MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN ARLENE BECKER**, on January 31, 2005 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:
Rep. Arlene Becker, Chairman (D)
Rep. Tom Facey, Vice Chairman (D)
Rep. Don Roberts, Vice Chairman (R)
Rep. Mary Caferro (D)
Rep. Emelie Eaton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. William J. Jones (R)
Rep. Dave McAlpin (D)
Rep. Tom McGillvray (R)
Rep. Mike Milburn (R)
Rep. Art Noonan (D)
Rep. Ron Stoker (R)
Rep. Pat Wagman (R)
Rep. Bill Warden (R)

Members Excused: Rep. Jonathan Windy Boy (D)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Mary Gay Wells, Committee Secretary

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

Committee Business Summary:
Hearing & Date Posted: HB 294, 1/27/2005
HB 411, 1/27/2005
HB 420, 1/27/2005
Executive Action: HB 411, Do Pass

HEARING ON HB 420

Sponsor: **REP. PAT WAGMAN, HD 62, LIVINGSTON**

Opening Statement by Sponsor:

REP. PAT WAGMAN opened the hearing on **HB 420.** The bill would request a reason be given for denying custody of an abused child to an extended family member. Child Protective Services, DPHHS, can take an abused child from their parent or parents and recommend to the court where the child should be placed. In Section 1, a new sentence is added on Page 3, Line 3. It states: "If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member and the court denies the request, the court order must state the reasons for the denial." The law mandates the Department consider a relative first as the home of placement. If the Department does not place the child in the home of a relative, a problem arises. The Department is not required to give the relative a reason why they have been denied. This bill would change that. REP. WAGMAN'S preference would be to always have the child placed in the home of a relative. When a relative is denied with no reason given, they are not able to see the decision-making process.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.5}

Proponents' Testimony:

Claudia Martz, representing herself, explained that her two grandchildren had come home from the hospital directly to her. She had raised them until they left. She had guardianship of the older child. When the mother decided to leave and she had the judge vacate her guardianship. That happened on April 15. Seven days later the children were placed in the custody of the state. She has been trying ever since to find out why she and her husband were not allowed to care for the children during this process and instead were placed in foster care. Her daughter had also applied for family placement. They went through the whole process but never heard back from anyone. Three weeks later, her daughter called the Department and was informed they were not going to be considered as the placement family. These children have already been with three different foster parents and moved five times. They had been taken back to their mother and removed for a second time. They are now back with their mother again. Mrs. Martz' fear is that the mother will lose them again and they will end up in "the system." She could not understand why the state would not let her, the grandmother, adopt these children as opposed to putting them into foster care.
{Tape: 1; Side: A; Approx. Time Counter: 7.5 - 9.9}

Robert Martz, representing himself, stated that he was the grandfather of these two babies. Family Services should have some oversight. They had been denied the children and had not even been given a reason for not getting their grandchildren back. If their son loses his rights and their daughter-in-law loses her rights to these children, then, like Mrs. Martz said, the children are lost to the family. They have talked with many people who have similar stories. He wanted some reasons, not just a closed door.
{Tape: 1; Side: A; Approx. Time Counter: 9.9 - 10.9}

Opponents' Testimony: None

Informational Testimony:

Shirley Brown, Administrator, Child and Family Services Division, stated that she would be available for questions.

Questions from Committee Members and Responses:

REP. DON ROBERTS asked when it comes to placing children in homes, if close family members are the prime consideration. **Ms. Brown** stated that whenever possible, they place children with family members. About 19% of the children in paid foster care are with family members. If unpaid foster care is added to that, there would be over 25% of the children with family members.

REP. EMELIE EATON inquired if some of the information that is being discussed ends up being protected by the child court system. **Ms. Brown** replied that everything they do is confidential. If there is information about the child that would go to the reasons for not placing them, they might not be able to share that information.

REP. EATON asked why the provisions being asked for are not currently in the law. **Ms. Brown** could not answer why. She hoped that in practice, if a family member is interested in having custody, the Department would provide information to the extent in which they could.

