



CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Chris Friedel
Jen Gross
Theresa Manzella
Mary McNally

HOUSE MEMBERS

Mary Caferro
Jennifer Carlson
Jane Gillette
Dennis Lenz
Ed Stafman
Danny Tenenbaum

COMMITTEE STAFF

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

MINUTES LOG

March 15, 2022

Room 137/Zoom
Helena, Montana

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MEMBERS PRESENT IN PERSON:

Rep. Ed Stafman, Chair (D)
Rep. Dennis Lenz, Vice Chair (R)
Rep. Jennifer Carlson (R)
Sen. Chris Friedel (R)
Sen. Theresa Manzella (R)
Sen. Mary McNally (D)
Rep. Danny Tenenbaum (D)

MEMBERS PRESENT VIA ZOOM:

Rep. Jane Gillette (R)

MEMBERS EXCUSED:

Rep. Mary Caferro (D)
Sen. Jen Gross (D)

STAFF PRESENT:

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

AGENDA [\(Attachment 1\)](#)

VISITORS' LIST [\(Attachment 2\)](#)

COMMITTEE ACTION

The committee began work on its HJR 44 study of the family foster care system and HJR 45 study of the factors that lead to a child's removal from the home and reunification of families after removal occurs. Members also discussed several ideas related to the mental health studies that were the focus of earlier meetings.

Members approved the drafting of bills to implement the following concepts:

- raise the Medicaid reimbursement rate paid to psychiatric residential treatment facilities (PRTFs) and therapeutic group homes (TGHs) if the facilities meet certain conditions related to increasing capacity or serving high-acuity children;
- strengthen the provisions of 52-2-310, which involves the use of a qualified in-state provider pool for high-risk youth;
- create an assessment on PRTFs and TGHs that would be used to draw down additional federal Medicaid funds to support those facilities;
- implement an Arizona-style reciprocity system for the licensing of behavioral health care workers; and
- ensure that the provisions of Montana's child abuse and neglect laws comply with the Constitution.

The committee will review the bill drafts at a future meeting before deciding whether to introduce any of them as committee bills in the 2023 legislative session.

CALL TO ORDER/ROLL CALL

08:02:53 Presiding Officer Stafman called the meeting to order at 8:02 a.m. The committee secretary took roll. [\(Attachment 3\)](#)

08:03:49 Rep. Stafman gave opening remarks.

HJR 45: CHILD REMOVAL AND FAMILY REUNIFICATION TRIGGERS

Explanation of Staff-Produced Materials

08:04:36 Sue O'Connell, Research Analyst, discussed the briefing papers: "Terminology and Legal Standards" [\(Exhibit 1\)](#) and "Key Steps in the Legal Process" [\(Exhibit 2\)](#).

08:04:48 Ms. O'Connell referred the committee to other documents: Visual Guide for the Safety Assessment and Management System (SAMS) [\(Exhibit 3\)](#), Montana Safety Assessment and Management System's Immediate Danger Assessment form [\(Exhibit 4\)](#), Montana Safety Assessment and Management System's Family Functioning Assessment form [\(Exhibit 5\)](#), and the CFSD Region Map [\(Exhibit 6\)](#). Rep. Lenz discussed the purpose the HJ 45 Study.

08:09:13

CPS Investigation, Removal, and Reunification Processes

- 08:11:04 Erica Johnston, Executive Director, Economic Securities Services Branch, Department of Public Health and Human Services, Nikki Grossberg, Acting Division Administrator, Child and Family Services, and Karen Kane, Section Chief of the Child Protection Unit of the Department of Justice's State Attorney's Office introduced themselves.
- 08:12:58 Ms. Johnston gave a presentation on the data portion of the PowerPoint presentation on the DPHHS Child and Family Services Division. ([Exhibit 7, slides 1 through 9](#))
- 08:28:17 Ms. Grossberg gave a presentation on the safety needs of the children participating in foster care system ([Exhibit 7, slides 10 through 22](#)). She referred the committee to the flow chart "CFSD Field Services Process" ([Exhibit 8](#)). She discussed the "Immediate Danger" form (See Exhibit 4), the "Family Functioning Assessment" form (See Exhibit 5), and the "Visual Guide" (See Exhibit 3).
- 08:49:54 Ms. Kane gave a presentation on the timeline for processing the removal of a child. ([Exhibit 9](#))
- 09:10:17 Ms. Grossberg discussed what a successful child welfare system looks like.

