

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By ACTING CHAIRMAN SHARON ESTRADA, on February 6,
1995, at 1:02 pm

ROLL CALL

Members Present:

Sen. James H. "Jim" Burnett, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Arnie A. Mohl (R)
Sen. Mike Sprague (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Terry Klampe (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Karolyn Simpson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 217, SB 168, SB 244
Executive Action: SB 17, SB 209

{Tape: 1; Side: 1}

HEARING ON SB 217

Opening Statement by Sponsor:

SENATOR STEVE DOHERTY, SD 24, Great Falls, said SB 217 was requested by the Department of Family Services. It strikes some current language that limits the Department from appointing someone who is an employee of the Department from being the Indian Child Welfare Specialist for Montana. It gives the director of the Department more flexibility in hiring someone who has the expertise and knowledge to be the Indian Child Welfare Specialist. Currently, they are limited to hiring someone who works for the Department, but SB 217 gives the flexibility of hiring someone who has expertise, but might not work for the Department.

Proponents' Testimony:

Shirley Brown, Administrator Program Management Division, Department of Family Services spoke briefly from her written testimony in support of SB 217. EXHIBIT 1.

Mary Alice Cook, representing Advocate for Montana's Children, spoke briefly in support of SB 217.

Opponents' Testimony:None

Committee Members and Responses:

SENATOR SPRAGUE asked about the requirements for becoming an Indian Child Welfare Specialist.

SENATOR DOHERTY said the main requirement is experience in the social work field or legal capacity and understanding the Montana tribes. He said the administrator is the best individual to make the decision because of knowledge of the Indian Child Welfare Act.

SENATOR SPRAGUE said he wants to make sure that there isn't going to be a reverse discrimination situation. Can an Anglo Saxon white be a Indian Child Welfare Specialist?

SENATOR DOHERTY replied, he didn't think that would be a problem. As an Irish Catholic from Great Falls, he does a lot of work in that area, and thinks he would qualify. He said he does not see this as a requirement that the individual be a tribal member.

SENATOR SPRAGUE asked if the individual needed to be an attorney.

SENATOR DOHERTY said that was not the case. There are social workers who have worked in the area for a long time and would qualify.

Closing by Sponsor:

SENATOR DOHERTY offered no additional remarks in closing.

HEARING ON SB 244

Opening Statement by Sponsor:

SENATOR WATERMAN, SD 26, Helena, said SB 244 addresses an issue of concern. There are more than 500 children who have been in the custody of the Department of Family Services foster care for more than two years. The Joint Oversight Committee on Children and Families suggested the development of a state policy that, within one year, children in custody of DFS have a permanent plan for their care. A grant from the Kellogg Foundation has been received that will allow this to be done without having to increase the state budget to deal with the backlog. SB 244 also directs the

review of the adoption laws in Montana and review the Uniform Adoption Act, adopted in 1994 by the National Conference of Commissioners of Uniform State Law. Montana adoption laws, enacted in 1957, have been changed over the years. In 2 years, a report will be presented of the findings. Children who are in the custody of DFS should have a permanent home, either returned to their natural home, placed in a permanent foster care setting, or in a permanent adoption setting, within one year of placement. There is one technical amendment to change the date deadline of submitting the report.

Proponents' Testimony:

Hank Hudson, Director, Department of Family Services, spoke in support of SB 244. He said that children in the custody of DFS or tribal courts need a permanent loving family. It is not in the best interest of children to be in a temporary situation for a long period of time. There are many children in foster care, who weren't permanently place in a timely manner, which is contrary to the mission purpose of the Department. A strategy to eliminate the pool of children who have been out of a permanent home for a long time, move them into a permanent home and change the policies, laws, and practices so it won't happen again. A plan was submitted to the Kellogg Foundation, and Montana was one of the fortunate states to receive a grant. SB 244 provides additional legislative incentive and direction to spend the next 2 years making necessary changes to place those 500 children in permanent homes.

Gary Walsh, Montana Post Adoption Center, said that the focus in foster care needs to be moving children through foster care faster into permanent homes, and change the system so fewer children get into the system. He said there needs to be a system of more support services to birth parents and adoptive parents, and a coordinated assessment process, and reduce the number of workers assigned to each child and family.

Mary Alice Cook, representing Advocates for Montana's Children, spoke briefly in support of SB 244.

Laurie Koutnik, Christian Coalition of Montana, spoke briefly in support of SB 244. She said this is tax relief for the taxpayers to private sector funding for this project to meet the needs of children needing permanent placement.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR FRANKLIN asked if the Kellogg foundation grant is secured funding, about some previous legislation that is similar, and the reasons why this legislation is needed.

