neglect is civilly liable for damages.

10:21:45 Sen. Friedel asked Mr. Parker whether he thinks a judge has the experience and training to determine whether removal is appropriate or not.

10:25:13 Sen. Friedel asked Mr. Parker how long it takes to obtain a warrant.

10:27:41 Rep. Stafman asked Mr. Parker about the timeframe for getting a warrant.

10:30:10 Rep. Stafman asked Ms. Gilbertson if she had additional information.

10:30:58 Sen. Friedel asked Mr. Parker to discuss the initial court appearance.

10:33:43 Rep. Lenz asked Mr. Parker for a better definition or term than warrant since the cases are civil cases.

10:39:04 Rep. Stafman asked Ms. Grossberg to comment on why the department believes the situations listed in the second point of Director Brereton's letter could be considered exigent circumstances.

10:43:42 Rep. Tenenbaum commented.

10:45:36 Rep. Stafman asked Ms. Grossberg about the release of information to court-appointed special advocates (CASAs).

10:48:16 Rep. Stafman asked Ms. Grossberg about the fifth point in Director Brereton's letter regarding proposed changes to the criteria for dismissing a case.

10:50:38 Rep. Stafman asked Rep. Tenenbaum to comment.

10:52:29 Rep. Gillette asked Mr. Parker if he had data to support the department's concern that requiring a warrant would not necessarily improve results for children.

10:53:45 Rep. Carlson asked Ms. Grossberg about the average length of time a family remains in the child protective services (CPS) system.

10:55:41 Rep. Carlson asked Ms. Grossberg why obtaining a warrant for nonemergency removals creates a burden on the department if the agency's workers have already investigated a case and done preliminary work with the family.

10:58:01 Rep. Carlson asked Ms. Grossberg why, if criminal endangerment is involved, law enforcement shouldn't be involved in the removal.

11:59:01 Mr. Parker responded.

11:02:37 Rep. Caferro asked Ms. Grossberg whether the warrant requirement could increase the risk a parent may flee.

**BREAK** (reconvened at 11:25 a.m.)

### **Final Report on CPS Studies**

11:23:08 Ms. O'Connell discussed the revised final report on the CPS studies. **(Exhibit 8)**

## **AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES**

### **Administrative Rule Report**

11:24:25 Alexis Sandru, Staff Attorney, Legislative Services Division **(Exhibit 9)**

### **Agency Legislation**

#### **Purpose and Process of Committee Review**

11:26:23 Ms. O'Connell discussed the briefing paper "DPHHS Oversight: Agency Bills Purpose of Committee Review". **(Exhibit 10)**

### **DPHHS Overview of Agency Proposals**

11:32:32 DPHHS Director Charlie Brereton gave a brief overview of the bills the agency was asking to be authorized for early drafting and preintroduction. **(Exhibit 11)**

- 11:33:10 Mike Randol, Executive Director, DPHHS Medicaid and Health Services, discussed five proposals for legislation: Remove Drug Paraphernalia Designation for Fentanyl Test Strips, Establish Adult Guardianship Program, Fiscal Accountability for HCBS Services, Revise Montana Older Americans Act, and Revise Adult Protective Services Laws.
- 11:36:52 Erica Johnston, Executive Director, DPHHS Economic Security Services, discussed the following legislation proposals: Revise Montana Child Care Act, Revise FICMMR Laws, Repeal County Administration of Youth Residential Services, Eliminate Governor's Committee on Telecommunication Access Services, and Transfer Administration of Family Violence Prevention Services Act Grant Program.
- 11:40:45 Director Brereton discussed the following legislation proposals: Provide DPHHS Oversight of Community Benefits and Charity Care Standards, Update Accrediting Agencies for Health Care Facilities, Eliminate Board of Public Assistance, and Repeal of Certain Statutorily Required Reports.
- 11:46:39 Ms. Johnston discussed the proposal: Repeal the Citizen Review Board Act.
- 11:47:34 Rep. Stafman told Ms. Johnston that he would provide her with a copy of the written public comment from Ms. Rosario regarding the proposal. ([Exhibit 12](#))
- 11:49:05 Ms. Johnston discussed the proposal: Update Children's Health Insurance Plan (CHIP) Eligibility Standards.

