

HEALTH/HUMAN SERVICES LEGISLATION 2021 LEGISLATIVE SESSION

BACKGROUND

The 2021 Legislature passed numerous bills involving health care, health insurance, children's issues, and human services. This briefing paper summarizes successful legislation in the health and human services area, excluding the budget provisions of House Bill 2.

CHILDREN'S ISSUES

ABUSE/NEGLECT/FOSTER CARE/ADOPTION

HB 39 Requires the Children, Families, Health, and Human Services Interim Committee to review the results of district court pilot projects involving prehearing conferences and early show cause hearings for child abuse and neglect cases and, if the results are promising, requires the Committee to establish a working group to consider how the efforts might be implemented statewide. *Requested by the 2019-2020 Children and Families Committee.*

HB 57 Requires district courts to hold a hearing within 60 days of a child's placement in a therapeutic group home to review the child's therapeutic needs and consider, at that hearing and at subsequent status review or permanency hearings, whether continued placement in that level of care is still needed. *Requested by the Department of Public Health and Human Services (DPHHS) to implement provisions of the federal Family First Prevention Services Act.*

HB 60 Aligns terminology in Montana's child abuse and neglect statutes with terminology used in the Family First Prevention Services Act. *Requested by DPHHS.*

HB 90 Effective July 1, 2023, will require a district court to hold an emergency protective services hearing within 5 business days of a child's removal from the home to determine whether probable cause exists to continue the removal and if so, to establish visitation guidelines and review the availability of kinship placements. *Requested by the 2019-2020 Children and Families Committee.*

HB 208 Requires DPHHS or a child-placing agency to inform a birth mother considering adoption of the option for obtaining medically necessary prenatal and postnatal outpatient mental health services, requires primary care or prenatal health care providers to inform a birth mother of the availability of outpatient mental health services, and establishes that adoptive parent payment of

medical care may include the cost-sharing amounts for up to 15 medically necessary outpatient mental health counseling sessions during the prenatal period or a 5-year postnatal period.

HB 364 Requires DPHHS to, if requested, share certain information about reports of suspected child abuse and neglect with a mandatory reporter or others with whom the mandatory reporter works in a professional capacity.

HB 416 Requires all child protective services employees hired as district supervisors or field staff supervisors to complete annual child welfare supervisory training within 1 year of the date of hiring.

HB 426 Requires DPHHS to report to the Office of the Child and Family Ombudsman on its response to the findings, conclusions, and recommendations made in cases investigated by the ombudsman and allows the ombudsman's office to investigate requests for assistance in matters that are being or may be addressed through another channel, including a matter that is before a court.

HB 499 Defines the term "reasonable efforts" for the purposes of 41-3-423, which requires reasonable efforts to prevent the removal of a child from the home or to reunify families when a child has been removed from the home.

HB 503 Effective July 1, 2021, through June 30, 2023, allows a parent or guardian whose child has been removed from the home to request an emergency protective services hearing within 5 days of the removal, regardless of the court in which the case is heard, and allows parents or guardians to choose whether to participate in a prehearing conference in any court taking part in the ongoing prehearing conference pilot project.

HB 539 Limits the requirement that DPHHS report any allegation of sexual abuse or sexual exploitation of a child to the county attorney to only those cases that involve an alleged perpetrator who was 12 years of age or older at the time of the alleged sexual abuse or sexual exploitation.

HB 625 Allows the Office of the Child and Family Ombudsman to analyze information and make recommendations for systemic improvements to the child welfare system.

HEALTH CARE SERVICES

HB 328 Requires DPHHS to provide a list of tools to people who are evaluating and assessing the language and literacy development of deaf and hard-of-hearing children and to providers of early intervention services.

HB 423 Creates a newborn screening advisory committee to evaluate and make recommendations on medical conditions that should be added to the newborn screening panel and, under certain circumstances, requires DPHHS to initiate rulemaking to add new conditions to the screening panel.

DAY CARE

SB 142 Increases from six to eight the number of children who can be present at a registered family day-care home and increases the number allowed at a group day-care home from 12 to 15 children.

