



Children, Families, Health, and Human Services Interim Committee

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59th Montana Legislature

SENATE MEMBERS

TRUDI SCHMIDT--Chair
JOHN ESP
JERRY O'NEIL
DAN WEINBERG

HOUSE MEMBERS

BILL WARDEN--Vice Chair
EMELIE EATON
EVE FRANKLIN
DON ROBERTS

COMMITTEE STAFF

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

June 9, 2006

Capitol Building, Room 137
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. TRUDI SCHMIDT, Chair
REP. BILL WARDEN, Vice Chair

SEN. JOHN ESP
SEN. DAN WEINBERG

REP. EMELIE EATON
REP. EVE FRANKLIN
REP. DON ROBERTS

COMMITTEE MEMBERS EXCUSED

SEN. JERRY O'NEIL

STAFF PRESENT

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, Attachment #1.

COMMITTEE ACTION

- The Committee endorsed LCCF02 and LCCF05 as committee bills.
- The Committee will proceed with a bill draft concerning the legal side of the Child Protection Services' action.

TAPE 6B

CALL TO ORDER AND ROLL CALL

SEN. TRUDI SCHMIDT, Presiding Officer, reconvened at 10:20 a.m.

SJ 37: Child Protective Services

GRANDPARENTS RAISING GRANDCHILDREN

SANDY BAILEY, Montana State University Extension, Family and Human Development Specialist; and BETH LETIECQ, Assistant Professor, Department of Health and Human Development, gave a presentation on the project, Grandparents Raising Grandchildren. Ms. Bailey said that the focus of the presentation is:

- the need for subsidies for grandparents
- child care costs, starting at \$20/day and upwards for infants
- few respite programs for grandparents
- special needs for the children
- grandparents faced with children suffering from sexual abuse and substance abuse
- other abuses; i.e., fetal alcohol abuse
- physical disabilities of the children
- ADD and ADHD
- the ability for grandparents to navigate the system
- advocating for the grandchild in the school system
- not getting paid as a foster parent, saving the state money
- mental health and physical health needs of the grandparents
- de facto guardianship and probability of it being part of some legislation

QUESTIONS

REP. ROBERTS asked if it is the case that the grandchildren start hating the grandparents when the grandparents start to intervene by reporting abuse, etc. MS. BAILEY said that it happens and having guardian ad litem might help. MS. LETIECQ said that a hard decision for grandparents to make is how involved do they want to get in the system.

SEN. ESP asked if when they are talking grandparents, are you also talking aunts and uncles. MS. BAILEY said grandparents and other relative caregivers; however, at this point they focus on the grandparents but they don't want to dismiss that there are others. MS. LETIECQ said that there is a challenge on how do you tease apart issues in families that are dysfunctional, complex, maybe there's divorce and a conflict going on and then the grandparents try to intervene. She said that those are very difficult family dynamics. She is not sure if these pieces of legislation will help them or not, but there is another group of grandparents where the grandchildren are dropped on their doorstep, and these are the grandparents who they are, in some respect, focusing on.

SEN. SCHMIDT asked if the information on the blue sheet was current as of the end of May. MS. BAILEY said that she had received that from Generations United and she wanted to

emphasis that it is a draft. They are working on compiling data since May and they would be adding to it as they gather more information.

SEN. SCHMIDT asked if they were to prioritize the ten suggestions, are they able to do that as far as possible legislation and do you hear more on certain ones or do you feel that some are more critical to have? MS. BAILEY said that the direction that you are headed with the medical and educational decisions will be critical and that would be one of the top three. She said that another issue would be the issue around the foster care and the foster care licensing. She said that another issue would be the childcare for the grandparents who have to return to the workforce because they are now taking care of their grandchildren, if there could be more flexibility and eligibility for childcare subsidies. MS. LETIECQ said that a kinship navigator or program that consolidates service information for the state would also be critical for grandparents, maybe establish a hotline.

SHIRLEY BROWN, Division Administrator for Child and Family Services, said that for a grandparent to get foster care payments, the Division would have to have a report and determine if there was abuse and neglect; then they would have to go to court, file a petition and go through all the steps that they do with every child that goes into foster care. She said that the foster parents have to be licensed in order for them to make payments. Ms. Brown said that in order for the grandparents to receive guardianship payments, the grandparents have to meet foster care license standards.

