

HOUSE BILL 898

Introduced by Messmore

2/16	Introduced
2/16	Referred to Judiciary
2/16	First Reading
2/16	Fiscal Note Requested
2/21	Fiscal Note Received
2/22	Hearing
2/22	Tabled in Committee

1 House BILL NO. 898  
 2 INTRODUCED BY Messmore  
 3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT BEFORE  
 6 A DEFENDANT MAY BE COMMITTED TO THE MONTANA STATE HOSPITAL  
 7 FOR PURPOSES OF A PSYCHIATRIC EXAMINATION, THE DISTRICT  
 8 COURT SHALL FIND THAT EXTRAORDINARY CIRCUMSTANCES EXIST; AND  
 9 AMENDING SECTION 46-14-202, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 46-14-202, MCA, is amended to read:

13 **"46-14-202. Psychiatric examination of defendant. (1)**

14 If the defendant or his counsel files a written notice of  
 15 his intent to rely on a mental disease or defect under  
 16 46-14-201 or raises the issue of his fitness to proceed, the  
 17 court shall appoint at least one qualified psychiatrist or  
 18 licensed clinical psychologist or shall, as provided in  
 19 subsection (3), request the superintendent of the Montana  
 20 state hospital to designate at least one qualified  
 21 psychiatrist or licensed clinical psychologist, which  
 22 designation may be or include himself, to examine and report  
 23 upon the mental condition of the defendant.

24 (2) The court may order the defendant to be committed  
 25 to a hospital or other suitable facility for the purpose of

1 the examination for a period of not exceeding 60 days or  
 2 such longer period as the court determines to be necessary  
 3 for the purpose and may direct that a qualified psychiatrist  
 4 or licensed clinical psychologist retained by the defendant  
 5 be permitted to witness and participate in the examination.

6 (3) (a) The court shall order the defendant to be  
 7 committed to the Montana state hospital for purposes of a  
 8 psychiatric examination by a qualified psychiatrist or  
 9 licensed clinical psychologist designated by the  
 10 superintendent of the Montana state hospital under  
 11 subsection (1), only upon making a finding in writing that  
 12 extraordinary circumstances exist.

13 (b) Extraordinary circumstances may be found to exist  
 14 only when the court holds a hearing for purposes of this  
 15 determination and makes specific findings of fact that one  
 16 or more of the following circumstances exist:

17 (i) A qualified psychiatrist or licensed clinical  
 18 psychologist is not available within the county to perform  
 19 the examination.

20 (ii) All qualified psychiatrists or licensed clinical  
 21 psychologists within the county have refused to examine the  
 22 defendant.

23 (iii) There are other extraordinary circumstances, such  
 24 as:

25 (A) the violent nature of the crime;



1       (B) the community's reaction to the defendant or to the  
2 crime or both; or

3       (C) other specific extraordinary circumstances that  
4 justify examination of the defendant at the Montana state  
5 hospital.

6       (4) The cost of a psychiatric examination does not  
7 support or justify a finding of extraordinary circumstances  
8 pursuant to subsection (3).

9       ~~(3)~~(5) In the examination any method may be employed  
10 which is accepted by the medical profession for the  
11 examination of those alleged to be suffering from mental  
12 disease or defect.

13       ~~(4)~~(6) The cost of the examination must be paid by the  
14 county or the state, or both, according to procedures  
15 established under 3-5-902(1)."

-End-