

# HJ26 1.1 – Legislative Considerations

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE  
MILLY ALLEN – FEBRUARY 25, 2026

HJ26 1.2 is provisional draft legislation in response to the committee’s study of guardianship and conservatorship in Montana. It is the second draft, incorporating feedback from the committee’s meeting on January 13, 2026.

The following questions provide a framework for committee discussion. Blank space is left after each question for committee members to add notes.

## DRAFTED SECTIONS

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### SECTIONS 1 AND 9: PROFESSIONAL CERTIFICATION

1. Is the committee satisfied with the definition and requirements of a professional conservator or professional guardian? Are there any changes to sections 1 or 9?
  
  
  
  
  
  
  
  
  
  
2. This bill does not provide criminal or other penalties for acting as a professional conservator or professional guardian without certification. Would the committee like to add any penalties for doing so?

### SECTIONS 2 AND 6: TRAINING AND BACKGROUND CHECKS

3. HJ26 1.2 allows the Montana Supreme Court to prescribe appropriate training. Guardians and conservators must complete this training before appointment as guardian. Would the committee like to give a court leeway to appoint someone as guardian or conservator, in limited emergency circumstances, prior to completing this training? If so, does it wish to enumerate certain circumstances?

4. As drafted, certain family members (parent, child, spouse) must fill out an affidavit with certain personal information. The court may require the person to complete a background check and credit check based on information in that affidavit or release of related information, before appointing the person as guardian or conservator. Does the committee want the court to have the option to request a background or credit check from the beginning?
  
5. As drafted, a court may request a professional guardian or conservator to complete a background and credit check prior to every appointment. Does the committee want to exempt this population from background and credit checks if they have the results of a recent background or credit check (e.g., one year or newer)?

### SECTIONS 3 AND 8: PLAIN-LANGUAGE NOTICE REQUIREMENTS

6. Does the committee wish to include or exclude any information from the plain-language notice requirements?
  
7. Does the committee wish for plain language notice to be served personally to the alleged incapacitated person or person to be protected? Should notice also be sent to relatives or friends of the person?