Hank Hudson replied that it is. He said he doesn't remember that particular legislation. There is a question why children are in foster care for so long. Past directives to the Department for permanent placements have a clear plan on the meaning and how it's going to be done. The focus is on permanent placements, but that has not happened. He said there needs to be a more specific approach. There have been meetings throughout the state and ideas have been gathered about the problems of foster care and what are the barriers to permanent placements. The ideas gathered, are being used to change the system.

SENATOR SPRAGUE asked about the \$1.6 million grant from the Kellogg Foundation to start the program. He asked if the program will be subject to sunset in 1997, then more funds will have to be appropriated for the program.

Hank Hudson replied that the money will be gone by 1997, with the results of that money being there. The Department intends to design a solution based on current funds available.

Closing by Sponsor:

SENATOR WATERMAN said the desire is for the system to change and make it state policy that children will not be in foster care for more than one year. She said the Kellogg grant will allow the backlog of 500 children, currently in the system, to be addressed and help get the revised system in place, at which time there should be a reduction in cost because there won't be as many children in DFS custody. She referred to the Family Policy Act, which was a broad statement about the mission of DFS. SB 244 zeros in on a very specific problem and makes a very specific recommendation for change in policy. She said that it is hoped that by 1997, there will be less children in foster care and, in the future, children will not be bounced around so much.

HEARING ON SB 168

Opening Statement by Sponsor:

SENATOR CHRIS CHRISTIAENS, SD 23, Cascade County, said that SB 168 is asking for a community services screener in mental health commitment proceedings. He referred to SB 168, community services screener, meaning a professional person designated by the Department to determine whether community-based services can adequately serve an individual. There would be some cost for local government, but will probably be minimal. He referred to the fiscal notes, the effect on county or other local revenues or expenditures.

Proponents' Testimony:

Dan Anderson, Administrator, Mental Health Division, Department of Corrections and Human Services, read his written testimony in support of SB 168. EXHIBIT 2.

Patrick Pope, Executive Director of the Meriwether Lewis Institute, read his written testimony in support of SB 168. EXHIBIT 3.

Ron Green, read the written testimony of **Jeff Sturm, Clinical Director, Helena Community Support services.** EXHIBIT 4.

Mary Dalton, Primary Care Bureau Chief in Medicaid Services Division, Department of Social and Rehabilitation Services, read her written testimony in support of SB 168. EXHIBIT 5.

Kathy McGowan, Montana Mental Health Center, supports SB 168 and read the written testimony of **Robert Ross, Executive Director, Montana Health Center.** EXHIBIT 6.

David Hemion, representing Montana Mental Health Association, spoke in support of SB 168 principles that mental health patients and consumers be served in the least restrictive environment. SB 168 will assure that everything possible will be done to make that happen.

Barbara Minske, Director, Youth Committee Support Program, said there are physicians in small communities who can commit people involuntarily to the State Hospital without being aware of community alternatives. She told of a recent incident that happened in Butte.

Andree LaRose, Attorney, Montana Advocacy Program, spoke in support of SB 168. She referred to SB 168, page 7, determination by the Community Service screener, saying she hoped there would be a two-tier approach. First, determine whether the individual can be treated in the community, and second, whether those services are available.

Kelly Morse, Director of the Mental Disabilities Board of Visitors, spoke briefly from her written testimony in support of SB 168. EXHIBIT 7.

Opponents' Testimony:

Marty Onishunk, Vice President, Montana Alliance Mentally Ill, spoke in opposition to SB 168. She said neuro-biological brain diseases, which are physical disease that result in changes of the neuro-transmitters in the brain, resulting in thought and emotional disruptions. These people need medication and protection when they are not well, and that hospitalization and medication are very necessary. She said SB 168 will be one more obstacle in putting family members into treatment.

There are no voluntary commitments to the Montana State Hospital, but there are some voluntary admissions to some community hospitals. SB 168 is a conflict of interests with the Department labeling a mental health center professional as an employee because the state urges them to keep the population down. Many services are not available in communities, and crisis

intervention and safe houses are available only on a voluntary basis for non-violent people. Places are needed where people can be committed. They support Section 5 of SB 168, notifying the communities, but do not support the discharge portion, because there is a need for discharge planning.

Questions From Committee Members and Responses:

SENATOR BENEDICT asked if there are community service screeners in every county of the state.

SENATOR CHRISTIAENS said they may not be in all counties, especially Eastern Montana where there may not be a medical doctor. He referred to page 3, Professional person. He said there are people in close proximity, if not in the county, but in most counties that would qualify.

SENATOR BENEDICT asked if the reference to doctors is talking about doctors trained in mental health screening, and if the community services screener is someone who's trained in mental health screening.

SENATOR CHRISTIAENS said that is correct. He deferred to **Dan Anderson** to answer the question.

Dan Anderson said, under the current system, employees of the community mental health are designated and, whether they are psychologists, physicians or social workers, they would have sufficient training and experience working with the seriously mentally ill to make the determination.

