

HOUSE BILL NO. 103

INTRODUCED BY RUSSELL
BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
ON ADULT AND JUVENILE DETENTION

IN THE HOUSE

JANUARY 5, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON HUMAN SERVICES & AGING.

JANUARY 7, 1991 FIRST READING.

JANUARY 17, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 18, 1991 PRINTING REPORT.

JANUARY 21, 1991 ON MOTION, PASS CONSIDERATION
TO A DAY CERTAIN.

JANUARY 25, 1991 SECOND READING, DO PASS.

 ON MOTION, REREFERRED TO COMMITTEE
ON APPROPRIATIONS.

MARCH 28, 1991 ON MOTION, TAKEN FROM COMMITTEE
ON APPROPRIATIONS AND PLACED ON
SECOND READING THIS DAY.

 SECOND READING, DO PASS.

 ENGROSSING REPORT.

 ON MOTION, RULES SUSPENDED. BILL
PLACED ON THIRD READING THIS DAY.

 THIRD READING, PASSED.
AYES, 56; NOES, 40.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 28, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

 FIRST READING.

APRIL 12, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT

ADOPTED.

APRIL 13, 1991

SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 15, 1991

THIRD READING, CONCURRED IN.
AYES, 48; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 17, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 18, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 103
 2 INTRODUCED BY RUSSELL
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON ADULT AND JUVENILE DETENTION
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
 7 DETENTION OF MENTALLY ILL PERSONS IN JAIL PENDING A CIVIL
 8 COMMITMENT HEARING; REQUIRING SHERIFFS AND JAIL
 9 ADMINISTRATORS TO SCREEN AND DIVERT FROM JAIL CERTAIN
 10 PERSONS WHO APPEAR TO BE SERIOUSLY MENTALLY ILL; PROVIDING
 11 ALTERNATIVES TO THE PLACEMENT OF MENTALLY ILL PERSONS IN
 12 JAIL; REQUIRING THE DEPARTMENT OF INSTITUTIONS TO ESTABLISH
 13 CRISIS INTERVENTION PROGRAMS; AUTHORIZING TARGETED CASE
 14 MANAGEMENT SERVICES FOR THE MENTALLY ILL UNDER THE MEDICAID
 15 PROGRAM; AMENDING SECTIONS 53-6-101, 53-21-120, AND
 16 53-21-124, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 53-21-120, MCA, is amended to read:
 20 "53-21-120. (Temporary) Detention to be in least
 21 restrictive environment -- preference for mental health
 22 facility -- court relief -- prehearing detention of mentally
 23 ill person prohibited. (1) A person detained pursuant to
 24 this part shall must be detained in the least restrictive
 25 environment required to protect the life and physical safety

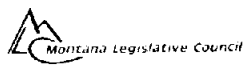
1 of the person detained or members of the public; in this
2 respect, prevention of significant injury to property may be
3 considered.

4 (2) Whenever possible, a person detained pursuant to
 5 this part shall must be detained in a mental health facility
 6 and in the county of residence. If the person detained
 7 demands a jury trial and trial cannot be held within 7 days,
 8 the individual may be sent to the state hospital until time
 9 of trial if arrangements can be made to return him to trial.
 10 Such The trial must be held within 30 days. The county of
 11 residence shall pay the cost of travel and professional
 12 services associated with the trial. No A person may not be
 13 detained in any hospital or other medical facility which
 14 that is not a mental health facility unless such the
 15 hospital or facility has agreed in writing to admit the
 16 person.

17 (3) ~~Except as provided in 53-21-1247-a~~ A person may not
 18 be detained pursuant to this part in a jail or other
 19 correctional facility.

20 (4) A person detained prior to involuntary commitment
 21 may apply to the court for immediate relief with respect to
 22 the need for detention or the adequacy of the facility being
 23 utilized to detain.

24 (5) ~~No--detention~~ Detention may not be ordered under
 25 this part for a person concerning whom a petition has been



1 filed under 53-21-121(1)(b).

2 (6) No A person may not be involuntarily committed to a
 3 mental health facility or detained for evaluation and
 4 treatment because he is an epileptic, or is mentally
 5 deficient, mentally retarded, senile, or suffering from a
 6 mental disorder unless the condition causes him to be
 7 seriously mentally ill within the meaning of this part.
 8 (Terminates July 1, 1997--sec. 1, Ch. 541, L. 1989.)

9 53-21-120. (Effective July 1, 1997) Detention to be in
 10 least restrictive environment -- preference for mental
 11 health facility -- court relief -- prehearing detention of
 12 mentally ill person prohibited. (1) A person detained
 13 pursuant to this part ~~shall~~ must be detained in the least
 14 restrictive environment required to protect the life and
 15 physical safety of the person detained or members of the
 16 public; in this respect, prevention of significant injury to
 17 property may be considered.

18 (2) Whenever possible, a person detained pursuant to
 19 this part ~~shall~~ must be detained in a mental health facility
 20 and in the county of residence. If the person detained
 21 demands a jury trial and trial cannot be held within 7 days,
 22 the individual may be sent to the state hospital until time
 23 of trial if arrangements can be made to return him to trial.
 24 Such The trial must be held within 30 days. The county of
 25 residence shall pay the cost of travel and professional

1 services associated with the trial. No A person may not be
 2 detained in any hospital or other medical facility which
 3 that is not a mental health facility unless such the
 4 hospital or facility has agreed in writing to admit the
 5 person.

6 (3) ~~Except-as-provided-in-53-21-124,~~ A person may not
 7 be detained pursuant to this part in a jail or other
 8 correctional facility.

9 (4) A person detained prior to involuntary commitment
 10 may apply to the court for immediate relief with respect to
 11 the need for detention or the adequacy of the facility being
 12 utilized to detain."

13 **Section 2.** Section 53-21-124, MCA, is amended to read:

14 "53-21-124. Detention of respondent pending hearing or
 15 trial -- jail prohibited. (1) The court may not order
 16 detention of a respondent pending the hearing unless
 17 requested by the county attorney and upon the existence of
 18 probable cause for detention. Counsel ~~shall~~ must be orally
 19 notified immediately. Counsel for the respondent may then
 20 request a detention hearing, which ~~shall~~ must be held
 21 forthwith.

22 (2) In the event of detention, the respondent ~~shall~~
 23 must be detained in the least restrictive setting necessary
 24 to assure his presence and assure his safety and the safety
 25 of others as provided in 53-21-120. ~~A respondent-may-be~~

~~detained in a jail or other correctional facility only if no appropriate mental health facility is immediately available for placement. When the respondent is detained in a jail or other correctional facility, the jail or other facility shall immediately notify the regional central office of the nearest mental health facility, as defined in 53-21-201, that a person detained in the jail or correctional facility is in need of an appropriate placement. Upon notification, the mental health facility shall identify an appropriate placement for the respondent, in accordance with the requirements of 53-21-120. Until a placement is identified, the mental health facility shall report on the status of the placement to the jail or correctional facility within every 12-hour period, including weekends and holidays. When an appropriate placement has been identified, the court must be promptly notified and the respondent must be transferred to that facility as soon as reasonably practical.~~

(3) If the respondent is detained, he ~~shall have~~ has the right to be examined additionally by a professional person of his choice. Unless objection is made by counsel for the respondent, he ~~shall~~ must continue to be evaluated and treated by the professional person pending the hearing.

(4) A respondent may not be detained in a jail or other correctional facility pending a hearing or trial to determine whether the respondent should be committed to a

mental health facility."

NEW SECTION. Section 3. Diversion of certain mentally ill persons from jail. (1) The sheriff or administrator of a jail in each county shall require screening of inmates to identify persons accused of minor misdemeanor offenses who appear to be seriously mentally ill, as defined in 53-21-102.

(2) If as a result of screening and observation it is believed that an inmate is seriously mentally ill, the sheriff or administrator of the jail shall:

(a) request services from a crisis intervention program established by the department as provided for in [section 4];

(b) refer the inmate to the nearest community mental health center, as defined in 53-21-212; or

(c) transfer the inmate to a private mental health facility or hospital equipped to provide treatment and care of persons who are seriously mentally ill.

