

**DRAFT WORK PLAN**  
**CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES**  
**INTERIM COMMITTEE**  
**2021-2022 INTERIM**

For Committee Review and Discussion on June 16, 2021

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**MONTANA STATE LEGISLATURE**

# COMMITTEE MEMBERS AND STAFF: 2021-2022 INTERIM

## Legislative Members

Senators		Representatives	
	Hometown		Hometown
Chris Friedel	Billings	Mary Caferro	Helena
Jen Gross	Billings	Jennifer Carlson	Manhattan
Theresa Manzella	Hamilton	Jane Gillette	Bozeman
Mary McNally	Billings	Dennis Lenz	Billings
		Ed Stafman	Bozeman
		Danny Tenenbaum	Missoula

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# DRAFT INTERIM WORK PLAN

*This draft work plan outlines the Committee's statutory duties, including assigned studies, and provides options for carrying them out. Items requiring action by the committee are in italic type.*

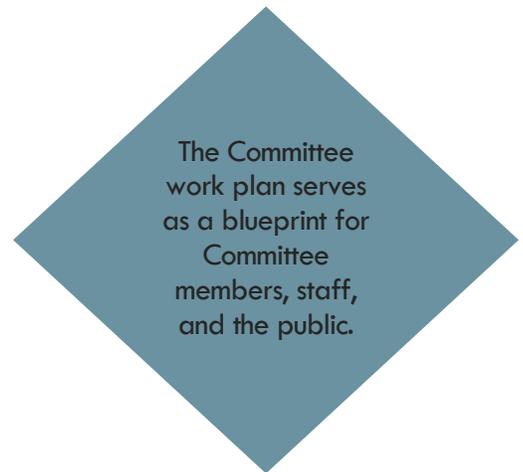
## INTRODUCTION AND OVERVIEW

The Children, Families, Health, and Human Services Interim Committee (Committee) is one of several interim committees established in law and required to meet in between legislative sessions. State law requires the interim committees to:

- conduct interim studies as assigned;
- propose bills and resolutions that committee members believe should be presented to the next Legislature; and
- review administrative rules, programs, and legislation for agencies within the committee's jurisdiction. The Committee is responsible under state law for monitoring the activities of the Department of Public Health and Human Services (DPHHS), the largest agency in state government.

This interim, the Legislative Council assigned the following studies to the Committee:

- Senate Joint Resolution 14, for a study of the publicly funded mental health system for adults;
- House Joint Resolution 35, for a study of the children's mental health system;
- House Joint Resolution 39, for a study of the involuntary commitment and placement of people with Alzheimer's disease or other dementias;
- House Joint Resolution 44, for a study of the foster care system; and
- House Joint Resolution 45, for a study of the factors that trigger the removal of children from the home and the reunification of families after removal.



In addition, the Legislature passed House Bill 39, which requires the Committee to hear a report by September 2021 on the results of district court pilot projects that are using prehearing conferences and early hearings in child abuse and neglect cases. If the committee considers the results promising, it must create a work group to continue reviewing the effort and to make recommendations on how the approaches could be implemented statewide.

This draft work plan details the Committee's study and agency oversight duties for the interim, which effectively runs from June 2021 through September 15, 2022. It also discusses other activities the Committee may want to undertake. The work plan includes tools to help the Committee determine the level of involvement it would like to have in its interim study assignments and its agency and issue monitoring duties.

### Purpose of the Work Plan

Once adopted, the Committee's work plan will serve as a blueprint for the Committee's activities over the interim.

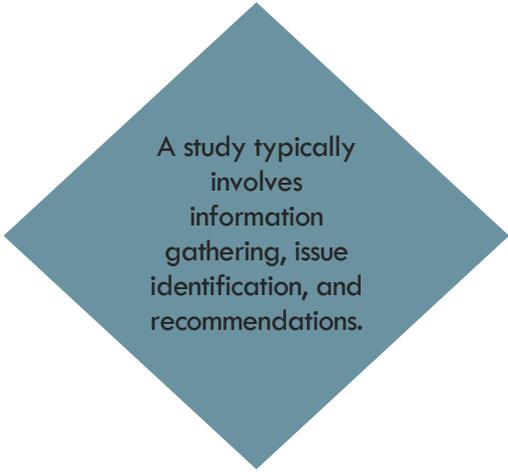
The final work plan will reflect the Committee's priorities, as indicated by the amount of time the Committee decides to spend on each of its tasks. Staff will use the work plan to undertake research and arrange presentations related to the Committee's studies and other duties. Stakeholders and other members of the public use the plan to determine when the Committee will be taking up various study topics and other items of interest.