REP. EATON further questioned why there might be information about the parent that would be confidential. **Ms. Brown** could not say, without an example, why they could not provide a family member a reason for not placing. She reiterated that re-uniting with the parent is always their first goal. There may be issues between the parent of the child and the grandparents that would not allow them to share with the grandparents.
{Tape: 1; Side: A; Approx. Time Counter: 10.9 - 15.9}

REP. ART NOONAN questioned if there would be any reason a family member would find acceptable. **REP. WAGMAN** reminded the committee that the Martz family had never been interviewed or visited. So he wondered how the Department decided not to give them custody. If there had been an interview and visitation, they might have had a reason for denial. The reasons wouldn't have to be about the child, but more about the person requesting the custody.

REP. NOONAN maintained that the bill did not require the court to come up with a particular rationale for denial. The court could just say they denied because they thought it would be better for the child to be somewhere else. No appeal process is provided in the bill. If the court would say they denied it because they heard things about the family, that would then open up the opportunity to appeal the decision. **REP. WAGMAN** concurred and had questioned the language in the bill at the time of drafting.
{Tape: 1; Side: A; Approx. Time Counter: 15.9 - 18.9}

REP. BILL WARDEN asked the sponsor if he was satisfied with the way the bill had been drafted and if it would accomplish what he hoped for. **REP. WAGMAN** was not thrilled with the bill. He complimented those who work in Child Protective Services, but as with any system, there are going to be flaws. He hoped the bill would bring out some of the flaws and help those who are being denied to have another chance.

REP. WARDEN inquired if the sponsor wanted a "do pass" on the bill. **REP. WAGMAN** replied that he would like a "do pass" and asked the committee to make suggestions if there seemed to be better language available.
{Tape: 1; Side: A; Approx. Time Counter: 18.9 - 20.9}

REP. STOKER stated there had been suggestions by DPHHS to have a bill that might reduce some of the restraints they are currently under to protect privacy. He then asked if Ms. Brown was aware of this. **Ms. Brown** replied that she was aware of SB 49. That bill, if it had passed the Senate, stated if a parent or person responsible for the child's care made public statements, that would have allowed the Department to provided some information while protecting the child's rights and the other parent without a release.
{Tape: 1; Side: A; Approx. Time Counter: 20.9 - 23.1}

Closing by Sponsor:

REP. WAGMAN presented a letter from the Martz's daughter who had applied for custody. He asked Ms. Fox to check on the policy statement at 41-3-101 and 41-3-422, Section 9, to see if the same

language should be in those two sections. Protective Services and the courts do a good job but there are flaws sometimes and hopefully this bill would correct some of these.
EXHIBIT(huh24a01)
{Tape: 1; Side: A; Approx. Time Counter: 23.1 - 25.5}

HEARING ON HB 411

Sponsor: **REP. JACK WELLS, HD 69, BOZEMAN**

Opening Statement by Sponsor:

REP. JACK WELLS opened the hearing on **HB 411** which clarifies the allocation of tobacco funds to veterans' nursing homes. He was pleased to bring HB 411 which protects facilities for veterans. These facilities are at Glendive and Columbia Falls. When the I-149 tobacco tax was passed, a statement was put in that would jeopardize the funding for veterans facilities. Future legislators could read the 10-2-417 paragraph and interpret the use of funds for veteran's homes as "...for the health and Medicaid initiatives specified by 53-6-1201." In drafting the code, it was not intended to change anything as far as veterans' home funding was concerned. HB 411 does not disturb the funding mechanism for Medicaid initiatives under Title 53 and it does not increase or decrease the funding for the veterans' home account. REP. WELLS wanted no misinterpretation of 10-2-417, (1) and (2). He explained some of the background on HB 411. The passage of this bill will leave no question or doubt as to how this money should be allocated.
{Tape: 1; Side: A; Approx. Time Counter: 25.5 - 32}

Proponents' Testimony:

Roger Hagan, Officer and Enlisted Associations of the Montana National Guard, was pleased to rise in support of HB 411. He submitted his testimony, an "MCA Codification of Ballot Measures, Approved November 2, 2004," and a court decision from Montana First Judicial District Court, Lewis and Clark. He explained each handout in detail and the important parts were highlighted.
EXHIBIT(huh24a02)
EXHIBIT(huh24a03)
EXHIBIT(huh24a04)
{Tape: 1; Side: B; Approx. Time Counter: 0 - 11.3}

Bob Pavlovich, Butte, Veterans' Affairs Committee, gave some history on tobacco taxes. In 1993, he was instrumental in getting a two cent increase on cigarette taxes which built the home in Glendive and helped maintain the home in Columbia Falls.

