



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

House Bill 39 Working Group

October 12, 2021

Zoom

Helena, Montana

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MEMBERS PRESENT:

Rep. Dennis Lenz, Chair (R)
Rep. Danny Tenenbaum, Vice Chair (D)
Jessica Fehr
Kelsie Harwood
Brian Smith
Tom Billteen
Kiersta Sullivan
Matt Furlong

STAFF PRESENT:

Sue O'Connell, Research Analyst
Fong Hom, Secretary

AGENDA (Attachment 1)

NO VISITORS' LIST

COMMITTEE ACTION

The House Bill 39 Working Group held its organizational meeting to discuss the purpose of the work group, the history behind its formation, and general concepts to explore while members review whether the judicial pilot projects for prehearing conferences (PHCs) and emergency protective services (EPS) hearings should be expanded to additional areas of the state.

CALL TO ORDER/ROLL CALL

15:01:38 Rep. Dennis Lenz called the meeting to order at 3:01 p.m. The committee secretary called roll. [\(Attachment 3\)](#)

Introduction of Members

15:03:36 Rep. Dennis Lenz
15:04:18 Rep. Danny Tenenbaum
15:04:44 Erica Johnston, Executive Director, Human Services Division, Department of Public Health and Human Services
15:05:36 Brian Smith, Office of State Public Defender
15:06:01 Kiersta Sullivan, Executive Director, Front Range Court-Appointed Special Advocates (CASA)
15:06:32 Kelsie Harwood, Blaine County Attorney, Chinook, Montana
15:07:00 Matt Furlong, President, Montana Child Protection Alliance
15:07:26 Tom Billteen, Office of Court Improvement Program
15:08:00 Eric Barnosky, Administrator, Child Family Services Division, Region 1
15:09:34 Jessica Fehr, District Court Judge, Yellowstone County

ADMINISTRATIVE MATTERS

15:11:53 Sue O'Connell, Lead Researcher, referred the work group to the documents found in their packet and discussed the work group's budget, the travel reimbursement form, committee procedures, and the following background materials:
15:16:00 HB 39 [\(Exhibit 1\)](#)
15:16:24 HB 90 [\(Exhibit 2\)](#)
15:19:16 HB 503 [\(Exhibit 3\)](#)
15:19:54 The Montana Pre-Hearing Conference Study [\(Exhibit 4\)](#)
15:20:27 HJ 48/49, Child Protective Services Final Report [\(Exhibit 5\)](#)
15:21:13 Bill draft considerations for the HJ 48/49 Study [\(Exhibit 6\)](#)

OVERVIEW OF WORKING GROUP PURPOSE AND HISTORY

15:22:32 Rep. Lenz gave an overview of the purpose and history of the HB 39 Working Group.

ROUND TABLE DISCUSSION

15:29:03 Ms. O'Connell discussed the document "Questions for the Roundtable Discussion". [\(Exhibit 7\)](#)

15:29:42 Judge Fehr provided her thoughts on the seven questions for the roundtable discussion.

Committee Questions

15:37:29 Rep. Lenz asked Judge Fehr to explain what she meant by "several removals from different families in a day causes an overflow".

15:38:07 Judge Fehr

15:40:15 Rep. Lenz asked Judge Fehr about people saying they are not technologically competent and therefore can't participate in court by Zoom.

15:40:57 Judge Fehr

15:43:09 Mr. Furlong asked about the chart in the Montana Pre-Hearing Conference (PHC) Study showing the percentage of PHCs where the parties were present and the discrepancies between attendance by the mother's attorney and the father's attorney. He asked if Judge Fehr might have some information as to why those numbers are different.

15:44:11 Judge Fehr

15:45:36 Mr. Furlong asked if the percentages for attorney representation reflect only identified parents or whether they also include a parent who has not yet been contacted by the court.

15:46:13 Judge Fehr

15:47:34 Mr. Billteen asked Judge Fehr if she is comfortable with the DIM (Data Integration Management) system being able to provide that information.

15:48:49 Judge Fehr discussed the Data Integration Management tool.

15:51:46 Mr. Billteen commented on using DIM to manage cases.

