

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 20, 1985

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Judy Jacobson on Wednesday, March 20, 1985 in Room 410 of the State Capitol at 12:30.

ROLL CALL: All members were present. Senators Lynch and Newman arrived late. Karen Renne, staff researcher, was also present.

There were numerous people in attendance. See attachments.

CONSIDERATION OF HOUSE BILL 627, 665, and 686: Representative Nancy Keenan of House District 66 in Ananconda, the chief sponsor of the bills, gave a brief resume of the them. She stated that since the bills are considered a package she would like to handle the three together if that was permissible with the chairman of the Committee. Senator Jacobson stated that would be fine.

HOUSE BILL 627 is an act to specify the general duties of a guardian ad litem in cases of child abuse or neglect.

HOUSE BILL 665 is an act to revise the procedures involved in terminating the parent-child legal relationship.

HOUSE BILL 686 is an act to generally revise the procedures relating to the filing and conduct of child abuse, neglect, or dependency proceedings.

Representative Keenan stated that HB 627 simply states that the guardian ad litem in cases of child abuse does not have to be an attorney.

HB 665 is to enable people to get into court more quickly for the protection of the children.

HB 686 is a safety measure which would require the county attorney hired by the county welfare department to file petitions alleging abuse or neglect of a child. This bill would protect both the child and the parents.

Noel Larivee, an attorney in private practice from Missoula, stood in support of the three bills. He stated that HB 627 would place the guardian ad litem as the spokesman for the child and would also state that the guardian ad litem does not need to be an attorney.

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Mr. Larivee stated that HB 665 would allow court proceedings to come about in a more timely manner for the benefit of both the child and the parents. This would require a written report.

He stated that HB 686 allows that if a county attorney fails to file proceedings for the safety of the child in child abuse situations, then the attorney general or an attorney hired by the county welfare may file the petition.

Warren Wright of the Missoula Child and Family Resource Council stood in support of the bills. He stated that HB 627 just spells out the duties of a guardian ad litem which does not have to be an attorney. HB 686 will protect the child and also the parent. Many times abuse cases are ignored and let go on for a long time with nothing being done. An attorney needs to file a petition as soon as possible and the hearing must then be held within 20 days of when the petition is filed. HB 665 would terminate the rights of the parents when a sibling has been killed by the parent, the parent is incarcerated for more than one year or if two medical doctors submit testimony that the parent is so severely mentally ill that such person cannot assume the role of parent.

John Madsen, representing the Department of Social and Rehabilitation Services, stood in support of the bills. He stated that HB 627 would enhance children's representation. Parents and children's rights are being protected in these bills. HB 686 will require that a petition be filed in the quickest time possible. These issues need to be dealt with now. It is a real problem with child abuse and neglect.

Senator Gary Aklestad of Senate District 6, stood in support of HB 686. However, he offered an amendment on page 5, line 19, following: "therein"; insert: "The parents must be notified before the terms of the order may be carried out."

Senator Aklestad stated that there was a case in his district where a child had been picked up at school by the authorities and the father did not know for several days, the whereabouts of his child. He felt that this amendment would be for the benefit of everyone concerned and would save the parents a lot of grief, concern and distress.

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With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Towe asked if a guardian is necessary in every case. Representative Keenan replied "yes" that it is a federal mandate that each child have a guardian.

Senator Lynch addressed the Aklestad amendment. He stated that he feels that this is being done already as most social workers do notify the parents.

Noel Larivee stated that SRS is obligated to notify the parents.

Senator Towe asked if there have been cases where the county attorney did not file a petition. Mr. Larivee stated that there had been a case where the child of a well known family had been abused shortly before election time. The county attorney did not file the petition and the child was sent out of state until after the election. This bill, HB 686, would give some recourse.

Senator Towe stated that there needs to be proof of abuse or neglect. The child could have the ultimate weapon and destroy his parents life by having an attorney file abuse charge against the parents, when in fact, there had been none.

Senator Hager asked if the court appoints the guardian ad litem. Representative Keenan stated that the court appoints a guardian ad litem for any child alleged to be abused or neglected.

Rachel Leadsimone of Anaconda arrived. She is a guardian in child abuse cases. She explained her duties. She is to represent the child's interests, to conduct investigation into the matter, to visit with the child, read the records, talk with the parents, school officials, foster parents, and others as she feels necessary. She then prepares a file with her statements and files the report.