### **Questions from the Committee**

- 11:49:30 Rep. Lenz asked Mr. Randol about limiting the number of Area Agencies on Aging in the proposed legislation for the Older Montanans Act.
- 11:51:32 Rep. Tenenbaum asked Ms. Johnston if the foster care review boards are currently active. The question was referred to Ms. Grossberg.
- 11:52:39 Sen. Manzella asked Ms. Grossberg about the proposal to repeal the citizen review boards.
- 11:54:45 Sen. Manzella asked Ms. Johnston about the Child and Family Ombudsman Report and how the department plans to ensure accountability to Montana citizens.
- 11:57:24 Sen. Manzella asked Ms. Johnston if the review boards are active boards.
- 11:57:52 Rep. Stafman asked Ms. Johnston if she has had an opportunity to review public comment on the Citizen Review Board proposal.
- 11:58:39 Rep. Gillette asked Director Brereton about the proposed legislation regarding CHIP eligibility.

### **GENERAL PUBLIC COMMENT**

- 12:00:41 Rose Hughes, Executive Director, Montana Healthcare Association, commented on the status of Montana's nursing homes.
- 12:06:53 Lenette Kosovich, CEO, Rimrock, Billings, commented on the Certified Community Behavioral Health Clinic model and on the provider rate study.

- 12:09:48 Quint Nyman, Deputy Executive Director, Montana Federation of Public Employees, commented on the morale of the employees at the Montana State Hospital.
- 12:11:06 Denise Johnson commented on the DPHHS legislative proposals for citizen review boards.
- 12:13:37 Julie Williamson, self, commented on her experience in the family court system in Gallatin County.

**INTRODUCTION: Jerry Howe, Executive Director, Legislative Services Division**

- 12:18:12 Jerry Howe, the new executive director of the Legislative Services Division, introduced himself.

**LUNCH** (reconvened at 1:25 p.m.)

**COMMITTEE WORK SESSION**

**HJR 45-1 Review and Action**

- 13:25:22 Rep. Stafman discussed the proposed amendments in the draft bill HJR 45-1v3. (See Exhibit 5)
- 13:29:06 Rep. Carlson asked Ms. Sandru if she had included a requirement for law enforcement presence during child removals, as discussed at the June meeting.
- 13:30:24 Rep. Carlson said sheriffs and other law enforcement were in favor of law enforcement presence at all removals.
- 13:30:55 Ms. Sandru discussed where that language would go in the proposed bill.
- 13:31:26 Rep. Gillette asked Rep. Carlson what she meant by all removals.
- 13:32:07 Rep. Tanenbaum asked Rep. Stafman to clarify which aspects of the bill would be voted on today.
- 13:32:22 Ms. Sandru
- 13:33:50 Rep. Lenz discussed making conceptual amendments at the final meeting.
- 13:34:18 Rep. Stafman discussed an amendment that he would like to see in 41-3-301(1)(b).
- 13:37:07 Rep. Tenenbaum discussed Rep. Stafman's proposed amendment regarding exigent circumstances.

**Motion on HJR 45-1v3**

- 13:38:32 Rep. Lenz moved to proceed with HJR 45-1v3 as a committee bill.

**Discussion on the Motion**

- 13:39:44 Sen. Friedel discussed defining exigent circumstances.

## **DISCUSSION AND EXECUTIVE ACTION ON PROPOSED AMENDMENTS TO HJR 45-1v3**

### **Motion on Amendment #1: Revise the definition of child abuse and neglect to include circumstances of parental substance abuse, disorderly living conditions**

13:41:           Rep. Tenenbaum moved to accept Amendment #1.