SEN. SCHMIDT said that one of the issues on the policy recommendation says "allow grandparents to complete foster care training without removing the grandchildren." She asked if that was possible. MS LETIECQ said that if a child is dropped at the door and the grandparents agreed to take the child in, and they then decide to seek some financial support for the grandchild and want to get licensed as a foster care provider, that some of the grandparents have been told that the child would have to be surrendered to the state and placed in another foster care provider's home until they completed the training. She said that they are suggesting that the training could run concurrent with the placement with the grandparents so that there isn't the disruption. MS. BROWN said that there are occasions when a parent leaves a child with a grandparent and they become involved. She said that the conditions precedent for any payment is a court order so they can't make payments without court orders. But it is possible for them to do the investigation to determine if there was abuse or neglect, to file the petition, and then leave the child with the grandparent. She said they do two things if they do unpaid placements--a CPS background check and a criminal background check. She said that it is possible to leave a child with a grandparent if they have gone through the legal process to make payments until the grandparent is licensed. Ms. Brown said that she did not understand removing the child for six months and coming back. She said it was either a miscommunication or she didn't understand where that's coming from.

SUSAN FOX said that if the child hadn't been reported as abused or neglected, and they were seeking payment, there might be some intermediate steps that they are missing in this individual case, and asked if there's no policy that prevents you from getting a foster care license while you are caring for your grandchildren. MS. BROWN said that actually happens. She said that many of their kin care placements start out as unpaid placements until the family can go through the licensing process and get licensed; so that information that is being reported to you is not accurate information. MS. LETIECQ said that she is speculating that the disconnect might be that there isn't a defining of child abuse and neglect but the grandparents are still seeking all possible avenues. She said that is a big part of the struggle and they are seeing that in national literature where grandparents don't want to get involved in child abuse and neglect and then they are cut off from additional services to meet their family needs.

TAPE 7A

REP. FRANKLIN asked if they have seen any cultural sea change or states that have tried some different models in family law in relationship to grandparents interactions with Child Protective Services. MS. LETIECQ said that states are grappling with this and she didn't know of too many that are moving beyond educational and medical rights in the subsidized guardianship. She said that she encourages the legislators to look into the de facto custodian issue, particularly what the state of Kentucky is doing. She said that it runs along with the abandonment scenario. If the grandparent takes the grandchild, there is some court intervention and affidavit where the grandparent will be given custody and will have medical and legal rights over the child. Other states require unfit finding in the court. MS. BAILEY said that there are many different scenarios and even though they don't have the research, a vast majority of these grandparents are trying to preserve their family. SHIRLEY BROWN said that they have in statute that one of the definitions of abandonment is leaving the child with somebody for six months without any indication that they are going to return. She said that there is another piece of the abandonment definition that doesn't require the six months but with those grandparents where they are already caring for the child and when they become concerned is when the parent of the child comes back and wants the child. She said that in terms of involving grandparents in their cases, they have done a lot over the last couple of sessions in terms of putting into statute that they have to look for parents and in policy grandparents and extended families.

SEN. SCHMIDT asked Mr. Hudson to comment on the two regarding more eligibility on foster care subsidies and TANF.

HANK HUDSON, Human and Community Services Division, DPHHS, said that on the childcare issue, they are proposing to be included in the Governor's budget for the next legislative session, about \$684,000 a year TANF expenditure for childcare for caregiver relatives. He said that they have heard that same discussion from grandparents and recognize that that is a good

use of the limited TANF money that they have. It would be limited to grandparents who are working 20 hours a week and they will probably look at an income test of 150% poverty that they use for childcare. Mr. Hudson said that they provide 900 child only grants. That is a grant that they pay to a family that is raising a TANF eligible child; there is no income guideline for that. If you are a grandparent and you are raising your grandchild, you are eligible for that if that child came from a TANF eligible home. The grant is \$282/month for one child.

REP. ROBERTS asked Ms. Brown if the relationship of the parent to the grandparent influence the outcome of the grandparent having access to the children. MS. BROWN said that that is a case by case decision. She said that because they only have temporary legal custody of a child as opposed to permanent legal custody, the parents' rights are still intact. It depends upon what is in the child's best interests.