Senator Hager asked if the guardians are trained in any way. Noel Larivee reported that the guardians do under go training.

Representative Keenan closed. She stated that HB 627, 665, and 686 are a composite package which have been closely reviewed. She urged the Committee to concur with the House on these bills.

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CONSIDERATION OF HOUSE BILL 758: Representative Cal Winslow of Billings, the sponsor of HB 758, gave a brief resume of the bill. This bill is an act providing for a youth placement screening committee to review the placement of children in child-care agencies; establishing hearing requirements; and providing basic standards for the conduct of committee deliberations.

This bill provides for a Youth Placement Screening Committee to review the placement of children in child-care agencies. The Department of Social and Rehabilitation Services would have the authority to establish this committee for the purpose of determining the appropriateness of placing youths in out-of-home care or treatment because of abuse, neglect, dependency, or emotional or behavioral disturbance.

Norman Harris, representing the Department of Social and Rehabilitation Services, stood in support of the bill. She stated that the Committee would be responsible to review all information and resources relevant to placement of the child, including treatment, recommendations, and alternatives relative to the costs budget considerations. It would require hearings before the Committee to determine appropriateness of the placement with emphasis on in-state placement. Mrs. Harris handed in some amendments which she felt were necessary for the bill. See attachments.

Tom Drueggar stood in support of the bill. He stated that the Direct Screening Committee would check out all of the in-state options first when placing a child. This bill would provide a good process to review the placement of children in child-care agencies.

With no further proponents, the chairman called on the opponents.

Jermiah Johnson, a youth court probation officer from Missoula, stood in opposition to the bill. He stated that this bill will tie up too much time of the court workers. They do not have the man power for such a job and it would take too much time. This should be handled at the state level.

Fifty-six percent of all youth placed were placed out of state by the SRS. There are many areas in-state for placement. He feels that Senator Towe's bill is better. HB 758 will add additional time of the telephone, letters and personal contact in order to advocate services for the emotionally disturbed youth. This would be added on to the two to five months of time it takes already to process youth into resid-

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ential treatment.

Mike Flemming, a probation officer from Livingston, stood in opposition to the bill. Time is very critical when placing youths, and he felt that this bill would add to the time involved.

Dave Lanning, a probation officer from Havre, stood in opposition to the bill. He stated that the probation officers held a meeting, are in complete opposition to the bill.

With no further opponents, the chairman opened the meeting to a question and answer period from the Committee.

Senator Himsl asked if this bill would have any fiscal impact. There is none connected to this bill.

Senator Himsl asked how many disturbed youth are in custody in Warm Springs. There are 27 in Warm Springs and 39 out of the state at the present time.

Senator Towe asked the sponsor to respond to the proposed amendments. Representative Winslow stated that he felt the amendments would be acceptable.

Senator Stephens stated that if appears that this bill would add a time delay for the placement of the youth.

Senator Newman asked if local people would be involved with this process. Yes, they would be involved.

Representative Winslow closed. He stated that he could understand the feelings of the probation officers. This bill would attempt to make sure appropriate placement takes place. There are emergency placement programs available. He stated that he would appreciate the Committee concurring on this bill.

CONSIDERATION OF HOUSE BILL 798: Representative Joan Miles of House District 45 in Helena, the chief sponsor of HB 798, gave a brief resume of the bill. This bill is an act to authorize the Department of Social and Rehabilitation Services to operate community programs for physically disabled persons; to authorize the Department to license community homes for the physically disabled, to provide for standards for programs, administration, health, and safety for such services and community homes.

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Representative Miles stated that this is enabling legislation. It would allow the department to operate special programs for physically disabled individuals or license group homes on their behalf. There are separate funding issues for this bill which are in Appropriations Committee.

This bill is intended to take care of the more necessary needs of severely disabled people who have a permanent impairment of a physical nature and do not meet the eligibility criteria of vocational rehabilitation and do not qualify for Medicaid services.

Maggie Bullock, representing the Department of Social and Rehabilitation Services, stood in support of the bill. She stated that these people represent a wide variety of disabilities such as spinal cord injuries caused from an accident, multiple sclerosis, muscular dystrophy and many other diseases or injuries. This bill will take care of a known 426 people at the present time. Some of these people cannot remember from day to day what they should do.