He stood in support of the bill which will protect the veterans' money for these homes. He thought another home in southwest Montana would be great and asked the committee to give that some consideration.
{Tape: 1; Side: B; Approx. Time Counter: 11.3 - 13.8}

Dan Antonietti, State Legislative Chairman, Veterans of Foreign Wars, stood in strong support of this bill. He also lives in southwestern Montana and thought the previous suggestion a very good one. He thanked the sponsor and all those who had signed onto the bill.
{Tape: 1; Side: B; Approx. Time Counter: 13.8 - 15}

Colonel Jim Jacobson, United States Army, Retired, Legislative Chairman of American Legion, supported the bill and gave a little history on the tobacco tax. He told how, in 1945, the veterans were instrumental in raising money for veteran bonuses and a building for the pioneers, which is now the Montana Museum and Historical Society. There is still a plaque on the building which reads: Veterans and Pioneers Building.
{Tape: 1; Side: B; Approx. Time Counter: 15 - 18.4}

Joe Foster, Administrator, Montana Veterans Affairs Division, supported the bill.

Jim Ahern, Montana Hospital Association, and Chairman, Alliance for a Healthy Montana, informed the committee that the Alliance was the group who instituted I-149. They had examined the Initiative in all ways, but it was never their intention to denigrate the veterans' funding. They supported the bill that would protect the veterans' funding.
{Tape: 1; Side: B; Approx. Time Counter: 18.4 - 19.7}

Opponents' Testimony: None

Informational Testimony:

Kelly Williams, Administrator, Senior and Long Term Care Division, DPHHS, explained that they operate the two state nursing facilities for veterans. She was available for questions.
{Tape: 1; Side: B; Approx. Time Counter: 19.7 - 20.4}

Questions from Committee Members and Responses:

REP. ART NOONAN inquired how to get money for the southwest nursing home. **Mr. Pavlovich** suggested a 1% increase on the cigarette tax.

CHAIRMAN ARLENE BECKER was pleased to see Mr. Hagan again and thanked him for his testimony.

Closing by Sponsor:

REP. WELLS thanked the committee for a good hearing. He was in agreement that another veteran's home was a good idea. He thought the committee might consider the suggestion.
{Tape: 1; Side: B; Approx. Time Counter: 20.4 - 22.2.
REP. WAGMAN left the hearing.}

HEARING ON HB 294

Sponsor: **REP. TOM FACEY, HD 95, MISSOULA**

Opening Statement by Sponsor:

REP. TOM FACEY opened the hearing on **HB 294**. The bill was sponsored by REP. FACEY and SEN. BOB KEENAN. In the mid 1990's, the mental health system was radically changed and became a managed mental health system with bids from out-of-state corporations. In 1998, that system crashed. In 1999, the Legislature reconstructed the mental health system. In 2003, the Legislature passed SEN. KEENAN'S bill which established Service Area Authorities which dealt with mental health. Nonprofits work for the public good. The intent of this bill is; if a nonprofit receives substantial support from state or federal funds, it would be beneficial for the state to know how the nonprofit organization is doing. Having legislative representation on its board of directors would give this oversight. He handed out a proposed amendment and explained the reasoning behind it.
EXHIBIT(huh24a055)
{Tape: 1; Side: B; Approx. Time Counter: 22.2 - 26.4}

Proponents' Testimony:

Kathy McGowan, Montana's Community Mental Health Centers, spoke in favor of the bill. She gave the committee a brochure on the four community health centers in Montana. She had one recommendation. They would prefer, if legislators were to serve on their boards, that they be actual board members, not ex-officio, non-voting members. An ex-officio member tends not to come to the board meetings. They would hope that the list of possible legislators would definitely include those who had an interest in mental health. She explained there are ten other licensed mental health centers, many of whom meet the same

financial criteria. If the legislature wants to have oversight on mental health centers in general, the bill might be extended to include these centers as well. She was told there are a few licensed mental health centers who receive more money than two of the community health centers.
EXHIBIT(huh24a06)
{Tape: 1; Side: B; Approx. Time Counter: 26.4 - 31}

Gordon Morris, Montana Association of Counties (MACo), concurred with Ms. McGowan. He would be supportive of legislators being full board members with voting privileges. He urged a do pass.
{Tape: 2; Side: A; Approx. Time Counter: 0 - 0.4}

Opponents' Testimony:

Jeff Folsom, Aware, Inc., explained they were a provider of mental health services at a licensed mental health center in Montana. They opposed the bill. In 2003 there was a long debate about the role of legislators in the roll as board members. They did not want, in statute, legislators as board members in any private businesses. Concerning the lack of accountability is an important issue because tremendous resources are expended in the mental health system. Many legislators are unable to track the issues of mental health. There are few centers and not a great deal of competition. Aware, Inc. is an organization that promotes the need to have significant competition. One of their standards is choice for the consumer. Educating legislators is an important issue. He did not believe the bill would help in that education. He mentioned a bill, LC 1962, by REP. WANZENRIED which is management and oversight of human services. He did not think that legislators on boards would be that helpful. With this new law there would be as many as fifteen community mental health centers. That would amount to thirty legislators being identified on the proposed list. He expressed problems of how these legislators would be appointed and to which boards.
{Tape: 2; Side: A; Approx. Time Counter: 0.4 - 6.7}

Informational Testimony:

Bonnie Adee, Mental Health Ombudsman, State of Montana, neither supported or opposed the bill as such. She has studied mental health issues but does not work in the system. She is attached to the Governor's Office. The intent of the bill is good and the issue is extremely complex. Legislators are looking to their constituents as well as participating in the roll of funding the system. She did not know how legislators could understand a complex system in the amount of time they spend in Helena. The

turnover of legislators does not help. She offered some suggestions. There is, in place, a Mental Health Oversight Advisory Council attached to the Addictive and Mental Disorders Division, DPHHS. Currently, three legislators serve on that committee: SENS. KEENAN, ESP and PEASE. They learn many of the issues and facts about how the system works. Another way to learn is to go to one of the three Service Area Authorities (SAA) meetings that occur around the state. Their intent is to be planning bodies. There are more lay people than professionals. On the children's side of the system, which is separate, there is the Children's System of Care Planning Committee. She is on that committee and they meet every four to six weeks. They are charged with identifying barriers and opportunities to implementing the children's system of care. Legislators would be welcome on that committee. The model of the Children's System of Care calls for local groups and kids management authorities (KMA's). These are being developed and would be a good learning tool for legislators. The last suggestion was the possibility of legislators getting on the Mental Disabilities Board of Visitors. They make site visits.
{Tape: 2; Side: A; Approx. Time Counter: 6.7 - 12.7}

Questions from Committee Members and Responses:

REP. RON STOKER inquired about the difference between the community mental health centers and other mental health centers. Ms. McGowan replied that they all are non profits.

CHAIRMAN ARLENE BECKER asked if there are four community health centers and three Service Area Authorities. Ms. McGowan replied that was correct and said it was quite confusing.

CHAIRMAN BECKER said her understanding of the bill was it only addressed the four community health centers. Ms. McGowan responded that was correct. She was only suggesting that if the purpose was for legislators to be better acquainted with mental health centers, the bill might be expanded beyond community mental health centers to all mental health centers who meet the funding criteria.
{Tape: 2; Side: A; Approx. Time Counter: 12.7 - 15.5}

CHAIRMAN BECKER asked the sponsor if there was a reason why only the four community mental health centers were put into the bill. REP. FACEY responded that after hearing the list of mental health centers, he realized there were other centers that met the criteria of HB 294. He was not sure how private and non profit go together. His intention was not to reach into their domain.