Public Comment on the HJR 45 Study

- 09:12:07 Matt Kuntz, Executive Director, NAMI Montana
- 09:14:21 Denise Johnson, Communications Director, Montana Child Protection Alliance ([Exhibit 10](#))
- 09:21:36 James Reavis, Public Defender, State of Montana ([Exhibit 11](#))

BREAK (reconvened at 9:41 a.m.)

Questions from the Committee

- 09:41:22 Rep. Gillette asked Ms. Kane several questions regarding the requirements for a child removal.
- 09:49:35 Rep. Tenenbaum asked Ms. Kane and Ms. Grossberg several questions about emergency removals. He asked if 41-3-301, MCA, is the standard that DPHHS uses for emergency removals.
- 09:58:13 Sen. Manzella asked if the department tracks the reasons for a delayed show cause hearing and what is the difference between a founded report and a substantiated report.
Ms. Kane, Ms. Johnston, and Ms. Grossberg responded.
- 10:06:14 Sen. Manzella asked Ms. Grossberg about the circumstances when an anonymously filed report would result in removal of a child from the home by a child protection specialist.
- 10:08:38 Rep. Carlson asked Ms. Grossberg and Ms. Kane about items on the Immediate Danger Assessment form.
- 10:15:19 Rep. Carlson asked Ms. Kane if she could provide the number of child removals that stem from behavior that is deemed unsafe.

10:19:44 Rep. Carlson asked Ms. Grossberg about the 1,800 children in Montana who were removed because they were in imminent danger of serious bodily injury.
10:22:15 Rep. Carlson asked Ms. Kane who the adjudicator is in the removal cases.

Public Comment

10:28:28 Matt Furlong, President, Montana Child Protection Alliance

Additional Questions on the HJR 45 Study

10:33:50 Sen. McNally asked Ms. Grossberg to respond to Mr. Furlong's concerns.
10:36:21 Sen. McNally asked Ms. Grossberg if she thought that it is a good idea to make all the reports of child removals confidential as opposed to just anonymous.
10:38:30 Rep. McNally asked Ms. Kane about Mr. Reavis' idea of streamlining the judicial process.
10:46:46 Sen. Friedel asked Ms. Johnston about the reduction in the number of kids in care.
10:49:06 Sen. Friedel asked Ms. Grossberg about removals that involve the abuse of drugs and alcohol in the family.
10:53:04 Sen. Manzella asked Ms. Kane several questions regarding why parents are not charged with a crime when a child is removed because of neglect or abuse. She asked Ms. Johnston about the number of cases handled by the CPS where parents are actually charged with a crime. She also asked if there is a definition under civil law as to what constitutes parental alienation.
11:01:51 Rep. Lenz asked Ms. Grossberg what a P4 priority level is in the Family Functioning Assessment.
11:07:59 Rep. Stafman asked Ms. Grossberg and Ms. Johnston about children being removed because of parental drug use.
11:15:39 Rep. Stafman asked Ms. Johnston and Ms. Grossberg to explain the difference between anonymous and confidential reports.
11:18:29 Rep. Gillette asked Ms. Grossberg how treatment plans get implemented when the parent is incarcerated.
11:20:14 Rep. Carlson asked Ms. Johnston where she can find the Kids in Care chart.

HB 39: JUDICIAL PILOT PROJECTS IN ABUSE AND NEGLECT CASES

Work Group Findings/Recommendations

11:24:15 Ms. O'Connell gave a presentation on the briefing paper "Work Group Findings/Recommendations." ([Exhibit 12](#))
11:30:34 The committee discussed the working group's recommendations and the next steps to take.
11:39:24 Rep. Stafman asked Rep. Lenz and Rep. Tenenbaum to continue working with Ms. O'Connell on a bill draft based on the recommendations and present that draft at the May meeting.
11:39:55 Rep. Tenenbaum discussed the question about the constitutionality of the 5-day timeline.

GENERAL PUBLIC COMMENT

- 11:49:16 Matt Kuntz, NAMI Montana, distributed NAMI Montana's proposal for mental health bill drafts. [\(Exhibit 13\)](#)
- 11:51:32 Denise Johnson discussed potential uses of Federal Family First Prevention Services Act funding.

LUNCH BREAK (reconvened at 1:08 p.m.)