Laura Cook, representing the Big Bear Resources in Missoula, stood in support of the bill. She stated that many people which need this service have received head injuries from a variety of accidents. This would affect people over the age of 18 years. Their living would be improved by group homes or learning how to take care of themselves properly at home.

Dawn DeWolf, representing the Priorities for People, stood in support of the bill. She stated that there is a real need for this bill. She asked the Committee to think about what might happen to these people without the bill. These people need to learn to take care of themselves in our society. This bill would establish a mechanism for services.

With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Hager asked how many people would be served by this program. It is unknown at the present time how many people may use the program. However, 400-500 people are eligible at the present time.

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Senator Towe asked if there is state funding in this bill. The funding level would be determined by the legislative appropriations process. The level requested in the budget is \$438,000 from the general fund and \$100,000 in federal money.

Senator Hager stated that he felt that the group homes should be better neighbors and take care of their property better. Many times the group homes are run down.

Representative Miles closed. She stated that the people are not getting the programs that they need. She asked the Committee to give the bill favorable consideration.

ACTION ON HOUSE BILL 738: This bill which was introduced by Representative Kelly Addy is an act revising the Montana Medical Legal Panel Act.

Senator Himsl stated that there is no control in this act. A legislative audit has been requested for the Montana Medical Legal Panel after July of 1986. Then it would be ready for the 1987 Legislature and they would have the current data.

Senator Jacobson stated that she had talked with many people from the medical profession and they would agree with Senator Himsl that a legislative audit would be in order.

Senator Himsl stated that this would be a program audit.

A motion was made by Senator Towe that HB 738 BE CONCURRED IN. Motion carried.

Senator Jacobson will carry this bill on the floor of the Senate.

ANNOUNCEMENTS: The next meeting of the Senate Public Health Committee will be held on Friday, March 22, 1985 at 12:30 in Room 410 of the State Capitol to consider HB 235, 676, 472, and 766.

ADJOURN: With no further business the meeting was adjourned.

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SENATOR JUDY JACOBSON, CHAIRMAN

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/20/85

SENATE SEAT

#

NAME	PRESENT	ABSENT	EXCUSED
6 <u>SENATOR JUDY JACOBSON, CHAIRMAN</u>	✓		
5 <u>SENATOR J. D. LYNCH, V. CHAIRMAN</u>	<i>late</i>		
42 <u>SENATOR TOM HAGER</u>	✓		
30 <u>SENATOR MATT HIMSL</u>	✓		
17 <u>SENATOR TED NEWMAN</u>	<i>late</i>		
45 <u>SENATOR BILL NORMAN</u>	✓		
14 <u>SENATOR STAN STEPHENS</u>	✓		
26 <u>SENATOR TOM TOWE</u>	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

..... March 20, 19 85.....

MR. PRESIDENT

We, your committee on..... Public Health, Welfare and Safety.....

having had under consideration..... House Bill..... No. 738.....

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GENERALLY REVISE MEDICAL LEGAL PANEL ACT

ADDY (JACOBSON)

Respectfully report as follows: That..... House Bill..... No. 738.....

~~XXXXXX~~
DO PASS

~~XXXXXXXXXX~~

BE CONCURRED IN

..... SENATOR JUDY JACOBSON, Chairman.....

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Walter T. Landolf	mt. Federal Dist			
Brian Fine	Uto. Medical Assoc		✓	
Gerald J. Neely	Montana Medical Association		✓	
Maxine Malloch	SRS	798	✓	
Naomi McWald	Helena Industries		✓	
Marion Wright	Mont. Child + Family Resource Council		✓	
John Madson	SRS	665 686	✓	
Dennis Johnson	PO 12 th Dist	758		✓
Doug Johnson	PO 12 th Dist	758		✓
Jerry Johnson	Health Care Prof. Association	758		✓
Ken Carl	SP1	758		
Le Talbot	MMAA			
Orville Barber	MMAA			
Chris Hancock	MMAA			
Jean Porter	MMAA Aux.			
John Williams	Mont. Intellectual Com.	686		
Sen. Chaffetz				
Miss Chapman	MMAA			
Penny Donaha	"			
Carol M. Anderson	"			
Frank Anderson	"			
Jan Wright	"			
John Martin	"			
John Labadie	"			
Bill Labadie	"			