REP. EATON asked if Ms. Bailey or Ms. Letiecq were aware of the block grant that Mr. Hudson mentioned and if there were very many grandparents accepting that as an alternative to the foster care program. MS. BAILEY said that they let all the grandparents know that that is available, however, that depends if the child's family was TANF eligible prior to being placed with the grandparents. MS. LETIECQ said that grandparents understand the disparities of payout for TANF eligible versus the foster care program.

DISCUSSION OF DRAFT LEGISLATION

SEN. SCHMIDT told the committee that there are three pieces of draft legislation in their packet: LCCF02 (**EXHIBIT 2**) which provides for limited authority of a relative caretaker for a child regarding education services under certain circumstances; LCCF04 (**EXHIBIT 3**) which allows continued custody of a child by the child's relative following voluntary surrender of the child under circumstances indicating abandonment and a later demand for custody by the child's parent; and LCCF05 (**EXHIBIT 4**) which grants to a relative who is a caretaker but not a parent of a child the power to approve medical care for the child under certain conditions.

MS. FOX said that the educational enrollment and the medical care draft have similar policy choices and therefore she did a comparison and that is in their packet as well. SEN. SCHMIDT said that the committee has to decide if they want to, as a committee, endorse the bills and Rep. Warden and she will work on this issue to fine tune the pieces of legislation.

REP. FRANKLIN moved to empower Rep. Warden and Sen. Schmidt to continue to work and fine tune draft legislations LCCF02, LCCF04, and LCCF05.

DAVID NISS discussed his memorandum to the Committee and an opinion that dealt with the application of the U.S. Supreme Court's decision in TROXVILLE vs. GRANDVILLE. **REP. FRANKLIN amends her motion to endorse LCCF02 and LCCF05 as committee bills. The motion passed unanimously.**

PUBLIC COMMENT

NANETTE GILBERTSON, Big Brothers Big Sisters, said that BBBS received \$99,000 from last legislative session to serve at risk and foster children. They are serving more at risk and foster children. She said that this is where BBBS can be a valuable asset to Grandparents Raising Grandchildren.

METHAMPHETAMINE ISSUES - Scott Boyles, AMDD, Program Administrator, DPHHS

SCOTT BOYLES gave a presentation on the Montana Treatment Capacity and Methamphetamine (EXHIBIT 5).

TAPE 7B

QUESTIONS

SEN. WEINBERG asked if the possibility of relapse increased with the meth user compared to a user of other drugs. MR. BOYLES said that there is research regarding the way meth interacts with the brain and the way it impacts the brain.

SEN. WEINBERG asked if birth control is part of the treatment regime with female meth users. MR. BOYLES said that he is not familiar that birth control is a standard part of a treatment regime. He said that he would assume that that is going to be based specifically on individualized needs of that client. Mr. Boyles said that with meth addicts the best way to address birth control and responsible behavior and decrease spread of AIDS and HIV is for those people to be sober so they can make good decisions before they choose to engage in sexual behavior.

REP. EATON said that she heard that the women population in prison has exploded due to meth. She asked if that meant that more women are being arrested in association with their meth usage or did it mean that fewer women are coming for treatment; how would Mr. Boyles connect those two statistics? MR. BOYLES said that when they look at admissions, they don't always give clear pictures because sometimes admissions are generated by legal issues, sometimes they are impacted by financial and fiscal issues. He said that looking at admissions in and of themselves are always not the best comparison of admission statistics.

REP. ROBERTS asked Mr. Boyles what his recidivism rate for alcohol is compared to meth, compared to cocaine. MR. BOYLES said that meth is more difficult to treat. He said that the recidivism rate based on how many stay in treatment and complete treatment versus recidivism rate on how many fail and never complete treatment and in this particular recidivism rate where it was compared to the cocaine addicts, assuming people complete treatment, and sometimes looking at how to keep meth addicts in treatment, we might see recidivism rates that look good for people who complete treatment, but if we look at the big picture as far as how many stayed in treatment, with meth addicts, we may see a smaller success rate or a higher dropout rate

prematurely.

REP. WARDEN asked how many drug courts are in the state and how widely represented are communities in terms of a tool in dealing with this problem. MR. BOYLES said that he believes it is seven.

MONTANA METH PROJECT - Peg Shea, Executive Director

MS. SHEA talked about the Montana Meth Use and Attitudes Survey (**EXHIBIT 6**). She talked about Tom Siebel's input in the meth ads. She said that our awareness is outstanding throughout the state. She gets hundreds of emails from other states regarding the meth ads. The country is watching the state of Montana and we are in a position to take the lead in this situation. She said that we must create a meth response bill.