(3) As used in this section, the term "minor misdemeanor offense" includes but is not limited to a nonserious misdemeanor, such as criminal trespass to property, loitering, vagrancy, disorderly conduct, and disturbing the public peace.

NEW SECTION. Section 4. Crisis intervention programs.

(1) The department shall establish crisis intervention

1 programs. The programs must be designed to provide 24-hour
 2 emergency admission and care of seriously mentally ill
 3 persons in a temporary, safe environment in the community.

4 (2) The department may enter into an interagency
 5 agreement with the department of social and rehabilitation
 6 services to provide crisis intervention programs as:

- 7 (a) a rehabilitative service under 53-6-101(3)(j); and
- 8 (b) a targeted case management service authorized in
 9 53-6-101(3)(n).

10 **Section 5.** Section 53-6-101, MCA, is amended to read:

11 "53-6-101. Montana medicaid program -- authorization of
 12 services. (1) There is a Montana medicaid program
 13 established for the purpose of providing necessary medical
 14 services to eligible persons who have need for medical
 15 assistance. The Montana medicaid program is a joint
 16 federal-state program administered under this chapter and in
 17 accordance with Title XIX of the federal Social Security Act
 18 (42 U.S.C. 1396, et seq.), as may be amended. The department
 19 of social and rehabilitation services shall administer the
 20 Montana medicaid program.

21 (2) Medical assistance provided by the Montana medicaid
 22 program includes the following services:

- 23 (a) inpatient hospital services;
- 24 (b) outpatient hospital services;
- 25 (c) other laboratory and x-ray services;

1 (d) skilled nursing services in long-term care
 2 facilities;

3 (e) physicians' services;

4 (f) nurse specialist services;

5 (g) early and periodic screening, diagnosis, and
 6 treatment services for persons under 21 years of age;

7 (h) services provided by physician assistants-certified
 8 within the scope of their practice and that are otherwise
 9 directly reimbursed as allowed under department rule to an
 10 existing provider;

11 (i) health services provided under a physician's orders
 12 by a public health department; and

13 (j) hospice care as defined in 42 U.S.C. 1396d(o).

14 (3) Medical assistance provided by the Montana medicaid
 15 program may, as provided by department rule, also include
 16 the following services:

17 (a) medical care or any other type of remedial care
 18 recognized under state law, furnished by licensed
 19 practitioners within the scope of their practice as defined
 20 by state law;

21 (b) home health care services;

22 (c) private-duty nursing services;

23 (d) dental services;

24 (e) physical therapy services;

25 (f) mental health center services administered and

1 funded under a state mental health program authorized under
2 Title 53, chapter 21, part 2;

- 3 (g) clinical social worker services;
- 4 (h) prescribed drugs, dentures, and prosthetic devices;
- 5 (i) prescribed eyeglasses;
- 6 (j) other diagnostic, screening, preventive,
7 rehabilitative, chiropractic, and osteopathic services;
- 8 (k) inpatient psychiatric hospital services for persons
9 under 21 years of age;
- 10 (l) services of professional counselors licensed under
11 Title 37, chapter 23, if funds are specifically appropriated
12 for the inclusion of these services in the Montana medicaid
13 program;

14 (m) ambulatory prenatal care for pregnant women during
15 a presumptive eligibility period, as provided in 42 U.S.C.
16 1396a(a)(47) and 42 U.S.C. 1396r-1;

17 (n) targeted case management services for the mentally
18 ill, as provided in 42 U.S.C. 1396n(g); and

19 ~~(n)~~(o) any additional medical service or aid allowable
20 under or provided by the federal Social Security Act.

21 (4) The department may implement, as provided for in
22 Title XIX of the federal Social Security Act (42 U.S.C.
23 1396, et seq.), as may be amended, a program under medicaid
24 for payment of medicare premiums, deductibles, and
25 coinsurance for persons not otherwise eligible for medicaid.

1 (5) The department may set rates for medical and other
2 services provided to recipients of medicaid and may enter
3 into contracts for delivery of services to individual
4 recipients or groups of recipients.

5 (6) The services provided under this part may be only
6 those that are medically necessary and that are the most
7 efficient and cost effective.

8 (7) The amount, scope, and duration of services
9 provided under this part must be determined by the
10 department in accordance with Title XIX of the federal
11 Social Security Act (42 U.S.C. 1396, et seq.), as may be
12 amended.

13 (8) Services, procedures, and items of an experimental
14 or cosmetic nature may not be provided.

15 (9) If available funds are not sufficient to provide
16 medical assistance for all eligible persons, the department
17 may set priorities to limit, reduce, or otherwise curtail
18 the amount, scope, or duration of the medical services made
19 available under the Montana medicaid program.

20 (10) Community-based medicaid services, as provided for
21 in part 4 of this chapter, must be provided in accordance
22 with the provisions of this chapter and the rules adopted
23 thereunder. (Subsection (2)(j) terminates June 30,
24 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates
25 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

1 NEW SECTION. **Section 6.** Codification instruction.

2 [Sections 3 and 4] are intended to be codified as an
3 integral part of Title 53, chapter 21, part 1, and the
4 provisions of Title 53, chapter 21, part 1, apply to
5 [sections 3 and 4].

6 NEW SECTION. **Section 7.** Effective date. [This act] is
7 effective July 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE


Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0103, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An Act prohibiting the detention of mentally ill persons in jail pending a civil commitment hearing; requiring sheriffs and jail administrators to screen and divert from jail certain persons who appear to be seriously mentally ill; providing alternatives to the placement of mentally ill persons in jail; requiring the department of institutions to establish crisis intervention programs; authorizing targeted case management services for the mentally ill under the medicaid program; amending sections and providing a delayed effective date.

ASSUMPTIONS:

1. This act will be effective July 1, 1992.
Department of Institutions, Crisis Intervention Programs:
2. The Department of Institutions (DOI) would establish crisis intervention programs in eleven counties. These centers would be based upon a pilot project currently underway in Kalispell. DOI cost of one program, based upon the Kalispell model, would be approximately \$241,760 per year. Total cost of eleven equivalent programs would be approximately \$2,659,360.
3. Of the single program cost of \$241,760; \$230,360 would be medicaid eligible expenditures (treatment) and \$11,400 would not be medicaid eligible (room and board costs).
4. 40% of individuals served would be medicaid eligible. FY93 medicaid matching rate is projected to be 28.1% general fund and 71.9% federal revenue.
5. Funding for one program is calculated as follows: General fund \$241,760. Medicaid Federal Reimbursement to the general fund = $\$230,360 * 40% * 71.9% = \$66,251$. Total General fund impact per program = $\$241,760 - \$66,251 = \$175,509$.
Department of Social And Rehabilitation Services Targeted Case Management for Mentally Ill:
6. Each mentally ill case managed would cost \$120 per month (SRS survey of states with this service). Annual cost of one case = $\$120 * 12 \text{ months} = \$1,440$ per year.
7. Medicaid eligible population is 59,772 (Federal Fiscal 1990 reports).
8. 11.8% of youth population may have some form of emotional disturbance (Montana Public Health Services State Plan FY90-93 by the Department of Institutions).
9. The percent in assumption 9 above would also apply the general population of medicaid eligible individuals.
10. Annual Case Management Costs would be $59,772 * 11.8% * \$1,440 = \$10,156,458$. Funding for the service would be at the projected federal assistance matching rate for FY93 of 28.1% general fund and 71.9% federal funds.
11. One time cost of computer system changes would be \$60,000 funded 25% general fund and 75% federal funds.
12. The act as introduced would not specifically limit case management services to chronic mental illness.
13. If the act is limited to provision of targeted case management services to only severely emotionally disturbed youth and chronically mentally ill adults, the estimated benefit expenditure would be reduced by approximately \$8.8 million dollars per year.



ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

1-10-91
DATE



ANGELA RUSSELL, PRIMARY SPONSOR
DATE

1-10-91
DATE

Fiscal Note for HB0103, as Introduced

HB 103

FISCAL IMPACT:

Expenditures:

Department of Institutions:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	0	0	0	0	77.00	77.00
Personal Services	0	0	0	0	1,857,680	1,857,680
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>801,680</u>	<u>801,680</u>
Total	0	0	0	0	2,659,360	(2,659,360)
<u>Funding:</u>						
General Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,659,360</u>	<u>2,659,360</u>
Total	0	0	0	0	2,659,360	2,659,360
<u>Revenues:</u>						
General Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>728,761</u>	<u>728,761</u>
Total	0	0	0	0	728,761	728,761

Department of Social and Rehabilitation Services:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Costs	0	0	0	0	60,000	60,000
Benefits	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>10,885,219</u>	<u>10,885,219</u>
Total	0	0	0	0	10,945,219	(10,945,219)
<u>Funding:</u>						
General Fund	0	0	0	0	2,868,965	2,868,965
Federal Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>8,076,254</u>	<u>8,076,254</u>
Total	0	0	0	0	10,945,219	10,945,219

HB 103

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0103, Second Reading.


DESCRIPTION OF PROPOSED LEGISLATION: An act prohibiting the detention of mentally ill persons in jail pending a civil commitment hearing; requiring sheriffs and jail administrators to screen and divert from jail certain persons who appear to be seriously mentally ill; providing alternatives to the placement of mentally ill persons in jail; requiring the Department of Institutions to establish crisis intervention programs; authorizing targeted case management services under the Medicaid Program for adults who are seriously mentally ill; amending sections and providing a delayed effective date.


ASSUMPTIONS:

1. This act will be effective July 1, 1992, there is no fiscal impact in FY92.
2. Section 4(1) of the act has been amended to include the language "Subject to Available Appropriations". If no funds are appropriated, the Department of Institutions (DOI) is not required to establish crisis intervention programs.
3. If funds are appropriated by the legislature, the Department of Institutions would contract with private non-profit mental health service providers to establish crisis intervention programs.
4. A Legislative Council survey of jails identified 309 "mentally ill persons held" in jail in 1989; 40% of these individuals would be medicaid eligible.
5. DOI estimates that in order to provide coverage across the state, 8 program locations will be set up. Cost of a current pilot project in Flathead County for crisis intervention is \$241,760. DOI cost of 8 programs is $\$241,760 * 8 = \$1,934,080$ per year.
6. Targeted case management for medicaid eligible clients ($309 * 40\% = 124$) would cost \$120 per month per client based upon an SRS survey of states with the targeted case management option. SRS benefit funds required to pay for the targeted case management service would be $124 \text{ clients} * 12 \text{ months} * \$120 = \$178,506$. At the projected FY93 federal matching rate of 71.90%, federal funds of \$128,385 would be available to pay for the crisis intervention programs provided by DOI.
7. One time cost to add the case management service to the SRS computer system is \$60,000.
8. The agencies are unable to calculate the amount of federal funds which would be available under the rehabilitation services reimbursement without additional definition of the services.

FISCAL IMPACT:

see next page

 1-19-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/22/91
ANGELA RUSSELL, PRIMARY SPONSOR DATE
Fiscal Note for HB0103, Second Reading **HB 103**
SECOND READING

FISCAL IMPACT:

Department of Institutions:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Costs	0	0	0	0	1,934,080	1,934,080
Total	0	0	0	0	1,934,080	1,934,080
<u>Funding:</u>						
General Fund	0	0	0	0	1,805,695	1,805,695
Federal Funds	0	0	0	0	128,385	128,385
Total	0	0	0	0	1,934,080	1,934,080

Department of Social and Rehabilitation Services:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE						
Operating Cost	0	0	0	0	60,000	60,000
Transfers	0	0	0	0	128,385	128,385
Total	0	0	0	0	188,385	188,385
<u>Funding:</u>						
General Fund	0	0	0	0	15,000	15,000
Federal Funds	0	0	0	0	173,385	173,385
Total	0	0	0	0	188,385	188,385

*HB103
2nd Reading*

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

1 HOUSE BILL NO. 103
 2 INTRODUCED BY RUSSELL
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON ADULT AND JUVENILE DETENTION
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 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
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 11 ALTERNATIVES TO THE PLACEMENT OF MENTALLY ILL PERSONS IN
 12 JAIL; REQUIRING THE DEPARTMENT OF INSTITUTIONS TO ESTABLISH
 13 CRISIS INTERVENTION PROGRAMS; AUTHORIZING TARGETED CASE
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 16 SECTIONS 53-6-101, 53-21-120, AND 53-21-124, MCA; AND
 17 PROVIDING A DELAYED EFFECTIVE DATE."

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 25 this part ~~shall~~ must be detained in the least restrictive

1 environment required to protect the life and physical safety
 2 of the person detained or members of the public; in this
 3 respect, prevention of significant injury to property may be
 4 considered.

5 (2) Whenever possible, a person detained pursuant to
 6 this part ~~shall~~ must be detained in a mental health facility
 7 and in the county of residence. If the person detained
 8 demands a jury trial and trial cannot be held within 7 days,
 9 the individual may be sent to the state hospital until time
 10 of trial if arrangements can be made to return him to trial.
 11 ~~Such~~ The trial must be held within 30 days. The county of
 12 residence shall pay the cost of travel and professional
 13 services associated with the trial. ~~No~~ A person may not be
 14 detained in any hospital or other medical facility which
 15 that is not a mental health facility unless such the
 16 hospital or facility has agreed in writing to admit the
 17 person.

18 (3) ~~Except as provided in 53-21-124, a~~ A person may not
 19 be detained pursuant to this part in a jail or other
 20 correctional facility.

21 (4) A person detained prior to involuntary commitment
 22 may apply to the court for immediate relief with respect to
 23 the need for detention or the adequacy of the facility being
 24 utilized to detain.

25 (5) ~~No detention~~ Detention may not be ordered under

SECOND READING



1 this part for a person concerning whom a petition has been
2 filed under 53-21-121(1)(b).

3 (6) No A person may not be involuntarily committed to a
4 mental health facility or detained for evaluation and
5 treatment because he is an epileptic, or is mentally
6 deficient, mentally retarded, senile, or suffering from a
7 mental disorder unless the condition causes him to be
8 seriously mentally ill within the meaning of this part.
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17 public; in this respect, prevention of significant injury to
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20 this part shall must be detained in a mental health facility
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14 **Section 2.** Section 53-21-124, MCA, is amended to read:

15 "53-21-124. Detention of respondent pending hearing or
16 trial -- jail prohibited. (1) The court may not order
17 detention of a respondent pending the hearing unless
18 requested by the county attorney and upon the existence of
19 probable cause for detention. Counsel shall must be orally
20 notified immediately. Counsel for the respondent may then
21 request a detention hearing, which shall must be held
22 forthwith.

23 (2) In the event of detention, the respondent shall
24 must be detained in the least restrictive setting necessary
25 to assure his presence and assure his safety and the safety

1 of others as provided in 53-21-120. ~~A respondent may be~~
 2 ~~detained in a jail or other correctional facility only if no~~
 3 ~~appropriate mental health facility is immediately available~~
 4 ~~for placement. When the respondent is detained in a jail or~~
 5 ~~other correctional facility, the jail or other facility~~
 6 ~~shall immediately notify the regional central office of the~~
 7 ~~nearest mental health facility, as defined in 53-21-201,~~
 8 ~~that a person detained in the jail or correctional facility~~
 9 ~~is in need of an appropriate placement. Upon notification,~~
 10 ~~the mental health facility shall identify an appropriate~~
 11 ~~placement for the respondent, in accordance with the~~
 12 ~~requirements of 53-21-120. Until a placement is identified,~~
 13 ~~the mental health facility shall report on the status of the~~
 14 ~~placement to the jail or correctional facility within every~~
 15 ~~12-hour period, including weekends and holidays. When an~~
 16 ~~appropriate placement has been identified, the court must be~~
 17 ~~promptly notified and the respondent must be transferred to~~
 18 ~~that facility as soon as reasonably practical.~~

19 (3) If the respondent is detained, he ~~shall have~~ has
 20 the right to be examined additionally by a professional
 21 person of his choice. Unless objection is made by counsel
 22 for the respondent, he ~~shall~~ must continue to be evaluated
 23 and treated by the professional person pending the hearing.