HJR 44: FAMILY FOSTER CARE SYSTEM

Becoming a Foster Parent

- 13:09:53 Milly Allen, Research Analyst, gave a presentation on the briefing paper, "Becoming a Foster Parent." [\(Exhibit 14\)](#)

Key Federal Funding Sources

- 13:18:42 Ms. O'Connell introduced Milly Allen as a research analyst who will be working on the HJR 44 Study.
- 13:18:50 Ms. O'Connell discussed the briefing paper "Key Federal Funding Sources for Foster Care." [\(Exhibit 15\)](#)

DPHHS Overview of Family Foster Care System

- 13:22:29 Erica Johnston, Executive Director, Department of Public Health and Human Services, referred the committee to the document, "DPHHS Drug Tracking Report" but did not discuss it. [\(Exhibit 16\)](#)
- 13:24:16 Ms. Grossberg discussed placement of children in foster care. She also discussed the handout "Connected Voices for Montana Children." [\(Exhibit 17\)](#)

Montana Kinship Navigator Program

- 13:27:23 Heidi Lester, Program Manager, Montana Kinship Navigator Program (MTKNP), gave a presentation on the kinship navigator program. [\(Exhibit 18\)](#)

Public Comment on HJR 44 Study

- 13:45:48 Josh Butterfly
- 13:52:05 Denise Johnson, Montana Children's Protection Alliance
- 13:54:45 Kelsen Young, Executive Director, Montana Coalition Against Domestic and Sexual and Violence, former kinship foster grandmother, and a court-appointed special advocate

Questions from the Committee

- 14:00:44 Sen. Friedel asked Ms. Johnston to explain her document, "Drug Tracking Report."
- 14:03:48 Rep. Carlson asked Ms. Grossberg about children missing from foster care, the average length of time each child spends in foster care in Montana, and how many of the children in foster care are in kinship care.

14:08:32 Rep. Gillette asked Ms. Johnston what percentage of children in kinship care are likely to end up in guardianship care.

14:12:18 Rep. Gillette commented about making sure that foster parents have a voice and are heard in the courts.

14:13:55 Rep. Carlson asked Ms. Johnston about the licensing process and compliance with House Bill 702 where Montanans cannot be discriminated against licensing and services based on their vaccination status. She requested that the department remove the option to make an exception to grant licenses to foster care providers to people who have been convicted of elder abuse and sex crimes.

14:17:24 Rep. Stafman asked Ms. Johnston to clarify what exemptions exist in rules relating to immunization and other requirements.

14:18:38 Sen. Manzella asked Ms. Grossberg how potential runaways or potential abductions are determined and how the department handles those abductions.

14:24:30 Rep. Lenz asked Ms. Johnston about the reasons for denial of applications from people seeking to become foster parents.

14:31:18 Sen. Friedel asked Ms. Johnston and Ms. Grossberg about compensation for children placed in foster care, denials of the applications to be a foster care parent, financial background checks, and if the stipend that the foster care parents receive is enough for the care of the foster children.

14:35:08 Sen. McNally asked Ms. Johnston about increasing compensation for foster care parents.

14:36:27 Rep. Stafman asked Ms. Grossberg about the policy of placing Native American children with Native American families.

BREAK (reconvened at 2:57 p.m.)

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

DPHHS Update

Adam Meier, Director, DPHHS, gave an update on the following topics:

14:59:29 the HEART Initiative waiver application;

15:02:09 the letter from the Centers for Medicare and Medicaid Services ([Exhibit 19](#));

15:05:21 the SNAP Employment and Training Program (**Exhibit 20**);

15:16:01 Montana State Hospital:

- billed hours and rates for contracted staff at the State Hospital ([Exhibit 21](#))
- a spreadsheet showing salary and compensation information for state employees at the State Hospital ([Exhibit 22](#))
- information on recent pay raises for State Hospital employees;

15:21:00 deemed status for Medicaid providers ([Exhibit 23](#)); and

15:25:43 the provider rate study.

Questions from the Committee of Director Meier

- 15:29:58 Rep. Tenenbaum asked about the vacancy rates at the State Hospital, the use of contracted staff as a sustainable solution, the significant access to care issues alluded to by the Centers for Medicare and Medicaid Services (CMS), and the timeline on the Systems Improvement Agreement (SIA).
- 15:35:39 Sen. Friedel asked about the chart that shows the pay rates for State Hospital FTEs.
- 15:38:34 Sen. McNally asked for a copy of the director's PowerPoint presentation on SNAP Employment and Training and for more explanation of the pay raise handouts. She also asked why the state is not reapplying for the pandemic SNAP benefits.
- 15:47:55 Rep. Gillette asked if Director Meier will hold the contractors accountable for the SNAP E&T Program.
- 15:50:38 Rep. Carlson asked about changing the rules and policies regarding denying foster care parent licenses based on vaccination status.
- 15:54:03 Rep. Stafman asked about proposed legislation to advance the issues of universal screening for youth suicide risk and the mobile crisis units.

BREAK (reconvened at 4:20 p.m.)