SENATOR MOHL asked if anyone had discussed this with the counties, because of the money required.

SENATOR CHRISTIAENS said that he thinks most counties and regional mental health centers were notified ahead of time, and most of the regional mental health centers have people on staff capable of making those decisions.

SENATOR SPRAGUE said he doesn't want this to be an unfunded mandate to counties, noticed there is no reference of MAACo, and wondered if they are aware of this proposal.

SENATOR CHRISTIAENS replied, he thought they were aware of it, and had they thought it was a serious issue, they would have been opponents at this hearing. County commissioners are on the boards of all the regional mental health centers, so they would have been aware of this.

SENATOR SPRAGUE asked about managed care.

SENATOR CHRISTIAENS said SRS had been looking at managed care and the request for proposals will go out this year. There is a question as to how soon they will be up and operating. Managed

care will be one of the answers to this particular issue, as is MRN.

SENATOR ECK asked about funding constraints.

Dan Anderson said screening can be done for available community services, but if none are available, the individual would have to go to the state hospital.

SENATOR ECK asked what would happen if that service does exist in the community, but can't take any more patients.

Dan Anderson said that probably does happen.

Closing by Sponsor:

SENATOR CHRISTIAENS said this is an important bill, and is an issue that is faced in both the mental health and other systems. He said that patients should be treated in the least restrictive environment and quit sending them to the highest priced treatment first, rather than take care of those who need treatment in the community first. Services within the community are going to cost money, so money needs to be appropriated for these services.

10 MINUTE BREAK TAKEN

{Tape: 1; Side: 2}

EXECUTIVE ACTION ON SB 17

SENATOR KLAMPE returned to hearing.

Motion: **SENATOR BURNETT** moved the AMENDMENTS TO SB 17 DO PASS.

Discussion: **Rob Robinson, Director, Department of Health and Environmental Sciences**, said there is some disagreement as to what would and wouldn't work, but no one disagrees with the necessity of contacting those people who test positive for HIV and AIDS, and with the contacts of those people. Some consensus has been reached to provide anonymous testing, but there must be a requirement that anyone who tests positive or any contact of someone who tests positive, be counselled to help control the spread of the disease. The amendments provide for anonymous testing, treating HIV/AIDS test the same as other sexually transmitted diseases, (page 5, line 14 of B 17), and the notification of the county health officer, by the health care provider, of a positive test and need to identify that person (page 7, lines 20-23). The health care provider has an obligation to insure that contacts are notified, but, if the doctor decides he doesn't want the burden of notifying contacts, the county health officer has that obligation to insure those people are contacted and counselled. Also added, page 7, line 26, "followup for those who engage in high risk behavior."

SENATOR BENEDICT asked if the sponsor of the bill also supports this compromise.

Rob Robinson replied "Yes."

SENATOR FRANKLIN asked about the consensus and if the Montana Nurses Association was in agreement.

Barbara Booher, Executive Director, Montana Nurses Association, said that they agree with some of the amendments. She said there is a problem with some of the language, and referred to page 5, the wording "may notify the local health officer", may put the health officer in a community political situation of having to follow what the community is dictating politically, rather than what the health policy is for the state. They agree with the addition of "an appropriate followup for those who exhibit high risk behavior" and agree with making it clear that contacts are notified. They do not like the "may provide anonymous testing" (page 5, line 12) because that puts an unfair burden on the health care provider.

SENATOR ECK asked about the Public Health nurses support.

SENATOR BAER asked about providing some anonymity in testing, and providing a report process for positive tests to reach contacts of the individual.

Rob Robinson said when someone goes in for testing, it is done voluntarily, and those who come back for the results have been willing to identify themselves and their contacts.

SENATOR BAER asked if he had understood correctly, that when someone volunteers for testing, they come back for the results and are told they are positive, they will disclose their identity and their contacts. He asked if this is predominately the case, rather than people who don't show up at all.

Bob Robinson said all of the information, gathered from STD clinics, Family Planning clinics, and county health departments, at the Department indicates almost everyone who comes in for testing returns for the results.

SENATOR SPRAGUE asked about the language, "may" and "will."

Rob Robinson said this language gives the option for anonymous testing, if requested. He said the word "shall" isn't desirable because some health care providers may not want to do that.

SENATOR SPRAGUE asked about example given of an individual being tested on a "may" or "generic" basis, and when the results were known, then determine it's a "will."

Rob Robinson said yes, that the provider is required to notify the public health officer with the name of the individual.

SENATOR FRANKLIN asked about the position of the public health officials.

Rob Robinson said that he had contacted Joan Miles about this issue. She felt it was the responsibility of the county health officer. They also contacted other county health officers, and their reaction was the same.

SENATOR FRANKLIN said she has some information from the Epidemiologist, who testified at the SB 17 hearing, and she supports the notification of the county health officer because they have the expertise in doing contact notification. She said the "may notify" set up the potential for community unrest and the Department should make it clear what its policy is.