24 (4) A respondent may not be detained in a jail or other
 25 correctional facility pending a hearing or trial to

1 determine whether the respondent should be committed to a
 2 mental health facility."

3 NEW SECTION. Section 3. Diversion of certain mentally
 4 ill persons from jail. (1) The sheriff or administrator of a
 5 jail in each county shall require screening of inmates to
 6 identify persons accused of minor misdemeanor offenses who
 7 appear to be seriously mentally ill, as defined in
 8 53-21-102.

9 (2) If as a result of screening and observation it is
 10 believed that an inmate is seriously mentally ill, the
 11 sheriff or administrator of the jail shall:

12 (a) request services from a crisis intervention program
 13 established by the department as provided for in [section
 14 4];

15 (b) refer the inmate to the nearest community mental
 16 health center, as defined in 53-21-212; or

17 (c) transfer the inmate to a private mental health
 18 facility or hospital equipped to provide treatment and care
 19 of persons who are seriously mentally ill.

20 (3) As used in this section, the term "minor
 21 misdemeanor offense" includes but is not limited to a
 22 nonserious misdemeanor, such as criminal trespass to
 23 property, loitering, vagrancy, disorderly conduct, and
 24 disturbing the public peace.

25 NEW SECTION. Section 4. Crisis intervention programs.

1 (1) The department shall, SUBJECT TO AVAILABLE
 2 APPROPRIATIONS, establish crisis intervention programs. The
 3 programs must be designed to provide 24-hour emergency
 4 admission and care of seriously mentally ill persons in a
 5 temporary, safe environment in the community AS AN
 6 ALTERNATIVE TO PLACEMENT IN JAIL.

7 (2) The department may enter into an interagency
 8 agreement with the department of social and rehabilitation
 9 services to provide crisis intervention programs as:

- 10 (a) a rehabilitative service under 53-6-101(3)(j); and
 11 (b) a targeted case management service authorized in
 12 53-6-101(3)(n).

13 **Section 5.** Section 53-6-101, MCA, is amended to read:

14 *53-6-101. Montana medicaid program -- authorization of
 15 services. (1) There is a Montana medicaid program
 16 established for the purpose of providing necessary medical
 17 services to eligible persons who have need for medical
 18 assistance. The Montana medicaid program is a joint
 19 federal-state program administered under this chapter and in
 20 accordance with Title XIX of the federal Social Security Act
 21 (42 U.S.C. 1396, et seq.), as may be amended. The department
 22 of social and rehabilitation services shall administer the
 23 Montana medicaid program.

24 (2) Medical assistance provided by the Montana medicaid
 25 program includes the following services:

- 1 (a) inpatient hospital services;
 2 (b) outpatient hospital services;
 3 (c) other laboratory and x-ray services;
 4 (d) skilled nursing services in long-term care
 5 facilities;
 6 (e) physicians' services;
 7 (f) nurse specialist services;
 8 (g) early and periodic screening, diagnosis, and
 9 treatment services for persons under 21 years of age;
 10 (h) services provided by physician assistants-certified
 11 within the scope of their practice and that are otherwise
 12 directly reimbursed as allowed under department rule to an
 13 existing provider;
 14 (i) health services provided under a physician's orders
 15 by a public health department; and
 16 (j) hospice care as defined in 42 U.S.C. 1396d(o).
 17 (3) Medical assistance provided by the Montana medicaid
 18 program may, as provided by department rule, also include
 19 the following services:
 20 (a) medical care or any other type of remedial care
 21 recognized under state law, furnished by licensed
 22 practitioners within the scope of their practice as defined
 23 by state law;
 24 (b) home health care services;
 25 (c) private-duty nursing services;

- 1 (d) dental services;
- 2 (e) physical therapy services;
- 3 (f) mental health center services administered and
- 4 funded under a state mental health program authorized under
- 5 Title 53, chapter 21, part 2;
- 6 (g) clinical social worker services;
- 7 (h) prescribed drugs, dentures, and prosthetic devices;
- 8 (i) prescribed eyeglasses;
- 9 (j) other diagnostic, screening, preventive,
- 10 rehabilitative, chiropractic, and osteopathic services;
- 11 (k) inpatient psychiatric hospital services for persons
- 12 under 21 years of age;
- 13 (l) services of professional counselors licensed under
- 14 Title 37, chapter 23, if funds are specifically appropriated
- 15 for the inclusion of these services in the Montana medicaid
- 16 program;
- 17 (m) ambulatory prenatal care for pregnant women during
- 18 a presumptive eligibility period, as provided in 42 U.S.C.
- 19 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 20 (n) targeted case management services for the ADULTS
- 21 WHO ARE SERIOUSLY mentally ill, as provided in 42 U.S.C.
- 22 1396n(g), BUT LIMITED TO SERVICES PROVIDED IN CRISIS
- 23 INTERVENTION PROGRAMS ESTABLISHED UNDER [SECTION 4]; and
- 24 (o) any additional medical service or aid allowable
- 25 under or provided by the federal Social Security Act.

- 1 (4) The department may implement, as provided for in
- 2 Title XIX of the federal Social Security Act (42 U.S.C.
- 3 1396, et seq.), as may be amended, a program under medicaid
- 4 for payment of medicare premiums, deductibles, and
- 5 coinsurance for persons not otherwise eligible for medicaid.
- 6 (5) The department may set rates for medical and other
- 7 services provided to recipients of medicaid and may enter
- 8 into contracts for delivery of services to individual
- 9 recipients or groups of recipients.
- 10 (6) The services provided under this part may be only
- 11 those that are medically necessary and that are the most
- 12 efficient and cost effective.
- 13 (7) The amount, scope, and duration of services
- 14 provided under this part must be determined by the
- 15 department in accordance with Title XIX of the federal
- 16 Social Security Act (42 U.S.C. 1396, et seq.), as may be
- 17 amended.
- 18 (8) Services, procedures, and items of an experimental
- 19 or cosmetic nature may not be provided.
- 20 (9) If available funds are not sufficient to provide
- 21 medical assistance for all eligible persons, the department
- 22 may set priorities to limit, reduce, or otherwise curtail
- 23 the amount, scope, or duration of the medical services made
- 24 available under the Montana medicaid program.
- 25 (10) Community-based medicaid services, as provided for

1 in part 4 of this chapter, must be provided in accordance
2 with the provisions of this chapter and the rules adopted
3 thereunder. (Subsection (2)(j) terminates June 30,
4 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates
5 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

6 NEW SECTION. **Section 6.** Codification instruction.
7 [Sections 3 and 4] are intended to be codified as an
8 integral part of Title 53, chapter 21, part 1, and the
9 provisions of Title 53, chapter 21, part 1, apply to
10 [sections 3 and 4].

11 NEW SECTION. **Section 7.** Effective date. [This act] is
12 effective July 1, 1992.

-End-

1 HOUSE BILL NO. 103

2 INTRODUCED BY RUSSELL

3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE

4 ON ADULT AND JUVENILE DETENTION

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
7 DETENTION OF MENTALLY ILL PERSONS IN JAIL PENDING A CIVIL
8 COMMITMENT HEARING; REQUIRING SHERIFFS AND JAIL
9 ADMINISTRATORS TO SCREEN AND DIVERT FROM JAIL CERTAIN
10 PERSONS WHO APPEAR TO BE SERIOUSLY MENTALLY ILL; PROVIDING
11 ALTERNATIVES TO THE PLACEMENT OF MENTALLY ILL PERSONS IN
12 JAIL; REQUIRING THE DEPARTMENT OF INSTITUTIONS TO ESTABLISH
13 CRISIS INTERVENTION PROGRAMS; AUTHORIZING TARGETED CASE
14 MANAGEMENT SERVICES ~~FOR THE MENTALLY ILL~~ UNDER THE MEDICAID
15 PROGRAM FOR ADULTS WHO ARE SERIOUSLY MENTALLY ILL; AMENDING
16 SECTIONS 53-6-101, 53-21-120, AND 53-21-124, MCA; AND
17 PROVIDING A DELAYED EFFECTIVE DATE."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 53-21-120, MCA, is amended to read:

21 "53-21-120. (Temporary) Detention to be in least
22 restrictive environment -- preference for mental health
23 facility -- court relief -- prehearing detention of mentally
24 ill person prohibited. (1) A person detained pursuant to
25 this part shall must be detained in the least restrictive

1 environment required to protect the life and physical safety
2 of the person detained or members of the public; in this
3 respect, prevention of significant injury to property may be
4 considered.