#### **Discussion on the Motion**

13:41:17       Rep. Tenenbaum discussed the amendment.

#### **Roll Call Vote**

13:41:55       The motion passed on a roll call vote, 7-3, with Sens. Friedel, Gross, Manzella, McNally, and Reps. Carlson, Gillette, and Tenenbaum voting yes. Reps. Caferro, Lenz, and Stafman voted no.

### **Motion on Amendment #2: Revise the requirement for sharing information with CASAs**

13:43:02       Rep. Tenenbaum moved to accept Amendment #2.

#### **Discussion on the Motion**

13:44:23       Rep. Stafman clarified the amendment.

13:45:20       Rep. Caferro

13:46:13       Rep. Tenenbaum

#### **Roll Call Vote**

13:43:32       The motion passed on a roll call vote, 6-4, with Sens. Friedel and Manzella and Reps. Carlson, Gillette, Lenz, and Tenenbaum voting yes. Sens. Gross and McNally and Reps. Caferro and Stafman voted no.

### **Motion on Amendment #3: Law enforcement presence during removals**

13:49:43       Rep. Carlson moved to accept Amendment #3.

#### **Discussion on the Motion**

13:50:06       Rep. Carlson

13:51:45       Rep. Lenz

#### **Roll Call Vote**

13:52:07       The motion passed on a roll call vote, 6-4, with Sens. Friedel, Manzella, and McNally and Reps. Carlson, Gillette, and Lenz voting yes. Sen. Gross and Reps. Caferro, Stafman, and Tenenbaum voted no.



#### **Motion on Amendment #4: Definition of exigent circumstances**

- 13:53:15 Rep. Stafman discussed his proposed amendment to broaden the definition of exigent circumstances.
- 13:53:55 Sen. McNally moved to accept Amendment #4 with Rep. Stafman's proposed amendment.

#### **Discussion on the Motion**

- 13:54:03 Rep. Stafman
- 13:55:38 Rep. Lenz discussed the definition of "serious bodily injury" and said he will resist expanding that definition.
- 13:57:17 Rep. Gillette
- 13:58:13 Rep. Tenenbaum
- 13:59:37 Rep. Carlson

#### **Roll Call Vote**

- 14:00:12 The motion failed on a roll call vote, 3-7, with Sens. Friedel, Gross, and Manzella and Reps. Carlson, Gillette, Lenz, and Tenenbaum voting no. Sen. McNally and Reps. Caferro and Stafman voted yes.

#### **Motion on HJR 45-1v3**

- 14:01:54 Rep. Lenz moved to proceed with HJR 45-1v3 as amended.

#### **Discussion on the Motion**

- 14:02:09 Sen. Friedel suggested delaying a vote until the committee saw the draft language requiring law enforcement presence for removals.
- 14:02:28 Rep. Stafman

#### **Motion Withdrawn**

- 14:02:40 Rep. Lenz withdrew his motion.

#### **MENTAL HEALTH STUDIES: SJR 14, HJR 35, AND HJR 39**

##### **Certified Community Behavioral Health Clinics**

- 14:03:05 Ms. O'Connell discussed the memo "Medicaid Mandatory and Optional Services" ([Exhibit 13](#)).
- 14:04:48 Ms. O'Connell discussed the revised final report on the mental health studies. ([Exhibit 14](#))
- 14:05:06 Ms. O'Connell discussed the three statutorily required reports to be presented by Ms. Peel, Ms. de Camara, and Mr. Tabb.
- 14:07:17 Ms. O'Connell referred the committee to the two versions of a bill draft related to Certified Community Behavioral Health Clinics: SJR 14-2a ([Exhibit 15](#)) and SJR 14-2b ([Exhibit 16](#)).