Based on decisions made at the committee's organizational meeting, the final work plan will include a planned schedule of activities for each Committee meeting.

## ASSIGNED STUDIES

The 2021 Legislature approved 28 interim study resolutions, and the Legislative Council assigned those study requests to the various interim committees on May 24. Following is a description of each study resolution assigned to the Children and Families Committee, in order of each study's ranking in the post-session poll of legislators.

- Senate Joint Resolution 14, which ranked fourth in the post-session poll, calls for a study of the state's publicly funded mental health system, with particular attention to reviewing the ways in which it has changed in recent years and identifying any gaps in the system.
- House Joint Resolution 45, which ranked 10<sup>th</sup>, calls for a study of the factors that trigger both a child's removal from the home in suspected cases of abuse or neglect and the reunification of families after a removal. Among other things, the study is to look at how court expectations and the availability of quality foster parents and effective legal representation may affect case outcomes and at how the Family First Prevention Services Act and Indian Child Welfare Act may affect removals and reunifications.



A study typically involves information gathering, issue identification, and recommendations.

- House Joint Resolution 44, which ranked 11<sup>th</sup>, requests a study of the state's foster care system. The study is to look at requirements for and barriers to becoming a foster parent, the legal standing and rights of foster parents, foster care funding sources, and foster care matters related to adoption and to the Indian Child Welfare Act.

- House Joint Resolution 35, which ranked 12<sup>th</sup>, calls for a review of the children's mental health system, with a focus on the use of out-of-state facilities for treatment of some children.

- House Joint Resolution 39, which ranked 17<sup>th</sup>, calls for a study of the use of involuntary commitments for people with Alzheimer's disease or other dementias and alternatives to placing those individuals at the Montana State Hospital.

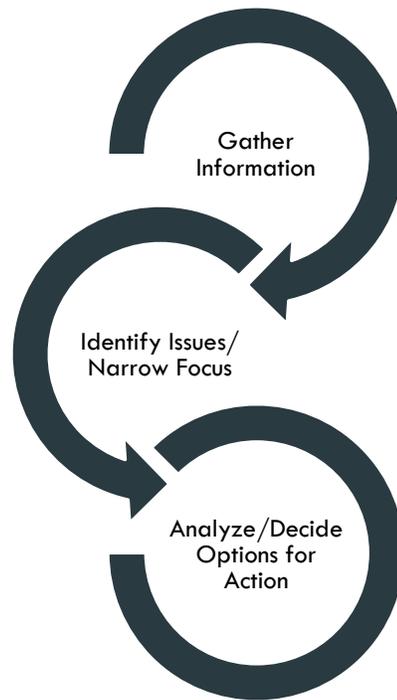
### Statutorily Required Study

The 2021 Legislature also passed House Bill 39, which requires the Committee to review the preliminary results of district court pilot projects designed to improve outcomes in child abuse and neglect cases. The pilot projects use earlier show-cause hearings and facilitated prehearing conferences that bring parents, attorneys, and DPHHS together before the first hearing in a case so they can discuss placement, visitation, and treatment options.

If the Committee determines that the pilot project results appear promising, the presiding officer must appoint a working group to look into how the approaches could be implemented more widely. The working group -- which must include at least two committee members -- would make recommendations to the Committee for potential legislation in the 2023 legislative session.

## Anatomy of a Study

In general, an interim study follows a basic pattern in which the Committee takes the steps shown below.



The first phase of the study is carried out over the first few meetings of the interim, when the Committee:

- reviews staff research papers and other informational materials on study topics;
- hears presentations by people with experience and expertise on various aspects of the study topics; and
- takes public comment from interested parties, who may offer specific study-related suggestions.

In the second phase, the Committee spends a meeting or two narrowing the focus of the study. Members identify topics or questions they'd like to analyze further. This phase helps members concentrate on the issues they consider to be of the greatest importance and obtain any additional information needed to make final recommendations.

During the final stage, members review and decide on options for action. Potential solutions, including legislation, are usually reviewed and refined at multiple meetings before the Committee takes final action.

## Committee Decision Points on Study Assignments

*With essentially six assigned or required studies this interim, the Committee will need to decide how much of its meeting time to devote to each study and how much time members would like to spend on other Committee duties.* The amount of time that can be devoted to a study is primarily influenced by the amount of Committee time available and the Committee's level of interest in the study.

The table on Page 10 outlines four approaches the Committee could take to its study assignments, ranging from no action at all to significant Committee involvement. The table on Page 9 estimates the amount of time each approach would take. An accompanying document, *CFHHS Studies: Assignments and Tasks*, provides more detail on the study tasks specified in each study resolution and the plans for carrying out the tasks.