5 (2) Whenever possible, a person detained pursuant to
6 this part shall must be detained in a mental health facility
7 and in the county of residence. If the person detained
8 demands a jury trial and trial cannot be held within 7 days,
9 the individual may be sent to the state hospital until time
10 of trial if arrangements can be made to return him to trial.
11 Such The trial must be held within 30 days. The county of
12 residence shall pay the cost of travel and professional
13 services associated with the trial. No A person may not be
14 detained in any hospital or other medical facility which
15 that is not a mental health facility unless such the
16 hospital or facility has agreed in writing to admit the
17 person.

18 (3) ~~Except as provided in 53-21-124, a~~ A person may not
19 be detained pursuant to this part in a jail or other
20 correctional facility.

21 (4) A person detained prior to involuntary commitment
22 may apply to the court for immediate relief with respect to
23 the need for detention or the adequacy of the facility being
24 utilized to detain.

25 (5) ~~No-detention~~ Detention may not be ordered under

THIRD READING

1 this part for a person concerning whom a petition has been
2 filed under 53-21-121(1)(b).

3 (6) No A person may not be involuntarily committed to a
4 mental health facility or detained for evaluation and
5 treatment because he is an epileptic, or is mentally
6 deficient, mentally retarded, senile, or suffering from a
7 mental disorder unless the condition causes him to be
8 seriously mentally ill within the meaning of this part.
9 (Terminates July 1, 1997--sec. 1, Ch. 541, L. 1989.)

10 53-21-120. (Effective July 1, 1997) Detention to be in
11 least restrictive environment -- preference for mental
12 health facility -- court relief -- prehearing detention of
13 mentally ill person prohibited. (1) A person detained
14 pursuant to this part shall must be detained in the least
15 restrictive environment required to protect the life and
16 physical safety of the person detained or members of the
17 public; in this respect, prevention of significant injury to
18 property may be considered.

19 (2) Whenever possible, a person detained pursuant to
20 this part shall must be detained in a mental health facility
21 and in the county of residence. If the person detained
22 demands a jury trial and trial cannot be held within 7 days,
23 the individual may be sent to the state hospital until time
24 of trial if arrangements can be made to return him to trial.
25 Such The trial must be held within 30 days. The county of

1 residence shall pay the cost of travel and professional
2 services associated with the trial. No A person may not be
3 detained in any hospital or other medical facility which
4 that is not a mental health facility unless such the
5 hospital or facility has agreed in writing to admit the
6 person.

7 (3) ~~Except-as-provided-in-53-21-124,-a~~ A person may not
8 be detained pursuant to this part in a jail or other
9 correctional facility.

10 (4) A person detained prior to involuntary commitment
11 may apply to the court for immediate relief with respect to
12 the need for detention or the adequacy of the facility being
13 utilized to detain."

14 **Section 2.** Section 53-21-124, MCA, is amended to read:

15 "53-21-124. Detention of respondent pending hearing or
16 trial -- jail prohibited. (1) The court may not order
17 detention of a respondent pending the hearing unless
18 requested by the county attorney and upon the existence of
19 probable cause for detention. Counsel shall must be orally
20 notified immediately. Counsel for the respondent may then
21 request a detention hearing, which shall must be held
22 forthwith.

23 (2) In the event of detention, the respondent shall
24 must be detained in the least restrictive setting necessary
25 to assure his presence and assure his safety and the safety

1 of others as provided in 53-21-120. A--respondent--may--be
 2 ~~detained-in-a-jail-or-other-correctional-facility-only-if-no~~
 3 ~~appropriate--mental-health-facility-is-immediately-available~~
 4 ~~for-placement--When-the-respondent-is-detained-in-a-jail--or~~
 5 ~~other--correctional--facility,--the--jail--or-other-facility~~
 6 ~~shall-immediately-notify-the-regional-central-office-of--the~~
 7 ~~nearest--mental--health--facility,--as-defined-in-53-21-201,~~
 8 ~~that-a-person-detained-in-the-jail-or-correctional--facility~~
 9 ~~is--in-need-of-an-appropriate-placement;--Upon-notification,~~
 10 ~~the-mental-health-facility--shall--identify--an--appropriate~~
 11 ~~placement---for--the--respondent,--in--accordance--with--the~~
 12 ~~requirements-of-53-21-120--Until-a-placement-is--identified,~~
 13 ~~the-mental-health-facility-shall-report-on-the-status-of-the~~
 14 ~~placement--to-the-jail-or-correctional-facility-within-every~~
 15 ~~12-hour-period,--including-weekends--and--holidays;--When--an~~
 16 ~~appropriate-placement-has-been-identified,--the-court-must-be~~
 17 ~~promptly--notified-and-the-respondent-must-be-transferred-to~~
 18 ~~that-facility-as-soon-as-reasonably-practical;~~

19 (3) If the respondent is detained, he shall--have has
 20 the right to be examined additionally by a professional
 21 person of his choice. Unless objection is made by counsel
 22 for the respondent, he shall must continue to be evaluated
 23 and treated by the professional person pending the hearing.

24 (4) A respondent may not be detained in a jail or other
 25 correctional facility pending a hearing or trial to

1 determine whether the respondent should be committed to a
 2 mental health facility."

3 NEW SECTION. Section 3. Diversion of certain mentally
 4 ill persons from jail. (1) The sheriff or administrator of a
 5 jail in each county shall require screening of inmates to
 6 identify persons accused of minor misdemeanor offenses who
 7 appear to be seriously mentally ill, as defined in
 8 53-21-102.

9 (2) If as a result of screening and observation it is
 10 believed that an inmate is seriously mentally ill, the
 11 sheriff or administrator of the jail shall:

12 (a) request services from a crisis intervention program
 13 established by the department as provided for in [section
 14 4];

15 (b) refer the inmate to the nearest community mental
 16 health center, as defined in 53-21-212; or

17 (c) transfer the inmate to a private mental health
 18 facility or hospital equipped to provide treatment and care
 19 of persons who are seriously mentally ill.

20 (3) As used in this section, the term "minor
 21 misdemeanor offense" includes but is not limited to a
 22 nonserious misdemeanor, such as criminal trespass to
 23 property, loitering, vagrancy, disorderly conduct, and
 24 disturbing the public peace.

25 NEW SECTION. Section 4. Crisis intervention programs.

1 (1) The department shall, SUBJECT TO AVAILABLE
 2 APPROPRIATIONS, establish crisis intervention programs. The
 3 programs must be designed to provide 24-hour emergency
 4 admission and care of seriously mentally ill persons in a
 5 temporary, safe environment in the community AS AN
 6 ALTERNATIVE TO PLACEMENT IN JAIL.

7 (2) The department may enter into an interagency
 8 agreement with the department of social and rehabilitation
 9 services to provide crisis intervention programs as:

- 10 (a) a rehabilitative service under 53-6-101(3)(j); and
- 11 (b) a targeted case management service authorized in
- 12 53-6-101(3)(n).

13 **Section 5.** Section 53-6-101, MCA, is amended to read:

14 *53-6-101. Montana medicaid program -- authorization of
 15 services. (1) There is a Montana medicaid program
 16 established for the purpose of providing necessary medical
 17 services to eligible persons who have need for medical
 18 assistance. The Montana medicaid program is a joint
 19 federal-state program administered under this chapter and in
 20 accordance with Title XIX of the federal Social Security Act
 21 (42 U.S.C. 1396, et seq.), as may be amended. The department
 22 of social and rehabilitation services shall administer the
 23 Montana medicaid program.