DATE March 19, 1985

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
<i>Jean Harbor</i>	<i>AMA</i>			
<i>Rachel Kiefer Green</i>				

(Please leave prepared statement with Secretary)

Norma Hesse
AH

AMENDMENTS TO HOUSE BILL 758
RECOMMENDED BY SRS

1. Title, line 5
Following: "TO"
Strike: "REVIEW"
Insert: "SCREEN"
2. Title, line 7
Following: "ESTABLISHING"
Strike: "HEARING"
Insert: "SCREENING"
3. Title, line 9
Following: MCA
Strike: AND
4. Title, line 10
Following: DELIBERATIONS
Strike: ". "
Insert: "; and amending section 41-3-1121, MCA."
5. Page 2, line 7
Following: THE
Strike: BOARD
Insert: "office"
6. Page 3, lines 4 through 6
Strike: Subsection (6) in its entirety.
7. Page 3, line 7
Following: "Section 3."
Strike: "Hearing"
Insert: "Screening"
8. Page 3, line 8
Following: "its"
Strike: "hearing"
Insert: "screening"
9. Page 3, line 17
Following: "(A)"
Strike: "grant care to"
Insert: "recommend appropriate placement for"
10. Page 3, line 22
Following: "before"
Strike: "placing"
Insert: "recommending"
Strike: "resident child in a"
11. Page 3, line 23
Following: and

Strike: "."

Insert: ", unless an out-of-state child care agency can provide appropriate treatment that can be obtained at a cost less than that offered by any available child care agency in this state or is available closer to the youth's place of residence."

12. Page 6, line 14

Following: "~~section-3~~."

Insert: "Section 5. Section 41-3-1121, MCA is amended to read:

41-3-1121. Foster care payments for youth placements.

(1) The youth court may establish procedures for finding, maintaining, and administering shelter care and foster homes approved by the court for youth within the provisions of his part.

(2) Pursuant to 41-3-1122, the department shall make a foster care payment for a child placed by the court if:

(a) the child is placed in a youth care facility licensed by the department or by an appropriate licensing authority from another state;

(b) the youth court enters into an agreement according to federal regulations with the department for the placement of children;

(c) the placement of the child is screened and reviewed as required by 41-3-1115, [Section 1 and 2]; and

(d) the youth court retains supervision of the child in placement.

Renumber: subsequent sections

NAME: Rachel Lieder Simpson DATE: _____

ADDRESS: 208 E Third Anasomba

PHONE: 563-2652

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: HB 627, 665, 686

DO YOU: SUPPORT? AMEND? _____ OPPOSE? _____

COMMENTS: called by Noel Larrivage

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Maggie Bullock DATE: 3-20-85

ADDRESS: 111 Sanders

PHONE: 444-3434

REPRESENTING WHOM? SRS

APPEARING ON WHICH PROPOSAL: HB 798

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Laura Cork DATE: 3/20/85

ADDRESS: 500 East Alder, Missoula, MT

PHONE: 728-0441

REPRESENTING WHOM? Big Bear Resources

APPEARING ON WHICH PROPOSAL: HB 798

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

H.B. 758 - YOUTH PLACEMENT SCREENING COMMITTEE

Sponsor: Representative Hal Winslow (R) Billings

This Bill provides for a Youth Placement Screening Committee to review the placement of children in child care agencies. The Department of Social and Rehabilitation Services would have the authority to establish this committee for the purpose of determining the appropriateness of placing youth in out-of-home care or treatment because of abuse, neglect, dependency, or emotional or behavioral disturbance.

The Committee would be responsible to review all information and resources relevant to placement of the child, including treatment recommendations and alternatives relative to costs and budget considerations. It would require hearings before the Committee to determine appropriateness of the placement with emphasis on in-state placement.

H.B. 489 - To require prior consultation with the Department of Social and Rehabilitation Services for placement of youths in residential youth facilities

Sponsor: Representative Steve Waldron (D) Missoula

This Bill amends 41-5-403 and 41-5-523, disposition permitted in Youth Court under informal adjustment and disposition of Delinquent Youth and Youth in Need of Supervision by providing that the Court shall determine if the youth can receive appropriate treatment in a youth care facility located in Montana as follows:

(a) If the court finds the youth can receive appropriate treatment in a youth care facility located in Montana that will accept the youth, the court may not place the youth in a youth care facility located outside this state UNLESS AN OUT-OF-STATE FACILITY CAN PROVIDE APPROPRIATE TREATMENT THAT:

(I) CAN BE OBTAINED AT A COST LESS THAN THAT OFFERED BY ANY AVAILABLE FACILITY IN THIS STATE; OR

(II) IS AVAILABLE IN CLOSER PROXIMITY TO THE YOUTH'S PLACE OF RESIDENCE THAN ANY FACILITY LOCATED IN THIS STATE.