## AGENCY OVERSIGHT

The Department of Public Health and Human Services has nearly 3,000 employees throughout the state and is responsible for providing both public health services to all Montanans and a wide array of assistance to vulnerable Montanans, including children and the elderly, needy, disabled, abused, neglected, and mentally ill. It also operates the following facilities:

- the Intensive Behavior Center in Boulder, a secure, 12-bed facility for seriously developmentally disabled individuals who are committed to the facility by a court;
- the Montana State Hospital at Warm Springs and its Forensic Mental Health Facility at Galen, for adults with mental illness who have been committed for treatment by a court because they pose a danger to themselves or others or have been charged with or convicted of a crime;
- the Montana Chemical Dependency Center in Butte, an inpatient treatment center for adults diagnosed as having an addiction to drugs or alcohol or who suffer co-occurring addiction and mental illness;
- the Mental Health Nursing Care Center in Lewistown, a long-term care facility for people who have a mental disorder, require a level of care that isn't available in the community, and can't benefit from treatment at the State Hospital; and
- the Eastern Montana Veterans' Home in Glendive, the Montana Veterans' Home in Columbia Falls, and the just-opened Southwest Montana Veterans' Home in Butte. The facilities are open to veterans and spouses who need skilled nursing care or suffer from Alzheimer's disease.

### Agency Oversight Duties

State law sets out several agency oversight duties for interim committees. Each responsibility is outlined below.

#### Administrative Rule Review

Interim committees are required to review administrative rule proposals of the agencies for which they have oversight responsibility. The Committee's legal staff reviews DPHHS rulemaking notices and provides regular updates, noting any rules that may be out of compliance with the Montana Administrative Procedure Act (MAPA). That law allows interim committees to, among other things:

- obtain an agency's rulemaking records to review them for compliance;
- submit written recommendations on adopting, amending, or rejecting a rule;
- require that a rulemaking hearing be held;
- require an economic impact statement relating to a rule adoption; and
- poll the Legislature by mail to determine if a proposed rule is consistent with legislative intent.

Interim committees also may delay the adoption of proposed rules by objecting to proposals that members believe do not comply with the provisions of MAPA. Senate Bill 82, passed in 2021, allows the speaker of the House and the Senate president to break a tie vote on any rule objection being considered by an interim committee.

## Program Monitoring

The committee also is required to monitor DPHHS operations with specific attention to:

- issues likely to require future legislative action;
- opportunities for improving the laws governing the agency's operation and programs; and
- experiences that Montanans have had with the agency that may be improved through legislative action.

## HB 142 Review

In 2011, the Legislature approved HB 142, requiring interim committees to review the statutorily created advisory councils and required reports related to the agencies they oversee, to see if the councils or reports should be revised or repealed. The law was modified in 2017 to require a review only if requested by any committee member.

## Review of Draft Legislation

The interim committee process allows for an early review of agency-requested legislation. Interim committees typically authorize the drafting of many state agency bills in advance of the November election. This process frees up time for the Legislative Services Division staff to concentrate on legislator bill draft requests after the election. Agency bills drafted as a result of this process must be introduced before the 2021 legislative session begins.

## Required Reports

DPHHS and other entities are required by law to present a number of reports to the Committee, as listed in the table below. Newly required reports include, in parentheses, the 2021 legislation that created the reporting requirement.

Report	Frequency
Child and Family Ombudsman Activities and Recommendations	Annually
Child Abuse and Neglect Review Commission Recommendations	Every Two Years
Out-of-State Placement of Children with Mental Health Needs	Annually
Children's Mental Health Outcomes	Annually
Suicide Reduction Plan	Every Two Years
TANF Parents as Scholars Program	Annually
Medicaid Expansion Participation, Demographics, and Funding	Quarterly
Medicaid Expansion Workforce Development Participation/Employer Grants	Annually
Report on Medicaid-Funded Abortions (HB 2)	One Time
DPHHS Updates on Collecting Medicaid Provider Expenditure Data (HB 155)	Quarterly
Status of Individuals Placed from MDC into the Community	Annually
Implementation of DD Crisis Response Services (HB 691)	One Time
Health Care Provider Task Force (HB 495)	One Time
Interim Budget Subcommittee Information: Staff and Agency Reports (HB 497)	Periodically
Implementation of Secure Data Warehouse Project and Data Sharing	Quarterly
Oversight of Private Alternative Adolescent Residential Programs	Unspecified
Prescription Drug Registry Report	Every Two Years

## Medical Marijuana Reports

In 2011, the Legislature created a statutory requirement for the Committee to monitor the medical marijuana program operated by DPHHS by receiving reports on provider, cardholder, and physician statistics and activities. The monitoring requirement was expanded over the years to include reports on inspections of medical marijuana providers, the seed-to-sale tracking system, and other issues related to the program.