24 (2) Medical assistance provided by the Montana medicaid
 25 program includes the following services:

- 1 (a) inpatient hospital services;
- 2 (b) outpatient hospital services;
- 3 (c) other laboratory and x-ray services;
- 4 (d) skilled nursing services in long-term care
- 5 facilities;
- 6 (e) physicians' services;
- 7 (f) nurse specialist services;
- 8 (g) early and periodic screening, diagnosis, and
- 9 treatment services for persons under 21 years of age;
- 10 (h) services provided by physician assistants-certified
- 11 within the scope of their practice and that are otherwise
- 12 directly reimbursed as allowed under department rule to an
- 13 existing provider;
- 14 (i) health services provided under a physician's orders
- 15 by a public health department; and
- 16 (j) hospice care as defined in 42 U.S.C. 1396d(o).
- 17 (3) Medical assistance provided by the Montana medicaid
- 18 program may, as provided by department rule, also include
- 19 the following services:
- 20 (a) medical care or any other type of remedial care
- 21 recognized under state law, furnished by licensed
- 22 practitioners within the scope of their practice as defined
- 23 by state law;
- 24 (b) home health care services;
- 25 (c) private-duty nursing services;

1 (d) dental services;
 2 (e) physical therapy services;
 3 (f) mental health center services administered and
 4 funded under a state mental health program authorized under
 5 Title 53, chapter 21, part 2;
 6 (g) clinical social worker services;
 7 (h) prescribed drugs, dentures, and prosthetic devices;
 8 (i) prescribed eyeglasses;
 9 (j) other diagnostic, screening, preventive,
 10 rehabilitative, chiropractic, and osteopathic services;
 11 (k) inpatient psychiatric hospital services for persons
 12 under 21 years of age;
 13 (l) services of professional counselors licensed under
 14 Title 37, chapter 23, if funds are specifically appropriated
 15 for the inclusion of these services in the Montana medicaid
 16 program;
 17 (m) ambulatory prenatal care for pregnant women during
 18 a presumptive eligibility period, as provided in 42 U.S.C.
 19 1396a(a)(47) and 42 U.S.C. 1396r-1;
 20 (n) targeted case management services for the ADULTS
 21 WHO ARE SERIOUSLY mentally ill, as provided in 42 U.S.C.
 22 1396n(g), BUT LIMITED TO SERVICES PROVIDED IN CRISIS
 23 INTERVENTION PROGRAMS ESTABLISHED UNDER [SECTION 4]; and
 24 (o) any additional medical service or aid allowable
 25 under or provided by the federal Social Security Act.

1 (4) The department may implement, as provided for in
 2 Title XIX of the federal Social Security Act (42 U.S.C.
 3 1396, et seq.), as may be amended, a program under medicaid
 4 for payment of medicare premiums, deductibles, and
 5 coinsurance for persons not otherwise eligible for medicaid.
 6 (5) The department may set rates for medical and other
 7 services provided to recipients of medicaid and may enter
 8 into contracts for delivery of services to individual
 9 recipients or groups of recipients.
 10 (6) The services provided under this part may be only
 11 those that are medically necessary and that are the most
 12 efficient and cost effective.
 13 (7) The amount, scope, and duration of services
 14 provided under this part must be determined by the
 15 department in accordance with Title XIX of the federal
 16 Social Security Act (42 U.S.C. 1396, et seq.), as may be
 17 amended.
 18 (8) Services, procedures, and items of an experimental
 19 or cosmetic nature may not be provided.
 20 (9) If available funds are not sufficient to provide
 21 medical assistance for all eligible persons, the department
 22 may set priorities to limit, reduce, or otherwise curtail
 23 the amount, scope, or duration of the medical services made
 24 available under the Montana medicaid program.
 25 (10) Community-based medicaid services, as provided for

1 in part 4 of this chapter, must be provided in accordance
2 with the provisions of this chapter and the rules adopted
3 thereunder. (Subsection (2)(j) terminates June 30,
4 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates
5 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

6 NEW SECTION. Section 6. Codification instruction.
7 [Sections 3 and 4] are intended to be codified as an
8 integral part of Title 53, chapter 21, part 1, and the
9 provisions of Title 53, chapter 21, part 1, apply to
10 [sections 3 and 4].

11 NEW SECTION. Section 7. Effective date. [This act] is
12 effective July 1, 1992.

-End-

SENATE STANDING COMMITTEE REPORT

Page 2 of 2
April 12, 1991

Page 1 of 2
April 12, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 103 (third reading copy -- blue), respectfully report that House Bill No. 103 be amended and as so amended be concurred in:

1. Title, line 13.

Following: "PROGRAMS"

Insert: "AND TO ASSIST COUNTIES IN DEVELOPING COUNTY PLANS"

2. Title, line 17.

Strike: "A DELAYED" and "DATE"

Insert: "DATES AND A TERMINATION DATE"

3. Page 7, line 7.

Following: line 6

Insert: "(2) The department shall provide information and technical assistance regarding needed services and assist counties in developing county plans for crisis intervention services and for the provision of alternatives to jail placement."

Renumber: subsequent subsection

4. Page 11, line 6.

Following: line 5

Insert: "NEW SECTION. Section 6. Development of county plans for alternatives to placement in jail of seriously mentally ill. No later than April 1, 1993, each county, with the assistance of the department of institutions and local agencies, shall establish a plan for the development and implementation of appropriate services to persons awaiting commitment hearings. The plan must include appropriate alternatives to jail for the detention of mentally ill persons pending a commitment hearing or trial and must be developed with the advice of consumers, family members of consumers, and mental illness advocacy groups. The following agencies and individuals shall assist the counties in establishing and implementing the plans:

- (1) mental health centers licensed under Title 50, chapter 5, part 2;
- (2) hospitals licensed under Title 50, chapter 5, part 2;
- (3) law enforcement agencies;
- (4) physicians licensed under Title 37, chapter 3;
- (5) psychologists licensed under Title 37, chapter 17;
- (6) social workers licensed under Title 37, chapter

22;

(7) professional counselors licensed under Title 37, chapter 23; and

(8) professional persons certified under Title 53, chapter 21, part 1."

Renumber: subsequent sections

5. Page 11, line 11.

Strike: "date"

Insert: "dates -- termination"

Strike: "[This act] is"

Insert: "(1) [Sections 1 through 5 and 7] are"

6. Page 11, line 12.

Strike: "1992"

Insert: "1993"

7. Page 11, line 13.

Following: line 12

Insert: "(2) [Section 6 and this section] are effective on passage and approval.

(3) [Section 6] terminates July 1, 1993."

Signed: 
Richard Pinsonneault, Chairman

UB 4/12/91
Amd. doord.

UB 4-12-91 9:10
Sec. of Senate

HB 103

SENATE

SENATE COMMITTEE OF THE WHOLE AMENDMENT

April 13, 1991 8:47 am

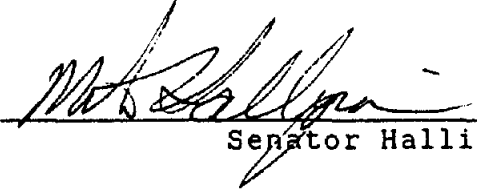
Mr. Chairman: I move to amend House Bill No. 103 (third reading copy -- blue) as follows:

Amend Senate Judiciary Committee amendment dated April 12, 1991, as follows:

Amendment No. 4
In Insert, following: "No later than"
Strike: "April"
Insert: "January"

ADOPT

REJECT

Signed: 

Senator Halligan

John 4-13-91
Am. Coord.