{Tape: 2; Side: A; Approx. Time Counter: 15.5 - 17.2}

CHAIRMAN BECKER inquired about the 2003 HB 2 budget. She asked if there was a section of money that went solely to fund mental health services. Ms. McGowan replied there was a Request for Proposal (RFP) following the last the legislative session for non-Medicaid Mental Health Service Providers (MHSP). It was about $3 million a year for non-Medicaid folks. That was RFP'd after the session and the community health centers were awarded those RFP's.
{Tape: 2; Side: A; Approx. Time Counter: 17.2 - 18.7}

REP. BILL WARDEN wondered if any of the four community health centers did not fit the parameters of the bill. REP. FACEY replied they all fit.

REP. WARDEN asked about private nonprofits. REP. FACEY did not respond to that question, but explained that Gordon Morris, MACO, had a good grasp of what the counties are doing with public monies. Mr. Morris' support was welcomed. The community mental health centers have a good understanding in the area they serve and the type of services they have. If one or two legislators were on those boards, that would be good for all.

REP. WARDEN inquired if the sponsor was looking for oversight. REP. FACEY responded that 55% would be oversight and 45% would be education. A great deal of money goes to these organizations. It is difficult for legislators to understand the types of services they deliver.
{Tape: 2; Side: A; Approx. Time Counter: 18.7 - 21.8}

REP. ART NOONAN asked for clarification of the old mental health system and the new mental health system. Mr. Folsom explained that with the definition of community mental health centers in HB 294, effective July 1, 2005, all of those mental health centers including the traditional community health centers will fit the definition as described in the bill. That law will define community mental health centers as any licensed mental health center which provides services in multiple county areas.
{Tape: 2; Side: A; Approx. Time Counter: 21.8 - 24}

REP. NOONAN asked the sponsor his reasoning behind non-voting legislators on the boards of community mental health centers. REP. FACEY stated that his intention was not to upset the boards so that is why he made the legislator a non-voting member.
{Tape: 2; Side: A; Approx. Time Counter: 24 - 25.3}

REP. TOM MCGILLVRAY felt there was a difference between a board that received no funds as opposed to a board that received $2 million in state and federal funds. If the state is paying the "freight" they should have some say in how it is spent. Mr. Folsom believes there is accountability for any organization that has a contract. In the case of the state, they must make sure that those contracts are fulfilled.

REP. MCGILLVRAY asked why there was a problem of having a legislator on the board. Mr. Folsom replied that he was not standing adamantly against that. He felt there were better ways for legislators to educate themselves on mental health centers. The issues heard at board meetings would not necessarily educate legislators.
{Tape: 2; Side: A; Approx. Time Counter: 25.3 - 28.9}

REP. STOKER inquired if all mental health centers as well as the community mental health centers were privately operated. Ms. McGowan replied that they are all private, non profit corporations.
{Tape: 2; Side: A; Approx. Time Counter: 28.9 - 29.6}

Closing by Sponsor:

REP. FACEY stated the intent of the bill was to educate legislators. With the change coming on July 1, 2005, there are definition problems. By working with MACo, the existing four community mental health centers, and Mr. Folsom, they might be able to delineate the four community health centers from the other providers. That delineation might come in terms of what types of contracts they sign. He planned to do more research on that issue.
{Tape: 2; Side: A; Approx. Time Counter: 29.6 - 31}

EXECUTIVE ACTION ON HB 411

Motion/Vote: REP. WARDEN moved that HB 411 DO PASS. Motion carried unanimously by voice vote 16-0. REPS. WAGMAN AND WINDY BOY voted by proxy.

Motion/Vote: REP. MILBURN moved to place HB 411 ON THE CONSENT CALENDAR. Motion carried unanimously, 16-0 by voice vote. REPS. WAGMAN AND WINDY BOY voted by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 3.8}

ADJOURNMENT

Adjournment: 4:45 P.M.

REP. ARLENE BECKER, Chairman

MARY GAY WELLS, Secretary

AB/mw

Additional Exhibits:

EXHIBIT(huh24aad0.TIF)