In 2021, lawmakers passed HB 701 to revise the recreational marijuana program that was approved by voters in 2020. HB 701 also consolidated administration of the medical and recreational marijuana programs under the Department of Revenue and transferred legislative oversight to the Economic Affairs Interim Committee. However, that change in oversight responsibility won't occur until January 2022.

*Committee members may want to consider whether to monitor the medical marijuana program until the end of 2021 or whether to ask the Economic Affairs Interim Committee to begin its monitoring duties early.*

## Medicaid Waiver Review

DPHHS sometimes undertakes Medicaid research and demonstration projects that require waivers of federal Medicaid law. Under 52-2-215, MCA, the agency must present proposals for these types of waivers to the Committee "for review and comment at a public hearing" before submitting the application to the federal government. The agency also must present final, approved waivers to the Committee.

DPHHS will seek a waiver this year to carry out the governor's Healing and Ending Addiction through Recovery and Treatment (HEART) behavioral health initiative. Federal action is also pending on the state's waiver request to continue the Medicaid expansion program and implement the work requirements approved by the 2019 Legislature.

*The Committee will need to schedule a meeting this summer to hear and take comment on the behavioral health waiver proposal and will need to allot time at future meetings to hear about final action on the behavioral health and Medicaid expansion waiver applications.*

## Ballot Initiative Review

The 2021 Legislature passed House Bill 651, which requires each interim committee to review and decide whether to place language in the initiative's signature-gathering petition that indicates whether the committee supports or opposes putting the measure on the ballot.

The committee must conduct the review and make its decision within 14 days of receiving the final text of the proposed initiative and the ballot statements that have been approved by the attorney general. This new requirement may result in additional committee meetings to meet the 14-day timeline. HB 651 specifically allows committees to meet by electronic means to conduct the review.

## Other Interim Monitoring

Interim committees also may take up other matters related to the agencies and topic areas they oversee. In addition to its other activities, the Committee may want to hear regular updates on DPHHS programs and activities, request information on the implementation of newly passed legislation, and review other DPHHS or health and human services topics as the need arises.

*Committee members will need to determine the level of involvement they would like to have in each of their oversight duties.*

## Other Potential Activities

Committee members may want to consider these other potential activities as they finalize the work plan:

- Travel:** Legislative Council rules state that interim committee meetings are held in the Capitol “unless otherwise designated by the presiding officer.” Committees sometimes travel outside of Helena to carry out activities either related to a specific study or to the committee’s general agency oversight duties. Meetings held outside of Helena generally cost more than those held in Helena, because the committee budget must also pay for the costs of staff travel. As a result, a committee may need to hold fewer meetings to accommodate the additional costs of travel.
- Coordination with Interim Budget Subcommittee:** House Bill 497 created several interim budget subcommittees of the Legislative Finance Committee. The Legislative Fiscal Division has proposed that the Committee hold its September and March meetings during the same week that the DPHHS-related interim budget subcommittee meets. The schedule below accommodates that request.

The table on Page 10 outlines four approaches the Committee could take to its agency oversight duties, ranging from no action at all to significant Committee involvement. The table on Page 9 estimates the amount of time each approach would take.

## Proposed Meeting Schedule

The Committee’s budget of \$43,400 will cover approximately 10 meeting days, as shown in the proposed meeting schedules below. If the Committee chooses to hold a virtual meeting in August to hear the behavioral health Medicaid waiver proposal discussed on Page 7, that meeting would count toward the 10 meeting days.

The proposed schedule can be revised if the committee prefers to hold more two-day meetings or hold a meeting outside of Helena.

August 2021: Limited Virtual Meeting		August 2021: Full In-Person Meeting	
Monday	Aug. 9, 2021	Monday	Aug. 9, 2021*
Tuesday	Sept. 14, 2021**	Tuesday	Sept. 14, 2021**
Monday-Tuesday	Nov. 15-16, 2021	Monday-Tuesday	Nov. 15-16, 2021
Thursday-Friday	Jan. 20-21, 2022	Thursday	Jan. 20, 2022
Tuesday	March 15, 2022**	Tuesday	March 15, 2022**
Thursday	May 12, 2022	Thursday	May 12, 2022
Monday	June 27, 2022	Monday	June 27, 2022
Thursday-Friday	Aug. 25-26, 2022	Thursday-Friday	Aug. 25-26, 2022

\* = A full meeting could include a tour of the Montana State Hospital for the mental health-related studies or another activity related to one of the Committee's studies.