### **Statutorily Required Reports**

#### **Out-of-State Placement of Children/Children's Mental Health Outcomes**

- 14:07:50 Meghan Peel, DPHHS Children's Mental Health Bureau Chief, discussed the "Out-of-State Placement Annual Report" ([Exhibit 17](#)).
- 14:14:41 Ms. Peel discussed the reports on children's mental health outcomes for September 2021 ([Exhibit 18](#)) and March 2022 ([Exhibit 19](#)).

#### **Committee Questions of Ms. Peel**

- 14:17:32 Rep. Gillette asked whether the CASII screening tool is being used as part of the prior authorization process for psychiatric residential treatment facilities.
- 14:18:21 Rep. Carlson asked whether the parent outreach effort includes cases involving children in the juvenile justice system.
- 14:19:47 Rep. Stafman asked if in-state facilities are taking more children.
- 14:20:31 Rep. Stafman asked about the reasons some treatment facilities have closed.

#### **Suicide Reduction Strategic Plan Status Update**

- 14:21:19 Rebecca de Camara, Administrator of the DPHHS Behavioral Health and Developmental Disabilities Division, gave a brief update on the status of the statutorily required Suicide Reduction Strategic Plan.
- 14:23:57 John Tabb, DPHHS Suicide Prevention Program Manager, discussed the document "The Montana Strategic Suicide Prevention Plan – 2023". ([Exhibit 20](#))

#### **Questions from the Committee**

- 14:26:32 Rep. Stafman asked Ms. de Camara about mental health screening in schools.

#### **Public Comment on the Mental Health Studies**

- 14:29:03 Matt Kuntz, Executive Director, NAMI Montana
- 14:30:59 Erica Durham, behavioral peer support services provider
- 14:34:19 Jennifer Preble, licensed clinical social worker
- 14:35:45 Jim FitzGerald
- 14:38:55 Levi Anderson, Chief Executive Officer, Western Montana Mental Health Center
- 14:40:47 Katherine Buckley-Patton, Beaverhead County Mental Health Local Advisory Council and Western Service Area Authority
- 14:43:55 Mary Windecker, Behavioral Health Alliance of Montana

**BREAK** (reconvened at 2:50 p.m.)

### **AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES**

#### **Statutorily Required Reports: Overview**

- 14:52:25 Ms. O'Connell discussed the statutorily required reports that were included under Tab 5 in the meeting binders and provided an overview of the other reports that agency staff would be discussing.

### **Developmentally Disabilities Crisis Response (HB 691)**

14:53:32 Rebecca de Camara, Administrator, Behavioral Health and Developmental Disabilities Division, discussed the report "Implementation of Crisis Response Services in the Developmental Disabilities System (HB 691)." ([Exhibit 21](#))

### **Montana State Hospital and Other State Facilities**

15:01:36 DPHHS Director Charlie Brereton discussed the report "MT DPHHS State-Run Health Care Facilities" produced by Alvarez and Marsal. ([Exhibit 22](#))

15:07:45 Will Evo, Deputy Administrator, Health Care Facility Operations, discussed the results of the Climate and Culture Survey that was conducted at state facilities in June.

15:11:06 Michael Johnson, Director, Alvarez and Marsal, gave a presentation on staff training and development programs at state-run facilities.

15:13:38 Diane Rafferty of Alvarez and Marsal discussed the Quality Assessment and Improvement data.

15:15:55 Mr. Evo discussed the Facility Scorecard.

15:19:45 Director Brereton discussed plans for expanding the Health Care Facilities Division by hiring a chief medical officer, a chief nursing officer, and possibly a chief operating officer and recruiting for clinical quality specialists.

### **Questions from the Committee**

15:20:42 Rep. Stafman asked Director Brereton about the State Hospital's budget overrun.

15:21:33 Rep. Gillette

15:21:57 Rep. Carlson asked about the pay that nurses are receiving per day.

15:25:18 Rep. Tenenbaum asked about a regional health model that would provide better outcomes while reducing spending at the State Hospital.