15:54:40 Rep. Lenz asked when Judge Fehr would have more details on the information gathered by that tool.

15:54:54 Judge Fehr said she hoped to have preliminary information by mid-December and then have some recommendations on where the data collection system goes next.

15:55:53 Ms. Harwood asked Judge Fehr about setting status hearings every 4 to 6 weeks.

15:56:39 Judge Fehr

15:58:15 Ms. Harwood asked if the DIM system is available in all judicial districts or just for drug courts.

15:58:41 Judge Fehr said it can be available in any district because it is a cloud-based program.

15:59:01 Ms. Harwood asked if all parties have access to the system.

15:59:16 Judge Fehr said that all the treatment providers have a Memorandum of Understanding containing a privacy agreement and they're permitted to use the system. The parents' attorneys have access, but not the parents individually.

16:02:04 Mr. Billteen gave his overall perspective on pre-hearing conferences.

16:05:09 Mr. Furlong asked at which point in the process peer supporters are paired with families.

16:05:45 Brian Smith and Ms. Harwood both said that they could research Mr. Furlong's question.

16:06:04 Rep. Lenz said that is an important piece in facilitating a good working system.

16:07:10 Ms. Harwood asked Mr. Billteen if he knows how many of the pre-hearing conference mediators or facilitators are attorneys and how many are not attorneys.

16:09:29 Rep. Lenz asked about the training mediators need to have if they are not lawyers.

16:09:52 Mr. Billteen said he will check on the specific requirements of a mediator.

16:11:31 Mr. Smith addressed the issue of the Office of Public Defender and the availability of attorneys. He said that HB 90 and the EPS hearings are not the cause of attorney shortages. Mr. Smith said having people on call might be a solution.

16:16:10 Erica Johnston commented.

16:17:53 Mr. Billteen commented on practicing in rural areas.

16:20:59 Rep. Lenz said that he would move forward with an agenda that outlines what the Work Group is wanting to look at.

16:22:10 Mr. Furlong asked how Rep. Lenz wanted to proceed with discussion of Question 1 of Exhibit 7 about the potential benefits of the 5-day hearings.

16:22:44 Rep. Lenz said that the questions were to guide the day's discussion.

16:23:22 Mr. Furlong said he has a number of things that he sees as a benefit, including shortening the time that a child and a family are separated and involved in the court process.

16:26:41 Rep. Tenenbaum commented on how the prehearing conferences are going, how the 5-day hearings have been going, and potential issues.

16:28:53 Ms. O'Connell asked the Work Group to think about the barriers that could be discussed at a future meeting and the information the members need before the Work Group is ready to make recommendations.

16:30:33 Mr. Billteen suggested considering the differences in rural and urban counties.

16:32:48 Mr. Furlong noted that rural counties have lower caseloads.

16:33:21 Rep. Lenz said the issues involving rural county use of 5-day hearings must be better defined.

16:34:20 Mr. Furlong asked about the costs for reasonable accommodations for individuals that may have barriers to using technology for hearings.
16:35:41 Rep. Lenz commented on Mr. Furlong's suggestion to use more remote technology.

PUBLIC COMMENT - None

Next Steps

16:37:20 Rep. Lenz discussed the next steps for the meeting schedule and suggested a November meeting adjacent to the November meeting of the Children and Families, Health, and Human Services Interim Committee.
16:39:00 Rep. Lenz discussed having meetings in November and January, and a final meeting to come up with recommendations.
16:41:06 Ms. O'Connell said that the work plan for the interim committee tentatively plans on the work group having recommendations ready for the interim committee's March meeting. That is to give the interim committee time to develop possible legislation.
16:42:35 Ms. Sullivan asked about an in-person or a Zoom meeting.
16:42:49 Rep. Lenz would like in-person meetings.
16:43:16 Ms. O'Connell said there will always be options for people who cannot attend in person.
16:43:43 Rep. Lenz asked about a November date that would work for everyone and getting information to the members in between meetings.
16:44:54 Mr. Billteen said that he has information relative to the questions involving the Indian Child Welfare Act (ICWA).

ADJOURNMENT

16:48:06 Rep. Lenz adjourned the meeting at 4:48 p.m.