

SJR 22: Guardianship Laws and Services

Study Plan

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Adopted on Sept. 14, 2015

INTRODUCTION

The 2015 Legislature approved Senate Joint Resolution 22, requesting a study of whether Montana's guardianship proceedings, programs, and services are adequate to meet the needs of elderly and developmentally disabled individuals. Legislators ranked the study eighth out of 15 study resolutions, and the Legislative Council in May assigned the study to the Children, Families, Health, and Human Services Interim Committee.

The study resolution stemmed from concern about Montana's aging population. The Department of Public Health and Human Services (DPHHS) estimates that by 2030, Montana will rank fifth in the nation in the percentage of residents over 65 years of age.

National studies note that many older Americans suffer from dementia and other mental impairments that diminish their ability to care for themselves or to make health-related decisions. Montana law allows for the appointment of guardians for individuals who cannot understand, make, or communicate decisions about their care. However, SJR 22 noted that no statewide training or standards exist for individuals who are appointed as guardians or for guardianship programs or services.

EXPANDING THE SCOPE

At the Committee's June 3 organizational meeting, several members of the public encouraged the Committee to include the topic of Alzheimer's disease and dementia in this study or in the Committee's work plan. The speakers, as well as some Committee members, noted that House Joint Resolution 30 requested a study of those diseases and whether changes to existing facilities and programs are needed to accommodate the needs of Montanans who are affected by Alzheimer's disease and dementia. The resolution was heard in the House Human Services Committee in April but was not acted on before the end of the session.

The Committee decided in June to expand the SJR 22 study to include topics related to Alzheimer's disease and dementia. Members also agreed to add an additional meeting day to their schedule and to devote the additional 8 hours to the time allocated for this study.

STUDY TASKS

SJR 22 asks that the Committee look at the following items as part of the study:

- existing guardianship laws to determine if they could be changed to improve protections for elderly and disabled individuals;

- guardianship services available to individuals through DPHHS;
- efforts at the local level to provide guardianship services;
- funding needs and availability for guardianship services, including an examination of current and potential funding sources;
- efforts in other states to establish uniform, statewide guardianship programs or otherwise improve guardianship services; and
- recommendations of national groups that work on matters related to guardianship for vulnerable citizens.

HJR 30, asking for a study of Alzheimer's disease and dementia, suggested a review of:

- the number of individuals with Alzheimer's disease and dementia served by state-operated facilities and privately operated facilities and through the Medicaid home and community-based services waiver;
- the cost of providing services in the different types of settings;
- whether existing services meet the current needs;
- whether services are available to allow individuals to remain in their homes and, if not, the barriers that exist to making those services available;
- the projected long-term needs for individuals with Alzheimer's disease and dementia and the types of facilities or services that may be needed to meet those needs;
- alternative approaches to providing the services that may improve the quality of care or provide care in a less restrictive environment; and
- any available information about the number of individuals with Alzheimer's disease and dementia who come into contact with local law enforcement agencies and the results of those interactions.

In adopting the final work plan in September, the Committee agreed to add the following item to the study:

- review the supports and services for individuals with Alzheimer's disease or dementia and their families that are necessary to keep patients in their homes and communities.

STUDY RESOURCES

The Senior and Long-Term Care Division of DPHHS oversees services to elderly and physically disabled individuals who need long-term care services. The division offers protective services to vulnerable adults and also offers training and resources for senior citizens and family members on elder law, including laws related to guardianship proceedings and arrangements.

The study also will seek the involvement of health care providers, advocacy organizations for the elderly and disabled, and organizations that offer guardianship programs or services, as well as attorneys and district court judges who handle guardianship proceedings. Their involvement will help give the committee a well-rounded view of how guardianship arrangements are made, how services are provided, and whether guardianship laws or programs could be strengthened to better protect individuals who are unable to make decisions about their own care.

The Montana Alzheimer's/Dementia Work Group has been reviewing the needs of and services available to individuals with dementia and is expected to develop a state plan for Alzheimer's disease and dementia during the interim. The SJR 22 study will incorporate updates as appropriate on the efforts of this group, as well as informational presentations about the numbers of affected Montanans, the projected long-term needs, and the types of facilities currently available.

Staff also will review laws and programs in other states, as well as any recommendations or model standards developed by national organizations, for both guardianship matters and topics related to Alzheimer's disease and dementia.

OUTLINE OF STUDY ACTIVITIES

The study will include the following basic activities during the time periods noted:

1. **Compile background information: June 2015 through January 2016.** This stage will include several steps designed to provide the Committee with information about the study topics, as follows:
 - a. staff briefing papers summarizing Montana's guardianship laws, state and local guardianship programs, the number of Montanans served by the programs, and the funding sources for those programs;
 - b. staff briefing papers on the number of individuals with dementia served by state-operated facilities, privately operated facilities, and the state's home and community-based services waiver and the costs of providing services in those settings;

- c. presentations by DPHHS and representatives of statewide advocacy organizations and local programs, to provide an overview of current needs and existing programs and services, for both guardianship matters and care of individuals with Alzheimer's disease and dementia;
 - d. presentations on guardianship laws and programs in other states and on national standards or recommendations for guardianship programs; and
 - e. presentations on the efforts of the Montana Alzheimer's/Dementia Work Group and efforts in other states or on a national level to plan for and meet the needs of individuals with dementia.
2. **Identify issues: January through March 2016.** Study activities during this period will include a review of the information compiled to date and Committee identification of topics or questions that members would like to address through further analysis or legislation. This phase of the study will help the Committee focus its attention on those study issues it considers to be of greatest importance, so members may obtain any additional information they would like to receive before identifying recommendations for the 2017 Legislature.
3. **Review and decide legislative options: March 2016 through August 2016.** After compiling the background information, identifying issues, and researching options, the Committee will discuss and act on recommendations for the 2017 Legislature.

The table on the following page provides a list of anticipated study activities and resources, as well as tentative dates for the activities and the amount of Committee meeting time each activity is anticipated to entail.

The time estimates on P.5 are based on the Committee's decision to expand the scope of the study and devote 27.5% of its meeting time, or approximately 22 hours, to the SJR 22 study.

Study Activity	Source	Activity	Meeting Date	Committee Time
(1) Review information on Montana's guardianship laws and proceedings, state-provided guardianship services, and projected need for guardianship services	Staff research, DPHHS	Staff materials and agency presentations	September 2015	1.5 hours
(2) Review information on local programs providing guardianship services and gauge whether existing state and local programs meet current and projected needs; review information on individuals with dementia, the types of facilities serving them, the barriers to providing services in less restrictive settings, and the projected need for services in the future; obtain information on the activities of the Montana Alzheimer's/Dementia Work Group	Staff research, local providers, advocacy organizations	Staff materials and panel presentations	November 2015	4.5 hours
(3) Review national standards or recommendations for guardianship services and examples of programs in other states; review alternative approaches to providing services to individuals with dementia	National and out-of-state speakers	Panel presentation	January 2016	2.5 hours
(4) Review funding information and options for guardianship services and programs and for facilities and programs serving individuals with dementia	DPHHS, local providers, staff research	Presentations	March 2016	3.5 hours
(5) Review information, make recommendations, develop legislation as necessary	Committee members	Committee work sessions and public comment	March through August 2016	10 hours
			Total	22 hours