(B) IF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES ACCEPTS THE FINANCIAL RESPONSIBILITY FOR THE COSTS OF CARING FOR THE CHILD IN A YOUTH CARE FACILITY OTHER THAN A YOUTH FOSTER HOME OR YOUTH GROUP HOME, THE COURT SHALL PROVIDE THE DEPARTMENT WITH AT LEAST 5 DAYS' WRITTEN NOTICE AND OPPORTUNITY TO BE HEARD BEFORE ORDERING THE PLACEMENT OF THE YOUTH.

The Bill further provides that the Department of Social Rehabilitation Services shall pay for room, board, clothing, personal needs, transportation and treatment in Youth Foster Homes and Group Homes. However, youth committed to the Department of Institutions or placed in residential facilities other than those described above shall not be the financial responsibility of the Department of Social and Rehabilitation Services unless such placements have been approved in advance by the Department of Social and Rehabilitation Services.

The Bill further provides that the Department of Social and Rehabilitation Services shall pay for the services listed above within the limits of the appropriation for that purpose only. These Bills will drastically restrict, if not eliminate, out of state resources for the emotionally disturbed child. It will also make it more difficult to obtain services for the emotionally disturbed child within the State of Montana. There are only two residential treatment facilities in Montana that work with this type of child. One is the Deaconess Home in Helena and the other is Yellowstone Boys and Girls Ranch in Billings. It takes approximately five months to process a youth into the Deaconess Home if everything is going fine. Yellowstone Boys and Girls Ranch's processing time is between one and two months. It takes two months in this District. In approximately 1984 the Department of Social and Rehabilitation Services shut down the use of Yellowstone Boys and Girls Ranch for seven months due to a rate dispute. This loss of resources forced many courts across the state to utilize out of state treatment at the request of the Department of Social and Rehabilitation Services. The Department of Social and Rehabilitation Services is now stating that the courts have improperly used out of state resources for these youth and it is necessary to get control of the placements on the emotionally disturbed youth in advance of any placement. In 1983 the Legislature created Foster Care Review Committees to review every case in out of home care and require that everything must be done to return the child home as soon as possible. The impact for Missoula has been at least one officer meeting with this committee for at least three hours every other week. Additional preparation time is needed for these meetings and it sometimes requires more than one officer at the committee. Ravalli County faces similar time constraints.

H.B. 758 will add additional time on the phone, letters, and personal contact in order to advocate services for the emotionally disturbed youth. This would be added on to the two to five months of time it takes to process a youth into residential treatment.

These Bills will ultimately impact on the Judges ability to order services for youth who are appearing in Youth Court. He will now be required to obtain the Department of Social and Rehabilitation Services permission in advance of placing any youth in residential care. He will be prohibited from sentencing youth to alcohol/drug treatment and having the Department of Social and Rehabilitation Services pay for it because there is no appropriation for that purpose. H.B. 489 allows expenditures only for specific services and alcohol/drug treatment is not one of those listed.

An additional impact these Bills will have on the system is the impatience of the youth themselves. Most youth who are experiencing emotional disturbance patterns are out of control and are not interested in waiting around two to five months for services. Most don't even want services so as their pattern of behavior deteriorates the chances of increased delinquency becomes more apparent. When you can not provide a community based services or alternative to incarceration for the youth then the only alternatives are to either kick him back out on the street or sentence him to an institution like Pine Hills School for Boys. This later alternative will definitely increase the amount of youth committed to institutions. This impact has already been felt with the passage of H.B. 24. H.B. 24 was passed in 1983 and turned responsibility for administering the dollars for out of home care youth to the Department of Social and Rehabilitation Services. During the year 1983, there were 16 45-day evaluations and 7 youth committed to state institutions in the Fourth Judicial District. By 1984 this figure increased to 37 45-day evaluations and 26 commitments to state institutions. This is partly due to the increased bureaucratic time it takes to get community based services for youth.