15:27:38 Director Brereton and Chris Baglio, Alvarez and Marsal, responded.

15:27:58 Rep. Tenenbaum asked about the number of beds per room for geriatric patients in the State Hospital's Spratt Unit.

15:28:23 Ms. Rafferty

15:29:35 Rep. Caferro asked Director Brereton who holds the position of the Inspector General.

15:30:00 Rep. Caferro asked Director Brereton about the cost overrun at the State Hospital.

15:30:21 Mr. Evo

15:32:22 Rep. Caferro asked Director Brereton why the department is not pursuing recertification by the Centers for Medicare and Medicaid Services (CMS) for the State Hospital.

15:36:00 Rep. Caferro discussed a list produced by DPHHS' former director Adam Meier of the deficiencies found by CMS and actions to remedy them.

15:39:01 Rep. Carlson asked Director Brereton if there are plans to privatize the Montana State Hospital.

- 15:39:40 Sen. Gross asked Director Brereton if there have been discussions about privatizing the State Hospital.
- 15:40:35 Sen. McNally asked Director Brereton about the next steps for the State Hospital if DPHHS does not pursue CMS recertification.
- 15:41:41 Rep. Stafman asked Director Brereton if Montana taxpayers will have to pay an additional \$25 million before the state seeks recertification of the State Hospital.
- 15:44:34 Rep. Stafman asked about the department's decision to not pursue CMS recertification.
- 15:45:05 Sen. Manzella asked Mike Randol, Medicaid Director, if it is accurate to say Medicaid standards require a DSM-recognized diagnosis for a claim for payment.

### **Provider Rate Study and HB 155 Cost Reporting Plan**

- 15:48:52 Director Brereton gave a brief overview of the status of the Medicaid provider rate study.
- 15:50:59 Coy Jones, Guidehouse, Inc., gave a presentation on the Provider Cost Reporting Plan required under HB 155 from the 2021 Legislature. ([Exhibit 23](#))
- 16:07:59 Director Brereton

### **Behavioral Health "Lived Experiences" Report**

- 16:08:30 Rebecca de Camara discussed the "Lived Experience in the Montana Behavioral Health Crisis Response System" report produced by JG Research. ([Exhibit 24](#))

### **HEART Waiver and Other Topics of Interest**

- 16:15:06 Director Brereton provided an update on the HEART Waiver application.
- 16:18:40 Director Brereton responded to Rep. Carlson's concern about funding nursing homes.

### **Questions from the Committee**

- 16:21:26 Rep. Carlson commented on Director Brereton's response to the nursing home issue.
- 16:22:56 Rep. Caferro asked Director Brereton if the department will be looking at trends in nursing home utilization rates.
- 16:23:36 Rep. Caferro asked Director Brereton to clarify the utilization rate figure he provided.
- 16:24:07 Rep. Stafman asked for further clarification.
- 16:24:21 Rep. Gillette asked Director Brereton about the prospects for providing technical assistance to long-term care facilities.
- 16:26:19 Mr. Randol responded.
- 16:26:45 Rep. Gillette asked Director Brereton about the process for certifying and developing a payment rate for Certified Community Behavioral Health Clinics.

- 16:28:23 Rep. Gillette asked Director Brereton to provide data that might indicate how many children are being removed from their homes because of parental alienation syndrome.
- 16:29:59 Rep. Carlson asked where the individuals on the waiting list for a bed at the Montana State Hospital Forensic Unit are being held while awaiting placement.
- 16:30:42 Ms. Rafferty responded.
- 16:31:06 Rep. Stafman asked Director Brereton whether the department intends to take advantage of the money that is available under the Bipartisan Safer Communities Act to implement programs listed in the Act.
- 16:33:46 Rep. Stafman asked Director Brereton if he would support aftercare programs similar to programs in Colorado or Oregon for people released from psychiatric hospitals, jails, and prisons.
- 16:35:10 Rep. Stafman asked Director Brereton why the department isn't using American Rescue Plan Act (ARPA) funds or other sources of money to adequately fund nursing homes.
- 16:40:41 Rep. Stafman commented on what the committee has learned regarding the interim status of the State Hospital and the mental health system.
- 16:44:14 Rep. Lenz
- 16:45:08 Director Brereton
- 16:45:56 Rep. Tenenbaum asked Director Brereton about the possibility of the administration acting on the nursing home crisis before 2023.