EFFECTS OF METHAMPHETAMINE - Dr. Brenda Roche

Dr. Roche said that she received her degree from the University of Montana, and her specialty is in neuropsychology as well as child and family treatment in substance abuse. She said that she works with many of the drug and treatment courts in Montana as well as in Wyoming. She recently wrote a SAMHSA grant that serves 16 counties for treatment of meth and she is program evaluator for that grant. Dr. Roche gave a presentation on the effective responses to families affected by methamphetamine (**EXHIBIT 7**).

TAPE 8A and TAPE 8B

QUESTIONS

SEN. SCHMIDT asked Dr. Roche if she did evaluation with the drug courts in the state or did she work primarily in Yellowstone County. DR. ROCHE said that she works with several courts and also works with the Yellowstone Family Treatment Court, the Lewistown Family Treatment Court. She has done work with Butte, the Miles City Treatment Court, the Adult Misdemeanor Drug Court in Billings, the Juvenile Drug Court in Missoula, the Mental Health Court in Missoula, and several in Wyoming. She said that there is an adult felony drug court in Bozeman, and a combination adult family court in Great Falls. She said that Butte is looking at starting a juvenile court and there are several tribal ones that are in the process of getting going.

PREGNANT WOMEN, CHILDREN, AND METH

SUZANNE DIXON, M.D., M.P.H., said that her comments today come from her published scientific research. She said that many of the issues that we are confronting here are ones that were faced in the middle 80s.

DR. SANDRA WELLS, Montana native, said that she got her doctorate from Columbia University in Microbiology, and does biomedical research at U of M. She said that her focus is in asthma and pulmonary diseases. She is now involved locally with Montana Alliance for Drug

Endangered Children. Dr. Wells discussed her draft proposal for legislation **(EXHIBIT 8)** to expand the crime of endangering the welfare of a child to include a crime of methamphetamine-related child endangerment.

NANCY MACCRACKEN, Attorney, Park and Sweet Grass Counties, said that they have seen a growth in use of methamphetamine and criminal charges for methamphetamine and methamphetamine use among the Youth in Need of Care cases. She said that she is here today on behalf of herself, her judge and their CASA program in an effort to add to what has already been said. She said that there are drug treatment courts across the state but the smaller jurisdictions don't have them. Ms. MacCracken feels that the problem is that there is no funding for an administration of such a program. In order for drug treatment to be successful, it has to be long term and that continuation and cooperation has to be funded.

QUESTIONS

SEN. WEINBERG said that from earlier testimony, there is a waiting list of people wanting to get treatment. So the problem doesn't seem at this moment that we can't get people to the door, but that the treatment is not available. MS. MACCRACKEN said that there are people asking for treatment but how big a percentage is that of the people who need it and how big a percentage of that is that of pregnant women who are using meth or other drugs who are going to give birth to children that have problems that will cost money in the future. How much of a percentage of that is people who are already in the system because they already have a child who has been removed from their care or have had a treatment plan with a previous child and so they have been afforded those options. She said that because there are people waiting at the doors doesn't mean that's all of the people who need it.

DR. DIXON said that until you fill up every treatment space for every person who does call up-- and a large percentage of pregnant women will access service because that is the highest motivation time for women--and if you extend the treatment over a longer period of time to sustain that resolve, you will be better off.

TAPE 9A

PUBLIC COMMENT

TOM SHELLENBERG, Guardian Ad Litem from Livingston, submitted his written testimony to the Committee **(EXHIBIT 9)**.

SUSAN FOX concluded the presentation by referring to the blue sheet as a resource tool for the committee. Susan also talked about the task force in Colorado **(EXHIBIT 10)**.

COMMITTEE WORK SESSION

METH ISSUES

SEN. SCHMIDT suggested a subcommittee to look at issues related to meth. Sen. Esp, Sen. Schmidt and Rep. Eaton said that they would be interested in working on meth issues and legislation.

SJR 37 STATUTE REVISION COMMISSION

SUSAN FOX said that it was agreed to revise statutes as suggested by Kathleen Jenks, but Ms. Jenks did not recommend a laundry list. Ms. Fox asked what the Committee's intent is.