COMMITTEE WORK SESSION

- 16:21:17 Rep. Stafman proposed three ideas to address the problems with both the children's mental health system: 1) higher provider rates for capacity and continuing for acuity with a sunset; 2) put teeth in 52-2-310, MCA, so that children can get treatment in state; and 3) institute a provider assessment. He referred the committee to the document "Medicaid Therapeutic Group Home Expenditures" and discussed it ([Exhibit 24](#)).
- 16:35:10 Rep. Gillette discussed Rep. Stafman's third idea.
- 16:40:10 Rep. Lenz asked Ms. O'Connell about moving a concept forward as a bill draft to be reviewed by the committee.
- 16:41:36 The committee discussed the three concepts proposed by Rep. Stafman.
- 16:58:08 Rep. Stafman summarized the committee's discussion.
- 17:04:33 Sen. Friedel asked Ms. O'Connell about resources and time availability to draft bills. He asked if the committee could do a poll via e-mail in the month of April to either proceed or not proceed with the bill drafts.
- 17:07:39 Sen. McNally expressed her opinion on the way forward with this issue.

Motion

- 17:10:16 Rep. Lenz moved that staff draft bills for the three concepts that Rep. Stafman proposed.

Vote/Roll Call Vote

17:12:02 The motion passed on a roll call vote, 8-2, with Sens. Friedel, Manzella, and McNally, and Reps. Tenenbaum, Carlson, and Stafman voting yes, and Sen. Gross and Rep. Caferro voting yes by proxy. Reps. Gillette and Lenz voted no.

Committee Discussion

17:14:28 Rep. Stafman discussed having more information on universal suicide screening, crisis beds, the Certified Community Behavioral Health Clinic (CCBHC) model, and the status of the Comprehensive School and Community Treatment (CSCT) program for the purpose of future legislation. He also assigned Sen. Friedel and himself to work with Ms. O'Connell on the children's mental health bill drafts.

17:17:57 Rep. Gillette expressed an interest in participating in drafting of the bills.

17:18:55 Rep. Carlson said she is not in favor exploring the topic of CSCT because that topic has been assigned to the Education Interim Committee.

17:20:15 The committee discussed drafting a bill regarding CCBHC based on Illinois legislation.

Motion

17:27:45 Rep. Lenz moved that staff draft a bill for a CCBHC model patterned after Illinois legislation.

Discussion on the Motion

17:28:26 Rep. Lenz discussed why he will resist a bill draft on this issue.

17:29:12 Sen. Friedel asked if the motion would encourage the Section B Interim Budget Committee to look at the idea.

17:33:15 Rep. Gillette commented.

17:37:50 The committee discussed next steps for a joint meeting with the Section B Interim Budget Committee.

Vote/Roll Call Vote

17:41:34 The motion failed on a roll call vote, 5-5, with Sens. Friedel and Manzella and Reps. Carlson, Gillette, and Lenz voting no. Sen. McNally and Reps. Stafman and Tenenbaum voted yes, and Sen. Gross and Rep. Caferro voted yes by proxy.

Further Committee Discussion

17:42:00 The committee discussed having a panel present information on the issues of universal screening and crisis beds.

17:43:00 The committee discussed the work plan.

17:47:18 Rep. Tenenbaum discussed a possible motion for a committee bill to ensure that the current statutes for child abuse and neglect proceedings protect constitutional rights.

17:49:25 Rep. Lenz asked if Rep. Tenenbaum is going to do this in addition to the recommendations that were brought forward from the HB 39 Working Group. He said he would like clarification on language regarding the 5-day hearing. Rep. Tenenbaum said this bill would be separate from the HB 39 bill

Motion/Vote

17:51:53 Rep. Tenenbaum moved for staff to draft a committee bill to update the legal standards in the child welfare section of the Montana Code Annotated to ensure that the standards are consistent and comply with the Constitution.

17:52:34 Rep. Stafman recognized consensus on the motion.

Committee Discussion

17:52:48 The committee discussed the addition of the topic of mobile crisis units to the and presentation for the May meeting.

17:55:01 Rep. Lenz said he is interested in issues related to child removals, such as anonymous reporting, temporary investigative authority, removal of a child under the directive of a judge, and clarifying what neglect is as opposed to child abuse. Rep. Stafman suggested discussing these topics during the work session of the next meeting.

18:01:23 Sen. Manzella discussed the termination of parental rights and said she would like more information on the use of jury trials in those proceedings.

18:03:50 Rep. Stafman discussed his interests in more research on reciprocal licensing, the loan repayment program, counties having a mental health coordinator, and intergovernmental transfers for mental health services.

ADJOURNMENT

18:24:19 Rep. Stafman adjourned the meeting at 6:24 p.m.