**BREAK** (reconvened at 4:56 p.m.)

## **COMMITTEE WORK SESSION**

### **MENTAL HEALTH STUDIES**

#### **Motion on SJR 14-2a: Implement the CCBHC model and require Medicaid coverage**

16:57:44 Rep. Caferro moved to proceed with SJR 14-2a.

#### **Discussion on the Motion**

- 16:58:48 Rep. Lenz said he is not in support of SJR 14-2a.
- 16:59:51 Rep. Gillette asked about the committee's work on both SJR 14-2a and SJR 14-2b.
- 17:00:18 Rep. Stafman
- 17:00:50 Rep. Lenz
- 17:01:11 Rep. Carlson

#### **Motion Withdrawn**

17:01:56 Rep. Caferro withdrew her motion.

**Motion on SJR 14-2b: Implement the CCBHC model with optional Medicaid coverage**

17:02:23 Rep. Carlson moved to proceed with SJR 14-2b.

**Discussion on the Motion**

17:02:43 Rep. Stafman discussed the differences between SJR 14-2a and SJR 14-2b.

17:02:59 Sen. McNally

17:03:12 Ms. O'Connell

17:03:58 Rep. Stafman

17:04:30 Rep. Gillette

17:06:12 Rep. Stafman

17:06:21 Rep. Gillette

**BREAK** (reconvened at 5:11 p.m.)

17:13:31 Ms. O'Connell advised the committee that a motion is needed to reconsider SJR 14-2b.

**Motion to Reconsider**

17:14:00 Rep. Carlson moved to reconsider SJR 14-2b.

**Vote**

17:14:05 The motion passed by a show of hands.

**Motion on SJR 14-2b**

17:14:16 Rep. Lenz moved to proceed with SJR 14-2b.

**Vote**

17:14:40 The motion passed by a show of hands.

**Mental Health Studies: SJR 14, HJR 35, and HJR 39 Final Report**

**Motion**

17:15:13 Rep. Caferro moved to adopt the final report on the Mental Health Studies: SJR 14, HJR 35, and HJR 39.

**Vote**

17:15:13 The motion passed unanimously on a voice vote.

### **Agency Legislation: Authorization for Early Drafting**

#### **Motion**

17:15:30 Rep. Lenz moved to approve the drafting of the DPHHS proposed legislation except for three proposals: Revise the Montana Child Care Act, Repeal Citizen Review Board Program Act, and Update CHIP Eligibility Standards.

#### **Discussion on the Motion**

17:17:11 Rep. Lenz discussed his reasons for segregating the three proposals.

#### **Vote**

17:18:00 The motion passed, 9-1, on a voice vote with Rep. Caferro voting no.

### **Discussion on the three segregated agency proposals**

17:18:40 Rep. Stafman asked Rep. Gillette to explain her concerns about the CHIP proposal.

17:19:56 Rep. Gillette

17:20:06 Sen. McNally said the process merely allows staff to draft the bills for pre-introduction.

17:20:23 Rep. Gillette

17:20:41 Rep. Lenz said he wanted to move forward all agency proposals forward except the segregated bills.

### **Motion on the CHIP Eligibility Standards agency proposal**

17:21:07 Sen. McNally moved to proceed with the proposed legislation on CHIP eligibility standards.

#### **Discussion on the Motion**

17:21:35 Rep. Lenz

17:21:59 Rep. Caferro

#### **Roll Call Vote**

17:22:26 The motion failed on a roll call vote, 5-5, with Sens. Gross and McNally and Reps. Caferro, Stafman, and Tenenbaum voting yes. Sens. Friedel and Manzella and Reps. Carlson, Gillette, and Lenz voted no.