GENERAL

SB 400 Establishes that a governmental entity may not interfere with the fundamental right of parents to direct their children's upbringing, education, and health care unless the entity demonstrates that the action would further a compelling governmental interest, is narrowly tailored, and is the least restrictive means available for furthering the governmental interest.

DEVELOPMENTAL AND PHYSICAL DISABILITIES

HB 691 Requires DPHHS to create a tiered system of crisis response services for individuals with developmental disabilities, to prevent individuals from going into a crisis situation or into a higher level of care due to a crisis situation.

SB 155 Prohibits health care providers and insurers from discriminating in organ transplant or anatomical gift decisions, services, or coverage based on the developmental or physical disability of the person seeking a transplant or receiving an anatomical gift.

HEALTH CARE/HEALTH INSURANCE

HEALTH CARE

HB 231 Eliminates the certificate of need requirement for all health care facilities except long-term care facilities.

HB 334 Revises laws related to the medical exemption for vaccines and school attendance to allow any licensed health care provider authorized to administer immunizations, rather than only a physician, to sign the medical exemption form if the provider has previously provided health care to the person or has administered an immunization to which the person has had an adverse reaction.

HB 620 Establishes priorities for the granting of non-Medicaid public funds for family planning services, prevents DPHHS from granting those funds to any entity that performs abortions that don't meet the federal criteria for Medicaid-funded abortions or that operates a facility where abortions not meeting those criteria are performed, and extends the sunset date for the statutory appropriation of federal family planning funds from June 30, 2021, to June 30, 2025.

SB 101 Authorizes direct patient care agreements in which a health care provider of any type may provide specific services to an individual in exchange for payment of a direct fee and establishes that such arrangements are not an insurance agreement or policy or subject to the state's insurance laws.

SB 357 Establishes that any licensed health care provider, including providers taking part in the Medicaid program, may provide services by means of telehealth when the service can appropriately be provided in that manner and the use of telehealth meets the standard of care and complies with any administrative rules for telehealth that are adopted by a health care licensing board.

SB 374 Authorizes certain medical practitioners to dispense drugs other than controlled substances to their patients if they register with the Board of Pharmacy, follow state and federal laws related to dispensing of drugs, and follow the labeling, storage, inspection, and recordkeeping requirements established by the Board of Pharmacy.

HEALTH INSURANCE

HB 43 Revises the insurance coverage requirements for telehealth services to allow coverage for visits made through audio-only communication, include coverage of services provided by naturopathic physicians, and prohibit insurance company restrictions involving the site at which services are provided or received.

HB 229 Prohibits health plans offered in Montana through the federal health insurance exchange from providing coverage of abortions except abortions performed when the life of the mother is endangered or the pregnancy is the result of rape or incest.

HB 291 Requires insurance coverage for the diagnosis and treatment of hearing loss in children, including hearing aids or other amplification devices.

HB 379 Revises Montana's so-called "unisex insurance law" to allow insurance companies to set premiums using accepted ratemaking methodologies that are based on sex or marital status.

SB 149 Establishes the criteria a nonprofit organization must meet to be considered a health care sharing ministry, where members with common ethical or religious beliefs agree to share medical expenses, and establishes that such ministries are not insurance agreements.

SB 216 Requires health insurers that provide mental health or substance use disorder benefits to submit a report to the State Auditor each year that complies with the mental health and substance use disorder parity analysis requirements of federal law.

SB 217 Requires health insurance coverage of mental health services offered through the psychiatric collaborative care model or primary care behavioral health model.

SB 395 Allows the State Auditor's Office to license and regulate the pharmacy benefit managers used by many insurance companies to establish prescription drug formularies and process claims for prescription drugs.

MEDICAID/HEALTHY MONTANA KIDS PLAN

GENERAL

HB 37 Clarifies that DPHHS may not require individuals to qualify for the Medically Needy, or Medicaid spend-down, program by only making a cash payment or only incurring medical expenses to bring their income level down to the Medicaid eligibility level. *Requested by the 2019-2020 Children and Families Committee.*

HB 155 Requires DPHHS to collect expenditure data from Medicaid-dependent providers of services that support the elderly and people with mental illness or physical or developmental disabilities to allow the department and the Legislature to make provider rate decisions using sound data and analysis.