SB 4-13
Sec. of Senate

HB 103

SENATE

1 HOUSE BILL NO. 103
 2 INTRODUCED BY RUSSELL
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON ADULT AND JUVENILE DETENTION

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
 7 DETENTION OF MENTALLY ILL PERSONS IN JAIL PENDING A CIVIL
 8 COMMITMENT HEARING; REQUIRING SHERIFFS AND JAIL
 9 ADMINISTRATORS TO SCREEN AND DIVERT FROM JAIL CERTAIN
 10 PERSONS WHO APPEAR TO BE SERIOUSLY MENTALLY ILL; PROVIDING
 11 ALTERNATIVES TO THE PLACEMENT OF MENTALLY ILL PERSONS IN
 12 JAIL; REQUIRING THE DEPARTMENT OF INSTITUTIONS TO ESTABLISH
 13 CRISIS INTERVENTION PROGRAMS AND TO ASSIST COUNTIES IN
 14 DEVELOPING COUNTY PLANS; AUTHORIZING TARGETED CASE
 15 MANAGEMENT SERVICES ~~FOR THE MENTALLY ILL~~ UNDER THE MEDICAID
 16 PROGRAM FOR ADULTS WHO ARE SERIOUSLY MENTALLY ILL; AMENDING
 17 SECTIONS 53-6-101, 53-21-120, AND 53-21-124, MCA; AND
 18 PROVIDING ~~A DELAYED~~ EFFECTIVE DATE DATES AND A TERMINATION
 19 DATE."

20
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 53-21-120, MCA, is amended to read:
 23 "53-21-120. (Temporary) Detention to be in least
 24 restrictive environment -- preference for mental health
 25 facility -- court relief -- prehearing detention of mentally

1 ill **person prohibited.** (1) A person detained pursuant to
 2 this part ~~shall~~ must be detained in the least restrictive
 3 environment required to protect the life and physical safety
 4 of the person detained or members of the public; in this
 5 respect, prevention of significant injury to property may be
 6 considered.

7 (2) Whenever possible, a person detained pursuant to
 8 this part ~~shall~~ must be detained in a mental health facility
 9 and in the county of residence. If the person detained
 10 demands a jury trial and trial cannot be held within 7 days,
 11 the individual may be sent to the state hospital until time
 12 of trial if arrangements can be made to return him to trial.
 13 ~~Such~~ The trial must be held within 30 days. The county of
 14 residence shall pay the cost of travel and professional
 15 services associated with the trial. ~~No~~ A person may not be
 16 detained in any hospital or other medical facility which
 17 that is not a mental health facility unless such the
 18 hospital or facility has agreed in writing to admit the
 19 person.

20 (3) ~~Except as provided in 53-21-1247-a~~ A person may not
 21 be detained pursuant to this part in a jail or other
 22 correctional facility.

23 (4) A person detained prior to involuntary commitment
 24 may apply to the court for immediate relief with respect to
 25 the need for detention or the adequacy of the facility being



1 utilized to detain.

2 (5) ~~No-detention~~ Detention may not be ordered under
3 this part for a person concerning whom a petition has been
4 filed under 53-21-121(1)(b).

5 (6) No A person may not be involuntarily committed to a
6 mental health facility or detained for evaluation and
7 treatment because he is an epileptic, or is mentally
8 deficient, mentally retarded, senile, or suffering from a
9 mental disorder unless the condition causes him to be
10 seriously mentally ill within the meaning of this part.
11 (Terminates July 1, 1997--sec. 1, Ch. 541, L. 1989.)

12 53-21-120. (Effective July 1, 1997) Detention to be in
13 least restrictive environment -- preference for mental
14 health facility -- court relief -- prehearing detention of
15 mentally ill person prohibited. (1) A person detained
16 pursuant to this part ~~shall~~ must be detained in the least
17 restrictive environment required to protect the life and
18 physical safety of the person detained or members of the
19 public; in this respect, prevention of significant injury to
20 property may be considered.

21 (2) Whenever possible, a person detained pursuant to
22 this part ~~shall~~ must be detained in a mental health facility
23 and in the county of residence. If the person detained
24 demands a jury trial and trial cannot be held within 7 days,
25 the individual may be sent to the state hospital until time

1 of trial if arrangements can be made to return him to trial.
2 ~~Such~~ The trial must be held within 30 days. The county of
3 residence shall pay the cost of travel and professional
4 services associated with the trial. No A person may not be
5 detained in any hospital or other medical facility which
6 that is not a mental health facility unless such the
7 hospital or facility has agreed in writing to admit the
8 person.

9 (3) ~~Except-as-provided-in-53-21-124-a~~ A person may not
10 be detained pursuant to this part in a jail or other
11 correctional facility.

12 (4) A person detained prior to involuntary commitment
13 may apply to the court for immediate relief with respect to
14 the need for detention or the adequacy of the facility being
15 utilized to detain."

16 **Section 2.** Section 53-21-124, MCA, is amended to read:

17 "53-21-124. Detention of respondent pending hearing or
18 trial -- jail prohibited. (1) The court may not order
19 detention of a respondent pending the hearing unless
20 requested by the county attorney and upon the existence of
21 probable cause for detention. Counsel ~~shall~~ must be orally
22 notified immediately. Counsel for the respondent may then
23 request a detention hearing, which ~~shall~~ must be held
24 forthwith.

25 (2) In the event of detention, the respondent ~~shall~~

1 ~~must~~ be detained in the least restrictive setting necessary
 2 to assure his presence and assure his safety and the safety
 3 of others as provided in 53-21-120. ~~A respondent may be~~
 4 ~~detained in a jail or other correctional facility only if no~~
 5 ~~appropriate mental health facility is immediately available~~
 6 ~~for placement. When the respondent is detained in a jail or~~
 7 ~~other correctional facility, the jail or other facility~~
 8 ~~shall immediately notify the regional central office of the~~
 9 ~~nearest mental health facility, as defined in 53-21-201,~~
 10 ~~that a person detained in the jail or correctional facility~~
 11 ~~is in need of an appropriate placement. Upon notification,~~
 12 ~~the mental health facility shall identify an appropriate~~
 13 ~~placement for the respondent, in accordance with the~~
 14 ~~requirements of 53-21-120. Until a placement is identified,~~
 15 ~~the mental health facility shall report on the status of the~~
 16 ~~placement to the jail or correctional facility within every~~
 17 ~~12-hour period, including weekends and holidays. When an~~
 18 ~~appropriate placement has been identified, the court must be~~
 19 ~~promptly notified and the respondent must be transferred to~~
 20 ~~that facility as soon as reasonably practical.~~

21 (3) If the respondent is detained, he ~~shall have~~ has
 22 the right to be examined additionally by a professional
 23 person of his choice. Unless objection is made by counsel
 24 for the respondent, he ~~shall~~ must continue to be evaluated
 25 and treated by the professional person pending the hearing.

1 (4) A respondent may not be detained in a jail or other
 2 correctional facility pending a hearing or trial to
 3 determine whether the respondent should be committed to a
 4 mental health facility."

5 NEW SECTION. Section 3. Diversion of certain mentally
 6 ill persons from jail. (1) The sheriff or administrator of a
 7 jail in each county shall require screening of inmates to
 8 identify persons accused of minor misdemeanor offenses who
 9 appear to be seriously mentally ill, as defined in
 10 53-21-102.

11 (2) If as a result of screening and observation it is
 12 believed that an inmate is seriously mentally ill, the
 13 sheriff or administrator of the jail shall:

14 (a) request services from a crisis intervention program
 15 established by the department as provided for in [section
 16 4];

17 (b) refer the inmate to the nearest community mental
 18 health center, as defined in 53-21-212; or

19 (c) transfer the inmate to a private mental health
 20 facility or hospital equipped to provide treatment and care
 21 of persons who are seriously mentally ill.

22 (3) As used in this section, the term "minor
 23 misdemeanor offense" includes but is not limited to a
 24 nonserious misdemeanor, such as criminal trespass to
 25 property, loitering, vagrancy, disorderly conduct, and

1 disturbing the public peace.

2 NEW SECTION. Section 4. Crisis intervention programs.

3 (1) The department shall, SUBJECT TO AVAILABLE
 4 APPROPRIATIONS, establish crisis intervention programs. The
 5 programs must be designed to provide 24-hour emergency
 6 admission and care of seriously mentally ill persons in a
 7 temporary, safe environment in the community AS AN
 8 ALTERNATIVE TO PLACEMENT IN JAIL.