SENATOR ESTRADA thanked **Rob Robinson** and said the Committee needed to get back to executive session.

SENATOR FRANKLIN asked if this was executive action.

SENATOR BENEDICT said, under executive action, it is not another hearing with a lot of dialog. **Rob Robinson** was asked to explain the amendments and there has been a lot of discussion who's for the bill and who's against it, and it is necessary to get back to discussion among Committee members.

SENATOR FRANKLIN said that's what she thought she was doing.

SENATOR BURNETT called for the question.

SENATOR FRANKLIN said she had one more question for **Rob Robinson**.

SENATOR BURNETT said the Committee was in executive session.

SENATOR FRANKLIN asked if she was being refused to asked a question.

SENATOR ESTRADA said the Committee was in executive session and have extended the courtesy to **Rob Robinson** to explain the amendments, and he has done so.

SENATOR FRANKLIN registered a complaint that her questions were being limited, individuals are present who have valuable information, and she thinks the Committee needs the information to make a decision on this bill.

Vote: The motion for the AMENDMENTS to SB 17 CARRIED with **SENATOR FRANKLIN** voting NO.

Motion: **SENATOR BURNETT** moved SB 17 DO PASS AS AMENDED.

Discussion: **SENATOR BAER** said he has had great difficulty reaching a decision as to what would be the proper method for

testing, treatment, and controlling the spread of the disease for the protection of society, but has decided he will support SB 17.

SENATOR SPRAGUE asked about the medical treatment received if someone comes in for testing. He said that years ago, when HIV was discovered, all that could be offered was empathy and sympathy. He wondered if patients now receive more from the health care provider and is the patient's life prolonged. He said he will support SB 17.

SENATOR ECK said she opposes SB 17, but thinks the amendments help, but don't help enough. She said the system we have now is not broken and is working well. She thinks it punitive to require the name be listed in the county health office.

SENATOR MOHL said he will support SB 17, and thinks the amendments help. It's a disease and shouldn't be treated any differently than any other disease.

SENATOR FRANKLIN says that she opposes SB 17 because she can't see anything based on medical science to support it.

SENATOR BAER said Montana doesn't have the problem that other areas have, but he has talked with health care providers and people, from San Francisco and New York, who are directly involved in AIDS programs and AIDS prevention and treatment programs. Their perspective on this is entirely different from people in Montana because they know what hell is. Montana has not experienced the situation where the disease is rampant and uncontrolled.

SENATOR BURNETT said not many years back, there were only a few cases of AIDS-HIV, but there has been an increase in cases. Probably the system is working, but not as well as it could. He will support SB 17.

SENATOR ECK said she wanted to discuss the section of law (section 50-18-107) not in the bill, dealing with sexually transmitted disease, but still would be applicable. She said SB 17 is putting an unfunded mandate on local governments. If the HIV-AIDS section is moved into section 50-18-107 of the law, then it's there.

Vote: The Do Pass motion for SB 17 AS AMENDED CARRIED with SENATORS FRANKLIN and ECK voting NO.

EXECUTIVE ACTION ON SB 209

Motion: SENATOR BENEDICT moved SB 209 DO PASS.

Discussion: SENATOR FRANKLIN said she has a proposed amendment to SB 209. She referred to page 13, Section 19, line 24, the issue

of community service work and number of hours per week versus number of hours per month.

SENATOR BENEDICT and **SENATOR BURNETT** both said that they agreed with **SENATOR FRANKLIN** about the hours issue.

SENATOR SPRAGUE asked if changing to number of hours per month will change the mathematics of the whole process.

Roger La Voie, Family Assistance Division, Department of Social and Rehabilitation Services, referred to **Penny Robbe**.

Penny Robbe, Administrative Coordinator, Family Assistance Division, SRS, said there is no problem changing the language from month to week.

SENATOR SPRAGUE asked about the change of hours per week to hours per month.

Penny Robbe said the change would allow flexibility with the hours worked, but will average 20 hours per week, which is 80 hours per month.

SENATOR SPRAGUE asked if an individual does not work one week, do they have to not work the rest of the month to qualify, and whether the program has been lengthened because it's a monthly program rather than weekly.

Penny Robbe said that will be clarified by rule when the rules are adopted. Right now, it is 20 hours per week, but the monthly average is 80 hours, and would never require more than 40 hours in any week.

SENATOR FRANKLIN raised the issue of the time clock and the homelessness. She wondered if a person is homeless, whether that is calculated into the time limit.

Roger La Voie said a homeless individual would not be off the benefits after the time limits have expired. There would be some exemptions. He said he didn't see why someone who is homeless couldn't do some community service work in exchange for their benefits.

SENATOR FRANKLIN said this is an area of concern to her.