### **Discussion on Repeal Citizen Review Board Program Act**

17:23:40 Rep. Stafman discussed leaving this proposed bill on the table.

### **Discussion on the Montana Child Care Act Revisions**

17:23:40 Rep. Stafman asked Ms. O'Connell about the Montana Child Care Act Revisions proposed legislation. There was no motion to proceed with this proposed legislation.

### **Discussion on HJR 45-1v3**

17:24:15 Rep. Stafman asked Ms. Sandru about the implications of the language she drafted regarding a law enforcement officer presence at child removals ([Exhibit 25](#)).

17:25:51 Rep. Lenz asked Rep. Carlson whether she still supported the change.

17:26:04 Rep. Carlson

17:26:55 Rep. Gillette

17:27:30 Ms. Sandru

17:27:59 Rep. Carlson

17:28:20 Rep. Stafman

17:30:47 Sen. Friedel

17:32:05 Chair Stafman

17:32:26 Sen. McNally

### **Roll Call Vote**

17:33:33 The committee voted, 6-4, to introduce HJR 45-1v3 as a committee bill with the amendments approved earlier in the day. Sens. Friedel and Manzella and Reps. Carlson, Gillette, Lenz, and Tenenbaum voted yes. Sens. Gross and McNally and Reps. Caferro and Stafman voted no.

### **Motion to Informally Object to MAR Notice No. 37-994: Immunization requirements and exemptions for children and staff at child care facilities**

17:35:08 Rep. Lenz moved to informally object to MAR Notice No. 37-994.

### **Discussion**

17:36:20 Rep. Lenz discussed the rule.

17:36:34 Rep. Carlson asked for clarification between objecting formally and objecting informally.

17:36:42 Ms. Sandru

17:39:01 Rep. Stafman explained his support for the motion.

17:40:56 Rep. Carlson

### **Vote**

17:42:53 The motion passed, 9-1, by a show of hands. Rep. Caferro voted no.



### **Further Discussion**

- 17:43:19 Rep. Caferro discussed MAR Notice No. 37-996: Low Income Home Energy Assistance Program (LIHEAP).
- 17:44:50 Rep. Carlson asked Brenton Craggs, DPHHS Legislative Liaison, about a rule to change the 72-hour presumptive eligibility program for people experiencing a mental health crisis.

### **Assignment of Sponsors**

- 17:46:35 The committee agreed on the following sponsors and backup sponsors for the committee bills:
- Rep. Gillette, with Rep. Stafman as backup: LC 156, enhancing rates for certain mental health providers, and LC 157, strengthening the qualified provider pool statute
  - Rep. Carlson: LC 158, revising involuntary commitment laws for people with dementia
  - Sen. Gross: LC 159, requiring sharing of Montana State Hospital abuse and neglect reports
  - Rep. Gillette, with Sen. Friedel as backup: LC 160, revising license reciprocity for behavioral health providers
  - Rep. Carlson, with Rep. Gillette as backup: LC 161, generally revising laws relating to child abuse and neglect proceedings
  - Rep. Carlson, with Sen.-elect Lenz as backup: HJR 45-1v3, revising child abuse and neglect laws
  - Rep. Stafman, with Rep. Carlson as backup: SJR 14-2b, implementing the Certified Community Behavioral Health Clinic Model

### **Further Business**

- 18:02:22 Ms. O'Connell discussed action on the final report for the CPS studies, plans for staff evaluation, and the notice of upcoming meetings where the Redistricting and Apportionment Commission will be seeking public comment.
- 18:03:13 Rep. Stafman thanked the committee staff for its work on the committee.

### **ADJOURNMENT**

- 18:04:21 Rep. Stafman adjourned the meeting at 6:04 p.m.