9 (2) THE DEPARTMENT SHALL PROVIDE INFORMATION AND
 10 TECHNICAL ASSISTANCE REGARDING NEEDED SERVICES AND ASSIST
 11 COUNTIES IN DEVELOPING COUNTY PLANS FOR CRISIS INTERVENTION
 12 SERVICES AND FOR THE PROVISION OF ALTERNATIVES TO JAIL
 13 PLACEMENT.

14 ~~(2)~~(3) The department may enter into an interagency
 15 agreement with the department of social and rehabilitation
 16 services to provide crisis intervention programs as:

- 17 (a) a rehabilitative service under 53-6-101(3)(j); and
- 18 (b) a targeted case management service authorized in
- 19 53-6-101(3)(n).

20 **Section 5.** Section 53-6-101, MCA, is amended to read:

21 ***53-6-101. Montana medicaid program -- authorization of**
 22 **services.** (1) There is a Montana medicaid program
 23 established for the purpose of providing necessary medical
 24 services to eligible persons who have need for medical
 25 assistance. The Montana medicaid program is a joint

1 federal-state program administered under this chapter and in
 2 accordance with Title XIX of the federal Social Security Act
 3 (42 U.S.C. 1396, et seq.), as may be amended. The department
 4 of social and rehabilitation services shall administer the
 5 Montana medicaid program.

6 (2) Medical assistance provided by the Montana medicaid
 7 program includes the following services:

- 8 (a) inpatient hospital services;
- 9 (b) outpatient hospital services;
- 10 (c) other laboratory and x-ray services;
- 11 (d) skilled nursing services in long-term care
- 12 facilities;
- 13 (e) physicians' services;
- 14 (f) nurse specialist services;
- 15 (g) early and periodic screening, diagnosis, and
- 16 treatment services for persons under 21 years of age;
- 17 (h) services provided by physician assistants-certified
- 18 within the scope of their practice and that are otherwise
- 19 directly reimbursed as allowed under department rule to an
- 20 existing provider;
- 21 (i) health services provided under a physician's orders
- 22 by a public health department; and
- 23 (j) hospice care as defined in 42 U.S.C. 1396d(o).

24 (3) Medical assistance provided by the Montana medicaid
 25 program may, as provided by department rule, also include

1 the following services:

2 (a) medical care or any other type of remedial care
3 recognized under state law, furnished by licensed
4 practitioners within the scope of their practice as defined
5 by state law;

6 (b) home health care services;

7 (c) private-duty nursing services;

8 (d) dental services;

9 (e) physical therapy services;

10 (f) mental health center services administered and
11 funded under a state mental health program authorized under
12 Title 53, chapter 21, part 2;

13 (g) clinical social worker services;

14 (h) prescribed drugs, dentures, and prosthetic devices;

15 (i) prescribed eyeglasses;

16 (j) other diagnostic, screening, preventive,
17 rehabilitative, chiropractic, and osteopathic services;

18 (k) inpatient psychiatric hospital services for persons
19 under 21 years of age;

20 (l) services of professional counselors licensed under
21 Title 37, chapter 23, if funds are specifically appropriated
22 for the inclusion of these services in the Montana medicaid
23 program;

24 (m) ambulatory prenatal care for pregnant women during
25 a presumptive eligibility period, as provided in 42 U.S.C.

1 1396a(a)(47) and 42 U.S.C. 1396r-1;

2 (n) targeted case management services for the ADULTS
3 WHO ARE SERIOUSLY mentally ill, as provided in 42 U.S.C.
4 1396n(g), BUT LIMITED TO SERVICES PROVIDED IN CRISIS
5 INTERVENTION PROGRAMS ESTABLISHED UNDER [SECTION 4]; and

6 ~~(n)~~(o) any additional medical service or aid allowable
7 under or provided by the federal Social Security Act.

8 (4) The department may implement, as provided for in
9 Title XIX of the federal Social Security Act (42 U.S.C.
10 1396, et seq.), as may be amended, a program under medicaid
11 for payment of medicare premiums, deductibles, and
12 coinsurance for persons not otherwise eligible for medicaid.

13 (5) The department may set rates for medical and other
14 services provided to recipients of medicaid and may enter
15 into contracts for delivery of services to individual
16 recipients or groups of recipients.

17 (6) The services provided under this part may be only
18 those that are medically necessary and that are the most
19 efficient and cost effective.

20 (7) The amount, scope, and duration of services
21 provided under this part must be determined by the
22 department in accordance with Title XIX of the federal
23 Social Security Act (42 U.S.C. 1396, et seq.), as may be
24 amended.

25 (8) Services, procedures, and items of an experimental

1 or cosmetic nature may not be provided.
 2 (9) If available funds are not sufficient to provide
 3 medical assistance for all eligible persons, the department
 4 may set priorities to limit, reduce, or otherwise curtail
 5 the amount, scope, or duration of the medical services made
 6 available under the Montana medicaid program.

7 (10) Community-based medicaid services, as provided for
 8 in part 4 of this chapter, must be provided in accordance
 9 with the provisions of this chapter and the rules adopted
 10 thereunder. (Subsection (2)(j) terminates June 30,
 11 1991--sec. 4, Ch. 633, L. 1989; Subsection (3)(m) terminates
 12 June 30, 1991--sec. 15, Ch. 649, L. 1989.)"

13 NEW SECTION. SECTION 6. DEVELOPMENT OF COUNTY PLANS
 14 FOR ALTERNATIVES TO PLACEMENT IN JAIL OF SERIOUSLY MENTALLY
 15 ILL. NO LATER THAN APRIL JANUARY 1, 1993, EACH COUNTY, WITH
 16 THE ASSISTANCE OF THE DEPARTMENT OF INSTITUTIONS AND LOCAL
 17 AGENCIES, SHALL ESTABLISH A PLAN FOR THE DEVELOPMENT AND
 18 IMPLEMENTATION OF APPROPRIATE SERVICES TO PERSONS AWAITING
 19 COMMITMENT HEARINGS. THE PLAN MUST INCLUDE APPROPRIATE
 20 ALTERNATIVES TO JAIL FOR THE DETENTION OF MENTALLY ILL
 21 PERSONS PENDING A COMMITMENT HEARING OR TRIAL AND MUST BE
 22 DEVELOPED WITH THE ADVICE OF CONSUMERS, FAMILY MEMBERS OF
 23 CONSUMERS, AND MENTAL ILLNESS ADVOCACY GROUPS. THE FOLLOWING
 24 AGENCIES AND INDIVIDUALS SHALL ASSIST THE COUNTIES IN
 25 ESTABLISHING AND IMPLEMENTING THE PLANS:

1 (1) MENTAL HEALTH CENTERS LICENSED UNDER TITLE 50,
 2 CHAPTER 5, PART 2;
 3 (2) HOSPITALS LICENSED UNDER TITLE 50, CHAPTER 5, PART
 4 2;
 5 (3) LAW ENFORCEMENT AGENCIES;
 6 (4) PHYSICIANS LICENSED UNDER TITLE 37, CHAPTER 3;
 7 (5) PSYCHOLOGISTS LICENSED UNDER TITLE 37, CHAPTER 17;
 8 (6) SOCIAL WORKERS LICENSED UNDER TITLE 37, CHAPTER 22;
 9 (7) PROFESSIONAL COUNSELORS LICENSED UNDER TITLE 37,
 10 CHAPTER 23; AND
 11 (8) PROFESSIONAL PERSONS CERTIFIED UNDER TITLE 53,
 12 CHAPTER 21, PART 1.

13 NEW SECTION. Section 7. Codification instruction.
 14 [Sections 3 and 4] are intended to be codified as an
 15 integral part of Title 53, chapter 21, part 1, and the
 16 provisions of Title 53, chapter 21, part 1, apply to
 17 [sections 3 and 4].

18 NEW SECTION. Section 8. Effective date DATES --
 19 TERMINATION. ~~This act is~~ (1) [SECTIONS 1 THROUGH 5 AND 7]
 20 ARE effective July 1, 1992 1993.

21 (2) [SECTION 6 AND THIS SECTION] ARE EFFECTIVE ON
 22 PASSAGE AND APPROVAL.

23 (3) [SECTION 6] TERMINATES JULY 1, 1993.

-End-