Penny Robbe said that is an issue to the department, and the homeless are a problem. She said the homelessness needs to be treated first before the family can move on to self-sufficiency.

Vote: The Do Pass motion for the AMENDMENTS to SB 209 CARRIED UNANIMOUSLY.

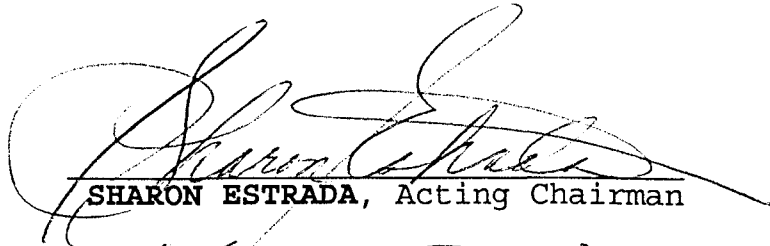
Motion: **SENATOR BENEDICT** moved SB 209 DO PASS AS AMENDED.

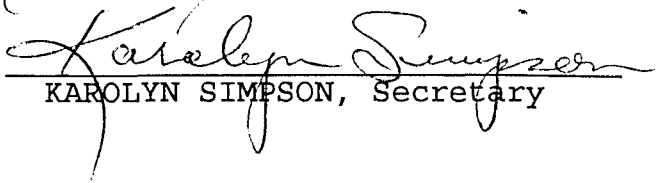
Discussion: SENATOR ECK said she wants some clarity and definitions, and some additional definitions

Vote: The Do Pass motion for SB 209 AS AMENDED CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 1:50 PM


SHARON ESTRADA, Acting Chairman


KAROLYN SIMPSON, Secretary

SA/ks

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL

DATE 2/6/95

NAME	PRESENT	ABSENT	EXCUSED
LARRY BAER	X		
SHARON ESTRADA	X		
ARNIE MOHL	X		
MIKE SPRAUGE	X		
DOROTHY ECK	X		
EVE FRANKLIN	X		
TERRY KLAMPE	X		
STEVE BENEDICT, VICE CHAIRMAN	X		
JIM BURNETT, CHAIRMAN	X		

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 6, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 17 (first reading copy -- white), respectfully report that SB 17 be amended as follows and as so amended do pass.

Signed: 
Senator Jim Burnett, Chair

That such amendments read:

1. Title, lines 8 and 9.

Strike: "DEPARTMENT" on line 8 through "NOTIFYING" on line 9

Insert: "LOCAL HEALTH OFFICER SHALL ENSURE THAT"

Following: "CONTACTS"

Insert: "ARE NOTIFIED"

2. Page 5, line 14.

Insert: "(6) A health care provider may provide HIV-related tests on an anonymous basis."

Re-number: subsequent subsections

3. Page 6, line 29.

Strike: "(10)"

Insert: "(11)"

4. Page 7, lines 19 and 20.

Following: "positive"

Strike: the remainder of line 19 through "contacts" on line 20

Insert: ", the health care provider shall notify the local health officer"

5. Page 7, line 23.

Strike: "department or a"

Following: "shall"

Strike: "notify contacts"

Insert: "ensure that contacts are notified"

6. Page 7, line 26.


Strike: "and"


Insert: ", "

Following: "testing"

Insert: ", and appropriate followup for persons exhibiting high-risk behavior"

-END-

 Amd. Coord.

 Sec. of Senate

311526SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 6, 1995

MR. PRESIDENT:



We, your committee on Public Health, Welfare, and Safety having had under consideration SB 209 (first reading copy -- white), respectfully report that SB 209 be amended as follows and as so amended do pass.

Signed: 
Senator Jim Burnett, Chair

That such amendments read:

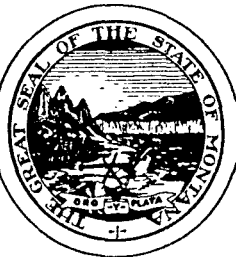
1. Page 13, line 24.
Strike: "week"
Insert: "month"

-END-


 Amd. Coord.
Sec. of Senate

311536SC.SPV

DEPARTMENT OF FAMILY SERVICES



MARC RACICOT, GOVERNOR

(406) 444-5900
FAX (406) 444-5956

STATE OF MONTANA

HANK HUDSON, DIRECTOR

PO BOX 8005
HELENA, MONTANA 59604-8005

February 6, 1995

SB 217: AN ACT CLARIFYING THE QUALIFICATIONS
FOR THE INDIAN CHILD WELFARE SPECIALISTTestimony of Shirley K. Brown, Administrator
Program Management Division, Department of Family Services

Mr. Chairman, Members of the Committee. I am testifying on behalf of the Department of Family Services in support of SB 217.