REP. EATON said that she had had a conversation with Sen. Williams and Sen. Williams said that the Attorney General's Office supported Kathleen Jenks' recommendation to revise statutes and that the Governor's Office also supported handing that over to the Attorney General's Office if it becomes an issue.

MS. FOX said that she had drafted the bill with DPHHS and left it as an AG-staffed committee, that there is a small appropriation in the bill, which needs more qualification.

SEN. ESP moved to proceed with the bill draft concerning the legal side of the Child Protection Services' action. MOTION CARRIED UNANIMOUSLY.

DPHHS INTERDIVISIONAL RESPONSE UNIT - Rep. Emelie Eaton

Rep. Eaton said that that a constituent came to her with a problem with DPHHS and she had difficulty in finding a resolution to that problem and difficulty in her trying to get answers to her questions from DPHHS. She said that she is proposing that there be a person within DPHHS that is the designated "go to" person who is the end of the line when it comes to answering questions, getting to the bottom line. She would like DPHHS to set aside money for one person to be the "go to" person for citizens as well as legislators.

JOAN MILES, Director of DPHHS, said that there are a couple of things that they are currently working on that may fit closely to what Rep. Eaton is talking about. She said that the notion of one person in DPHHS who knows everything and answer every question is not possible. She does think that the notion of looking at a way that one person could help facilitate getting answers and making sure that whoever needs the answer is getting it in an understandable fashion is something that has merit. She said that how they do their business, how they respond to the public, and how they get the information and answer questions is an issue. She said that the other issue is that there will always be some people who are not happy with the determination that is made and the question is how do we handle that.

Ms. Miles said that she wanted to suggest through their Quality Assurance Division in the Department; they have a process called the Fair Hearings Process where people can appeal Department decisions. She said that if the Committee is interested, there could be a presentation on how people can appeal determinations and then explore the current system and

whether that is a good avenue or if there are barriers there. She said that one of the cuts that the Department sustained in 2003 was a customer relations individual who helped tracked information for people, complaints from the public about someone in the Department or in the field, or if the public didn't understand something. Ms. Miles said that she would like to expand their communications and public relations.

SEN. ESP said that last interim he had a discussion with Budget Director Ewer about the idea of having a Child and Families Ombudsman, but he could never figure out how to get the money for a full time position. He said that we should be looking at a department-wide ombudsman with certain authority to look into and get to the bottom of things on behalf of constituents and/or legislators.

MS. MILES said that she is going to proceed with the small reorganization that she is doing in piecing together enough FTEs and redo the communications and customer relations unit. She said that if the Committee would like to recommend something like what Rep. Eaton proposed, the Department would be happy to come up with some ideas of structure and how a person might be able to get information. She said that she could present some examples of models from other states and present that to the Committee.

TAPE 9B

QUESTIONS

REP. ROBERTS asked Mr. Hudson how many cases during the year does he feel could be addressed by this kind of plan. MR. HUDSON said that in his area, in the course of a year, there would be a dozen people who would say that they wanted to go directly to a person who has a bigger picture and could give him a clear, final answer than the single administrator.

SEN. ESP said that there is an advantage of ombudsman versus employees in that they are viewed by constituents as being independent. In the bill they crafted, they had the ability to report to the Governor and the Legislature about suggested systematic changes and report periodically on the incidences and the types of complaints they had.

SEN. WARDEN asked if the customer service position that was eliminated as a result of budget cuts created any hardship for the Department. JOHN CHAPPUIS said that that position was created in the 90s and it was to handle complaints, but over time, it proved not to be a full time position. He said that he deals with the problems that are multi-divisional, especially when it involves clients. He said that the only thing that he would caution on the issue of an ombudsman is that they have a number of ombudsman functions in various parts of the Executive Branch and there needs to be some coordination so that they don't bump up against one another. He said that the customer relations as a part of an FTE is probably needed and should be reinstated.

NEXT MEETING DATE

SEN. SCHMIDT said that the meeting will be September 14 and 15, 2006.

OTHER BUSINESS

SEN. SCHMIDT said that Susan Fox could get a summary out on subcommittees and topics for the next meeting.

SEN. ESP said that he would like to be on the subcommittee for draft legislation.

DAVID NISS requested that the subcommittee consider the recommendation that he made to amend the grandparent contact statute.

ADJOURNMENT

SEN. SCHMIDT adjourned the meeting at 3:30 p.m.

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