HB 341 Requires that DPHHS use Medicaid appropriations in the general appropriations act only to pay for or administer Medicaid services.

HB 614 Requires the Department of Labor and Industry to contract with one or more nonprofit or for-profit entities to provide the workforce development program that is available to individuals enrolled in the Medicaid expansion program and establishes the workforce development services that are allowable under the program.

HOME AND COMMUNITY-BASED SERVICES WAIVERS

HB 38 Establishes that DPHHS must consider whether the services and equipment recommended for a person enrolled in Medicaid under a home and community-based services waiver would collectively, rather than individually, prevent the person from needing an institutional level of care and requires DPHHS to approve each service or item that would contribute to allowing a person to remain in the home or community. *Requested by the 2019-2020 Children and Families Committee.*

HB 275 Requires DPHHS to use money appropriated for home and community-based services to either create new waiver slots authorized by the Legislature or to address workforce shortages or other barriers to creating the number of authorized slots and also directs DPHHS to amend the Medicaid waiver for people with developmental disabilities to allow the individuals and providers to use a person's entire cost plan for community-based services and to provide emergency slots throughout the state for individuals who may go into crisis.

SB 33 Requires DPHHS to provide a person participating in a home and community-based services waiver program with at least 30 days' notice and an opportunity to provide information about the need for services before terminating the person's waiver participation. *Requested by the 2019-2020 Children and Families Committee.*

SB 43 Requires DPHHS to go through the formal rule-making process, rather than making informal, internal policy changes, when making substantive changes to the eligibility requirements for or the services offered under a home and community-based services waiver. *Requested by the 2019-2020 Children and Families Committee.*

MENTAL HEALTH/SUBSTANCE ABUSE

HB 70 Places the state's suicide prevention officer under the Addictive and Mental Disorders Division of DPHHS and requires that state-funded suicide prevention activities be based on the best available evidence. *Requested by DPHHS.*

HB 276 Adds a certified behavioral health peer support specialist to the Board of Behavioral Health.

HB 549 Specifies that the suicide reduction plan required under state law must include an assessment of the risk and protective factors affecting suicide rates of members of the military and must establish targets for reducing suicide rates among those individuals.

HB 574 Revises the requirements for the statutorily required report on the out-of-state placement of high-risk children with multiagency needs to include the location of the facilities at which children are placed and to require that the report be provided no later than August 30 each year, for placements made during the most recently completed fiscal year.

HB 696 Expands the entities that may receive grant funding to train law enforcement officers in the development and use of crisis intervention teams that respond to incidents involving people experiencing a behavioral health crisis.

PUBLIC HEALTH

HB 121 Revises local public health department laws to require local governing body approval of certain local health board regulations, including those to control communicable diseases; allows a local governing body to amend or rescind a health board directive or order issued in response to a declaration of an emergency or disaster; and caps the civil penalty for a business that does not comply with rules adopted by a local public health board.

HB 144 Removes the penalty for a law enforcement officer who fails to assist a state or local health officer in carrying out public health laws.

HB 257 Prohibits local governments and local health boards from taking actions that would compel a private business to deny a customer access to the business's premises, goods, or services, unless the person is confirmed to have a communicable disease and is under a public quarantine order.

HB 702 Establishes that the following actions are discriminatory if they are based on a person's vaccination status: refusal or denial by any person or governmental entity of services, goods, facilities, educational opportunities, health care access, employment, and other privileges; an employer's refusal to employ someone, bar a person from employment, or discriminate in compensation or other terms of employment; and a public accommodation's exclusion of, segregation of, or refusal to serve a person. Exceptions are allowed under certain circumstances for schools, health care facilities, and long-term care facilities.

SB 199 Allows for the sale of homemade foods and food products, including raw milk and up to 1,000 poultry birds, exempting the producer from food licensure, permitting, certification, packaging, labeling, inspection, and other standards and requirements.

SENIOR CITIZENS

HB 280 Repeals the law authorizing the Senior Citizens' Legislature.

HB 667 Increases the amount of tobacco taxes allocated for the operation and maintenance of the state-run veterans' homes.

SB 31 Requires courts to consider less restrictive alternatives in adult guardianship proceedings. *Requested by the 2019-2020 Children and Families Committee.*