This bill amends Mont. Code Ann. §52-2-117 in two ways:

- a. Removes the requirement that, in the event of a vacancy in the position, the Director appoint a department employee; and
- b. Requires the secretary of state send a copy of the statute to the tribal chairperson of each of the seven Montana reservations and to the tribal chairperson of the Little Shell tribe.

The department requested the first amendment in order to provide flexibility in hiring for the position when the position becomes vacant. Currently, the statute requires the director hire an employee. The department requests the flexibility to hire a non-employee if a non-employee is better qualified for the position than a department employee. This amendment does not preclude the director from appointing a department employee. Rather, the amendment provides the director the opportunity to appoint the best qualified candidate.

The legislative testimony during the 1987 hearing on the original bill sheds light on the reason the bill required a department employee be appointed. The committee was concerned about funding for the new position. The record reflects discussion indicating the bill would not require additional personnel or appropriation but that the department could appoint a qualified staff person to act as the Indian Child Welfare Specialist. The language appears to reflect the funding concern. The primary intent of the bill, however, was to ensure representation of abused/neglected Indian children and department compliance with the Indian Child Welfare Act of 1978.

Testimony: SB 217
Page Two
February 6, 1995

The department has had an Indian Child Welfare specialist since 1987. The FTE is a permanent position with the cost of the position included in the department's personal services budget. Therefore, the funding concern of 1987 is no longer an issue.

The department also requests that the bill be amended to require that tribal governments receive a copy of the statute. This change is a courtesy to the tribes to ensure that the tribal governments have received formal notification of the statute and the amendments. In the event the position becomes vacant, the tribes may have recommendations for the director in terms of qualified individuals. This amendment is consistent with the efforts made by the department to foster an improved working relationship with Montana tribes.

For these reasons, the department requests that you support this bill.

SB 120 Testimony by Dan Anderson,
Administrator, Mental Health Division,
Department of Corrections and Human
Services

This bill will help the Department of Corrections and Human Services better use the resource available at the Montana Center for the Aged in Lewistown. The bill will accomplish 3 things:

1. It will allow for people younger than 55 to be admitted to the Center if they meet the Center's admission criteria.
2. It will allow the transfer of patients who are under an involuntary commitment to be transferred from the State Hospital to the Center and from the Center to the State Hospital if they meet the appropriate criteria.
3. It will change the name of the Center to emphasize its role as a nursing facility within the public mental health system.

Our intent is to continue and re-emphasize the role of the Lewistown facility within the public mental health system: that role is to serve people with mental illness who

require nursing care but who do not need active and intensive inpatient psychiatric services.

This bill is based on the recognition that some of the people who required this level of services are younger than 55 and some of the people who require this level of service have been involuntarily committed to the state mental health system. Under current law neither persons under 55 nor involuntary patients can be served at the Center in Lewistown.

We do not anticipate additional patients in our institutions because of this bill. We do, however, anticipate that some patients currently at Montana State Hospital can be appropriately transferred. Consultants have indicated that perhaps 25 geriatric patients would be appropriately served at the Center and our staff has confirmed that finding.

Transfers between the State Hospital and Center already occur. Those transfers occur after careful review by staff at both institutions and are based on the needs of the patient. This bill would simply reduce unnecessary barriers to placing patients in the most appropriate and economical placement within our mental health system by allowing the transfer of patients who are younger than 55 and patients who are under an involuntary commitment. Any patient transferred would, however, meet

EXHIBIT 2

DATE 2-6-95

1 SB 168

the clinical criteria for placement at the Center.

There were some amendments to the original version of this bill in the Senate. Those amendments were intended to assure that Center patients have all rights guaranteed by the mental health act and to give a means for the patient to challenge a proposed transfer if the patient, the patient's family or the patient's attorney considered the transfer inappropriate.

The Department believes this bill will help us serve patients in the most appropriate and economical place within the mental health system that we have available. I encourage you to support SB 120.

Meriwether Lewis Institute

562 5th Avenue
Helena, Montana 59601
406-442-7416



Public Health, Welfare and Safety
Testimony on SB168
Pat Pope

Mr. Chairman, Members of the Committee,

For the record, my name is Patrick Pope. I serve as Executive Director of the Meriwether Lewis Institute. We are the only non-profit education and advocacy organization in Montana that is run by and for consumers of mental health services. I have a mental illness, as do all of our voting members. I maintain my illness through a combination of medications, therapy and peer support.

I am testifying today in support of Senate Bill 168. We do have some concerns, but overall we feel that this Bill is a major step in the right direction. The Community Screeners we now have for voluntary admissions to the State Hospital have been very effective at diverting inappropriate admissions to Montana State Hospital. We believe the use of Screeners for inpatient commitments will also help to divert inappropriate placements at Warm Springs.