\*\* = The Section B Interim Budget Subcommittee is scheduled to meet the Wednesday following this meeting.

## ALLOCATION OF COMMITTEE TIME

A meeting schedule of 10 meeting days would give the committee about 75 hours of meeting time to split among its various studies and its other statutorily required oversight duties. The table below is designed to serve as a tool in determining how much meeting time Committee members want to spend on each of their interim duties.

Activity	Study Rank	Options for Committee Involvement/Meeting Hours			
		None	Minimal	Moderate	Significant
SJR 14: Mental Health System	4	0	7.5	15	21.5
HJR 35: Children's Mental Health	12	0	5.5	11.5	15
HJR 39: Dementia-Related Involuntary Commitments	17	0	3	6	11
HJR 44: Foster Care System	11	0	4	12	16.5
HJR 45: Removal/Reunification Triggers	10	0	6.5	14.5	19
HB 39: Prehearing Conference Review	Required	--			6
Administrative Rule Review	Required	--	1	1.75	3
Agency Legislation	Required	--	.5		
Other Agency Oversight (Required Reports, Agency Updates, Topics of Interest)	Required	--	5	10	16.5
HB 142 Review	Optional	0	.25	1	3
Medical Marijuana Monitoring	In Flux	0	.5	1	
<b>Total</b>					

## COMMITTEE OPTIONS FOR STUDY AND OVERSIGHT ACTIVITIES

LEVEL OF COMMITTEE INVOLVEMENT				
	None	Minimal Involvement	Moderate Involvement	Significant Involvement
<b>Assigned Studies</b>	Choose not to carry out one or more study	<ul style="list-style-type: none"> <li>Panel discussion on one or two study topics as identified by the Committee</li> </ul>	<ul style="list-style-type: none"> <li>Review staff-provided background materials on three or four study topics as identified by the Committee</li> <li>Panel discussions or individual speakers on the selected topics</li> </ul>	<ul style="list-style-type: none"> <li>Review staff-provided background materials on all topics identified in the study resolution</li> <li>Review additional staff materials developed at the Committee's request</li> <li>Panel discussions or individual speakers on all topics in the study resolution</li> <li>Additional items as identified by the Committee</li> </ul>
<b>Administrative Rule Review</b>		<ul style="list-style-type: none"> <li>Receive a list of proposed rules prior to each meeting</li> <li>Legal staff will note issues of concern</li> </ul>	<ul style="list-style-type: none"> <li>Receive brief written descriptions of each rule prior to each meeting</li> <li>Legal staff will note issues of concern</li> </ul>	<ul style="list-style-type: none"> <li>Receive brief written descriptions of each rule prior to meetings</li> <li>Legal staff will note issues of concern</li> <li>Committee review of any rule identified for further review</li> <li>Public comment on rules of concern</li> </ul>
<b>Agency Legislation</b>		<ul style="list-style-type: none"> <li>DPHHS presentation</li> </ul>		
<b>Agency Monitoring</b>		<ul style="list-style-type: none"> <li>Required reports included in meeting packets; presentations scheduled only upon Committee request</li> <li>Written update of DPHHS activities in meeting packets with DPHHS presentations scheduled only upon Committee request</li> </ul>	<ul style="list-style-type: none"> <li>Agency presentation on three or four statutorily required reports; other reports provided only in writing</li> <li>DPHHS-provided update at each meeting</li> <li>Additional updates on two or three topics identified by Committee members</li> </ul>	<ul style="list-style-type: none"> <li>DPHHS presentation on all statutorily required reports</li> <li>DPHHS-provided update at each meeting</li> <li>Additional updates on several topics identified by Committee members or stakeholders during the interim</li> </ul>
<b>Medical Marijuana Monitoring</b>	Refer to EAIC	<ul style="list-style-type: none"> <li>DPHHS dashboard information</li> </ul>	<ul style="list-style-type: none"> <li>DPHHS dashboard information</li> <li>DPHHS reports on transition of program to Department of Revenue</li> </ul>	
<b>HB 142 Review</b>	No action if no review requested	<ul style="list-style-type: none"> <li>Review list of statutory advisory councils and reports to determine if any should be reviewed for changes</li> </ul>	<ul style="list-style-type: none"> <li>Review staff-provided information on each advisory council and report</li> <li>Committee selects certain reports or advisory councils for further review</li> </ul>	<ul style="list-style-type: none"> <li>Review staff-provided information on each advisory council and report</li> <li>Schedule presentations to discuss each report and advisory council</li> </ul>