I, in no way, want to give the impression that we are totally pleased with the availability of community based services. Our communities do not have as many services as are needed. However, the problem of inappropriate inpatient commitments contribute to the lack of community services. When most of the Mental Health System's budget is tied up in the most costly treatment at Warm Springs, there is not a whole lot left for the development of services in the community. However, there are some good programs available and they need to be taken advantage of when possible. A concern we have along these lines, is that the Screener needs to look for less restrictive services on a statewide level, not just locally or regionally. Often times what happens is a phone call is made to a local program, who may be unable to help, and that's the extent of any search for an appropriate placement in the least restrictive environment. That needs to change.

We have a few other concerns about the Bill. On page 6 it talks about both the screener and the professional person must make a written report to the court. On line 20 of that page it says that "The following action must be taken based on the professional person's findings". By definition, the screener is also a professional person. Why is it that the screener's input doesn't seem to carry as much weight?

Following those lines it says that "the county attorney may, upon good cause shown, request the court to order an additional... examination by a different professional person..." On line 26 of the same page it says that "If the professional person finds that commitment proceedings should continue, the hearing must be held as scheduled". Why is it that one new professional person could override the findings of two other professional persons?

We know that in many Montana counties, and particularly in Lewis and Clark County, there are District Attorney's and/or their assistants who, regardless of what's best for the consumer, want

nothing more than to get us out of their county. These people often have favorite professionals who will almost always return a recommendation of inpatient commitment at Montana State Hospital. In my own commitment hearing, and in many of the hearings I've attended or been informed of, I know that less restrictive community services have not been contacted. It does not seem reasonable if an appropriate placement is found, that the court can still override it so they can just get rid of us.

Along those same lines, on page 9, lines 19 and 20 it states "If the court does not accept the recommendations of the community services screener, the court shall state in the record why the recommendations were not accepted". Where is the teeth in that? So what if all they have to do is state it in the record? If an appropriate placement is found in the community and the court chooses not to use it, then I don't think it's unreasonable to expect that the county should be held responsible for the cost of treatment at the State Hospital. That may be pretty unpopular to some people, but you can be assured that it would cause a closer look to be taken at what's truly in the best interest of the mental health consumer.

In closing, I want to again state that the Meriwether Lewis Institute is in support of this Bill. We do however urge you to put a few more teeth into it.

Thank you.

SENATE HEALTH & WELFARE

EXHIBIT NO. 4

DATE 2/6/95

BILL NO. SB168

2/6/95

Mr. CHAIRMAN

~~Committee Members:~~

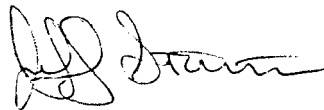
members of the committee

Although I am unable to attend this hearing due to other commitments I would like to offer this letter in support of SB~~410~~. 168

As a program director of a Community Support Program we are involved in most commitment proceedings to Montana State Hospital. SB ~~410~~¹⁶⁸ would require us to be involved in all commitments proceedings, by screening potential commitments to assure their appropriateness. Although this would be an additional responsibility of ~~our~~ our staff we feel that it is important one.

The main benefit of this proposal would be one of diverting unnecessary state hospital commitments. Community Support Programs like ours and others throughout the state have developed programs to keep consumers of mental health services in the community and minimize the need for state hospital admissions. Programs are constantly changing in an effort to better meet this goal. Although ~~there~~^{there} are many excellent providers in the community most are not aware of our ever changing services that might meet the needs of a consumer who is awaiting possible commitment to the state hospital. With the goal of the mental health system to reduce the utilization of the state hospital, and to treat consumers in ~~the~~^{the} community, this proposal makes good sense.

I would be happy to answer any of your questions. Please feel free to call me at 443-7151.



Jeff Sturm MSW
Clinical Director
Helena Community Support Services

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

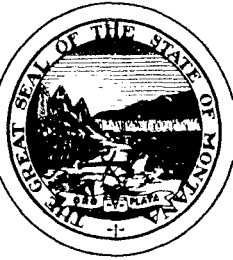
SENATE HEALTH & WELFARE

EXHIBIT NO. 5
DATE 2/6/95

BILL NO. SB 168

PETER S. BLOUKE, PhD
DIRECTOR

MARC RACICOT
GOVERNOR



STATE OF MONTANA

P.O. BOX 4210
HELENA, MONTANA 59604-4210

TESTIMONY PRESENTED BY THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES TO THE SENATE HEALTH, WELFARE,
AND SAFETY COMMITTEE ON SENATE BILL 168 - FEBRUARY 6, 1995

Good afternoon, my name is Mary Dalton, I am the Primary Care Bureau Chief in the Medicaid Services Division at the Department of Social and Rehabilitation Services. I am here today to testify in support of Senate Bill 168. This bill requires the appointment of a "community services screener" in civil involuntary mental health commitment proceedings. This "community services screener" then reports back to the court whether community-based services can adequately serve the individual in question.

The Department of Social and Rehabilitation Services believes that this bill is important to ensure that the appropriateness of community mental health services is thoroughly considered prior to a commitment to Montana State Hospital. We believe that "community services screeners" will enhance this process.

The Departments of Family Services, Corrections and Human Services, and Social and Rehabilitation Services have a proposal before this legislature to consolidate all publicly funded mental health services for individuals up to 200% of poverty in a capitated system. Under this proposal, we will be contracting with a managed care organization to operate a coordinated statewide mental health system. It is our intent to specify in our contract with this managed care organization that they must cover the cost of providing the services of the "community service screeners" required by SB168. We anticipate that this new system of managed mental health care will be in operation in July of 1996.

This concludes my testimony. I am available to answer any questions that you might have.

Mary E. Dalton

Mary E. Dalton, Chief
Primary Care Bureau
Medicaid Services Division
Department of Social and Rehabilitation Services

med/leglessb.168



SENATE HEALTH & WELFARE

EXHIBIT NO. 6DATE 2/6/95BILL NO. SB 168

February 6, 1995

Rusty Redfield
Department of Corrections and Human Services
P.O. Box 201301
Helena, MT 59620-1301

Dear Rusty:

I would like to offer my strong support for House Bill 168. In Montana we have made a concerted effort to give consumers of mental health care, opportunities to be served in the community. We have been successful in all areas, with the exception of the involuntary commitment procedure. Region III has one of the highest rates of involuntary commitments to Montana State Hospital. Most of those are initiated by the fourteen psychiatrists in Billings who are practicing outside the Community Mental Health Center. The majority of those cases are sent to Warm Springs without the knowledge or involvement of Mental Health Center Staff, thus they are denied the possibility of being served in the community in a less restrictive environment. I request the committee give unanimous support for House Bill 168. It will not only decrease unnecessary hospitalizations, but it will actually enhance the lives of those individuals who can be served more effectively in a community setting.

Sincerely,

A handwritten signature in cursive script that reads "Bob Ross".

Robert M. Ross, M.S., L.P.C.
Executive Director

OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS

MARC RACICOT, GOVERNOR

PO BOX 200804



STATE OF MONTANA

(406) 444-3955
TOLL FREE 1-(800) 332-2272HELENA, MONTANA 59620-0804
FAX 406-444-3543

February 6, 1995

Senator Burnett, Chairman
Senate Public Health and Safety Committee
State Capitol
Helena, MT 59620

RE: SB 168

Senator Burnett and Members of the Committee:

For the record, my name is Kelly Moorse and I am the Executive Director of the Board of Visitors. The Board reviews the quality of patient care and treatment at Montana State Hospital, the Center for the Aged and the community mental health centers.

The foundation of Montana's commitment laws are based on a landmark mental health case known as Wyatt v. Stickney, which established a right to treatment for people confined against their will in state mental institutions. The court defined the minimum standards for commitment and treatment. Montana law complies with those standards and they are succinctly stated in the purpose, Section 53-21-101 MCA: 1) treatment for persons with a mental illness must be suited to their needs; 2) treatment is to be provided in a community based setting when possible; and 3) use the institution only when other alternatives are not available or are inadequate. Based on the current practice of the screening of voluntary admissions, we know the screening process works. We believe the concept of the community screener for those consumers who are faced with an involuntary commitment will also help promote and maintain the basic tenets of the Mental Commitment and Treatment Act.

In addition, we are in full support of the proposed change to section 53-21-188. Our Board and staff support SB 168. We feel this bill as presented will save taxpayer dollars and more importantly addresses the intent of the Mental Commitment and Treatment Act. We urge the committee support of SB 168. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Moorse".

Kelly Moorse
Executive Director

DATE 2/6/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 217, 168, 244

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Mary Alice Cook	Adv for MT's Children	217 244	✓ ✓	
Kim Krado Her	Adaptive Parent	244	✓	
Ann Gilkey	DFS	244 217	X	
Betsy Stubb	DFS	244 217	X	
Gary Welch	MT Post Adapt	244	X	
Allyn Ann Cummins	MT Post Adapt	244	X	
Shirley Brown	DFS	217 244	X	
Andree Lapse	Montana Advocacy Prog	168 244	✓	
David Fernier	MT Mental Health	168	✓	
Ron Green	Jess Sturm	168	X	
Hank Hudson	DFS	244	X	
Laurie Korbul	Christian Coalition of MT	244	X	
Kathy McGowan	mcmhc	168	✓	
Dan Anderson	MT Divis	168	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/6/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 217, 168, 244

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Connie Luger</i>	<i>myself</i>	<i>17</i>		<input checked="" type="checkbox"/>
<i>Mary Dalton</i>	<i>SRB</i>	<i>SB168</i>	<input checked="" type="checkbox"/>	
<i>Marty Onishuk</i>	<i>MonAMI</i>	<i>SB168</i>		<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY