

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 20, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Wednesday, March 20, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Eudaily who was previously excused.

CONSIDERATION OF SENATE BILL NO. 375: Senator Tom Towe, District #46, sponsor of SB 375, testified. He said that Senate Bill Nos. 375, 376 and 414 are the product of a committee that has been working on mental commitment laws in this state for some time. The original mental commitment laws were passed in 1975. The issue deals with how to handle the person who genuinely is disruptive but may not be a danger to himself or others. He said most of the bills have been worked out to provide for a compromise. The committee concluded that there is a fairly easy way to solve almost 50% of the problem because about half of these people have been legally committed to Warm Spring Hospital on a voluntary basis and sometimes on an involuntary basis. SB 375 does not deprive someone of his constitutional rights by retaining control over that individual for a longer period of time once they have been committed. In effect, SB 375 imposes a form of probation for mental patients who have been committed to Warm Springs. It is a probation bill. Senator Towe went through and explained each section of the bill in further detail.

PROPOSERS:

Donald Harr, medical director of the Mental Health Center in Billings, testified as a proponent to SB 375. This bill offers an opportunity for prevention of return to the hospital for continued treatment in a situation where the individual's medical history demonstrates that they have not been able or willing to comply with the treatment program. This legislation will allow them to remain out of the hospital and in their own community and make it possible to avoid a significant number of individuals returning to the hospital.

Nancy Adams, who runs Montana House in Helena, spoke in favor of the bill. She said that 90% of their clients have been in and out of the state hospital. She said they have become frustrated with those clients when they go off their conditions of releases. The Montana House has no way of having any leverage in getting these individuals to get back on their medication or enter a program of treatment.

James Dorr Johnson, Montana Legal Services in Butte, testified. He told the committee that he would be troubled if the committee thought of this as a parole bill because more than 90% of the people who have had mental problems are not violent people. He said that SB 375 has some trade offs in it. Never before has legislation in the last 10 years given the opportunity for hearing with regards to being returned to the hospital on conditional release. He thinks that is a valuable part of this bill. Mr. Johnson said he is somewhat troubled with the language on page 9, lines 21 through 22 which allows this to be extended to three years. He feels that it should be extended to only two years. He feels that forced treatment finds the mental health system at its worse. He said that some of the medication that patients take cause serious side affects. He said that this bill will allow the county attorney to be able to extend the conditional release. He admonished the committee to carefully consider the period of time that people's lives will be regimented under this bill.

Kelly Moorese, director of the Mental Disabilities Board of Visitors, testified as a proponent to the bill. A copy of her written testimony was marked Exhibit A and is attached.

Harold Gerke, Vice-Chairman of the Montana Council of Community Mental Health Center, said the council would like to go on record as supporting this bill.

Paul Pistoria, representing the House District #36, testified as a proponent. He feels that passing SB 375 is the right way to go because it will help many families. He doesn't think it will be abused.

Cliff Murphy, representing the Montana Mental Health Association, stated that this bill gives adequate protection to the client in the conditional release provision and promises some pressure to keep the person in treatment.

Jay Palmatier, representing the Western Montana Mental Health Center -- Missoula, testified. He feels the bill protects the rights of the individual that may be conditionally released. It also provides for them to be treated in the community. Furthermore, it allows the mental health centers to easily provide for the proper treatment when the patient repeatedly comes out of the state hospital.

Lowry Risdahl from Missoula testified as a proponent for the bill. A copy of his written testimony was marked Exhibit B and attached hereto.

There were no further proponents or opponents, and Senator Towe closed. The floor was opened to questions from the committee.

Rep. Bergene asked Senator Towe to comment on Mr. Johnson's suggestion of reducing the 3-year extension period to two years. Senator Towe said that all the other parties who worked on this bill with him concluded to leave the time at 3 years. There is a provision that says that the first extension cannot be for more than 6 months, the next extension cannot be for more than 1 year, and then 3 years -- you cannot extend each cumulatively beyond three years.

Rep. Rapp-Svrcek wanted to know what happens in the cases involving recommitments when an individual is disruptive but not destructive. Senator Towe said that this bill does not address that question. Rep. Rapp-Svrcek said he has a real concern in the area dealing with the medication some of these patients must take. Mr. Palmatier said that side effects of medication is one of the problems they run into. Usually, these medications help the patient's thinking process so that they are able to think more clearly. However, most medication given is sedating. Dr. Harr addressed the area of medication in further detail. He said they realize most of these medications are quite potent; however, with any type of medication, a certain amount of side effects is expected even though serious side effects are rare. There is always the concern involved in relating to the benefit of the medication and the harm the medication may present. There are both benefits and potential problems that have to be weighed. Dr. Harr pointed out that there isn't any place in the bill that says the individual has to be kept under conditional release for three years -- it is just the maximum period of time that is allowed.

In response to an earlier question, Dr. Harr said that they use no experimental drugs on their patients. They must first be approved by the FDA and utilized for two years prior to marketing.

There being no further questions, hearing closed on SB 375.

CONSIDERATION OF SENATE BILL NO. 376: Senator Tom Towe, District #46, chief sponsor of the bill, said that this bill deals with the question of what to do about an individual who is beyond the control of previous commitments, or maybe one who has never been committed but who is definitely disruptive although not necessarily dangerous. This bill attempts to address this question within the confines of the constitution. He explained the sections of the bill in detail. He pointed out on page 3 that a new definition has been created to define "a person in need of treatment." Senator Towe also felt it would be wise to amend page 3, line 13 by striking "DANGER" and inserting "INJURY". He also suggested another amendment be adopted on page 18, line 20 following "respondent" inserting "for a period not to exceed 30 days" in order to be consistent with the language on line 3, page 18 of the bill. He further directed the committee's attention to page 7, lines 15 through 17 and suggested the following amendment: On line 15, reinsert "any-person" and

strike the underscored new material through lines 17.

PROPONENTS:

Venus Bardanouve, testifying on behalf of herself, feels that the problem in crisis situations is that some of these patients who need further treatment cannot be kept in the hospital. She gave the committee a few examples of what she has been able to observe in other family situations.

Donald Harr, medical director of the Mental Health Center in Billings, said the Mental Health Center is very much in favor of this bill. This pertains to the individual who, because of his mental illness, is unable to make a reasonable decision of whether or not treatment is necessary. He addressed particular concerns he had with the bill. One concern is with the language on page 6, lines 15 through 17. He feels this language is highly impractical, and it involves a significant percentage of their patients. Some of these patients don't have relatives or a guardian that has been appointed. He agrees with Senator Towe that this particular language be deleted and that the original language, "any person" be reinserted. Dr. Harr also expressed his concern with the language on page 7, line 9. He said there are certain circumstances under which it would be necessary for a person to be kept in a state of detention during court proceedings. There are statutory protections for an individual requiring the person be kept in loose-detention facilities pending court proceedings.

Rep. Paul Pistoria, representing House District #36, spoke as a proponent to SB 376. He supports the amendment proposed by Senator Towe. He feels that it is time to improve situations in this area within our state to help its people.

James Dorr Johnson, Montana Legal Services in Butte, said he was testifying with great reservation on this particular bill. He said he can agree with the amendment proposed on page 3, line 13 of the bill. He said that most of the people who have worked with this legislation can agree to the amendment proposed on page 7, lines 15 and 16 to reinsert the stricken material. He said, however, there is a controversial amendment which was made in the Senate on page 14, lines 14 and 15. While the mental health professionals should be paid for services rendered, he doesn't feel that people who are forced to take treatment should be forced to pay for the treatment. He cannot agree with Dr. Harr's suggested amendment on page 7, lines 9 and 11 to delete this material.

Laura Risdahl, from Missoula, testified as a proponent. A copy of her written testimony was marked Exhibit B and is attached hereto.

David Briggs, executive director of the Montana Health Services, Inc., testified as a proponent.

Cliff Murphy, representing the Mental Health Association of Montana, testified in support of this bill. He said the association supports the bill as it was submitted to the Senate with the provision that "any person" may initiate the process.

Winifred Storli, from Kalispell, told the committee that she has a 33 year old daughter who remains untreated.

Nancy Adams, who runs the Montana House in Helena, testified as a proponent to this bill. She submitted a letter which was marked Exhibit C and attached hereto.

Harold Gerke, Vice-chairman of the Montana Council of Community Mental Health Centers, said he supports the bill with the inclusion of Senator Towe's proposed amendment on page 7.

Eileen LaBelle, from Columbia Falls, supports this bill with the inclusion of the amendment proposed by Senator Towe on page 7 to include "any person".

There were no further proponents.

OPPONENTS:

Thomas M. Posey, from Billings, said he is a mental health patient. He said that the people who "care for him so much" want to deprive him of his liberty and freedom of choice: they want to call him into court to depict his sanity; they want to force him to take medication to better accept this condition; and then they expect him to pay for it. He said that anyone can go before a county attorney and say that a person, because he has been mentally ill and for no other reason, is in need of treatment. Under this bill, the petitioner doesn't have to say anything more than a certain individual is disruptive or he may become disruptive. Mr. Posey continued by saying that at least with the amendment adopted by the Senate, there was some reason for a parent or a guardian to go before the county attorney. This wouldn't leave it wide open for anyone who might disagree with a person on the street. He said that many of us who have been mentally ill have never been adjudicated in court -- we have voluntarily submitted to treatment. Now a whole new area is being opened up to throw us in, which is having a court record created simply because someone, anyone, has said that we are destructive and might become predictably worse. He said that even though he is sympathetic to those who have had mentally ill members in their families, these people are free human beings with the right to free choice. As long as they are not an immediate danger to themselves or others, they have no right to be segregated out and treated any different than the rest of society. He also pointed out the one disaster

of the bill -- that has to deal with forced medication, and abuses do exist. He talked about some of the abuses that do occur in this area. Mr. Posey said he has been on two medications that were retracted because of side affects which developed after the drug was approved. He feels that much of this medication is, in fact, experimental because of the unknown future side affects. It may take years to understand some of the side affects. He said that this may raise a question of state liability. Finally, Mr. Posey asked the committee to consider amendments to the bill instilling safeguards for those whose rights would be tampered with if they feel this bill should pass.

Susan Cottingham, representing the Montana Chapter of the A.C.L.U., wanted the committee to carefully consider the 30-day provision. She said it could present some real potential problems if a person were committed up to 30 days without a hearing. She further said that the A.C.L.U. opposes the idea of committing people just because they are a public nuisance.

Curt Chisholm, deputy director for the Department of Institutions, stated that the department does not take a position on this package of bills (SB 375, 376 and 414). Mr. Chisholm urged the committee to amend the bill on page 7 as proposed by Senator Towe. He said that without this amendment, the department would strongly oppose this bill. He said the Mental Health Center is obligated to provide services free of charge for those people who cannot pay, and the concern is that they have a delicately-balanced projected revenue posture. He suggested that reference to payment for services be stricken entirely from the bill because it will subject that particular section to a lot of interpretation. He said some people may not be able to pay for services immediately because of a simple cash flow problem. Rather than create confusion, he suggested that reference to the ability to pay, or whether these people should pay or not, be stricken entirely.

There were no further opponents, and Senator Towe closed. Senator Towe told the committee that there are some very serious concerns that need to be addressed in this bill. He feels that the people who work in the mental health area, however, need tools that will enable them to treat the people who need it.

The floor was opened to questions from the committee. In response to a question asked by Rep. Rapp-Svrcek, Senator Towe said that he is not sure that all of these people's problems can be solved; however, if an individual is seriously disturbed and gets into trouble, they would be able to make a significant impact on the person's mental health problem in the 30 day time frame.

Rep. Rapp-Svrcek asked Mr. Posey about a person not being able to understand that he or she is in need of treatment and to address page 3, section (c) which refers to this. Mr. Posey said that there are people who don't realize what is happening, and he feels those people need an appointed guardian. Rep. Rapp-Svrcek had a strong concern with the types of medication given to these people. Dr. Harr said that physicians are human and do not foresee every possible reaction to medication a person may have. He said that they are always in the position of weighing the benefits against a possible disadvantage from medication. Rep. Rapp-Svrcek asked if there were any methods of treating people other than drugs. Dr. Harr said there are many activity and therapy kinds of approaches that require the utilization of medication. He pointed out that in many illnesses of this nature, there is a neuro-chemical imbalance that requires the use of medications.

Rep. Montayne wanted to know if many of the drugs being utilized are addictive. Dr. Harr said that the types of medication which were being discussed, such as anti-psychotic and anti-depressant medication, are not addictive.

In response to a question by Rep. Montayne, Mr. Murphy said there are many safeguards. The county attorney must look closely at the facts, then there is the safeguard of a court.

Rep. Addy asked Mr. Chisholm if he objected to limiting the commitment of a person to a Mental Health Center by relatives. Mr. Chisholm took a neutral position on that.

In response to a question asked by Rep. Addy, Senator Towe said that he feels the people found in need of treatment should have the opportunity to come before a judge. (They were referring to subsection (3) on line 14 of the bill.)

Following further discussion, hearing closed on SB 376.

CONSIDERATION OF SENATE BILL NO. 414: Senator Tom Towe, District #46, sponsor of the bill, testified. He said this is the third bill in the package that addresses the situation in a little different fashion. This bill is an act providing for the appointment of a public administrator or a conservator corporation as conservator of certain person. He said the law already allows the appointment of a guardian.

Bob Raundal, representing the Mental Health Association, wished to go on record as supporting this bill. Also supporting the bill were Nancy Evans and Kelly Moorse. Ms. Moorse's written testimony was marked Exhibit D and attached hereto. Winifred Storli from Kalispell also briefly testified in support of this bill.

Jim Johnson, Montana Legal Services from Butte, testified. He said he is concerned with the language on page 5, subsection (2). He feels the committee should carefully look at the public administrator's compensation and perhaps raise it to 5%.

Harold Gerke, vice-chairman of the Montana Mental Health Center, said that SB 414 is good legislation and urged the committee to vote for its passage.

There being no opponents, Senator Towe closed.

The floor was opened up for questions.

Rep. Brown wanted to know if the language on page 5 specifically allows for attorney fees. Senator Towe said that there are provisions for court costs in the law relating to civil matters. There is not provision for attorneys fees anywhere else in the statute. Rep. Brown wanted to know what the net effect would be if attorney fees were eliminated. Senator Towe said that court costs and attorney fees are in addition to the compensation of a public administrator. He feels the provision for attorney fees should be kept in the bill.

There being no further questions, hearing closed on SB 414.

CONSIDERATION OF SENATE BILL NO. 268: Senator Mike Halligan, District #29, sponsor for SB 268, spoke on behalf of the bill. The bill changes the criteria to determine when a youth can be placed in a jail or other detention facilities. He said that SB 268 is a major policy change.

Steve Nelson from the Montana Board of Crime Control, testified as a proponent to this bill. He submitted a handout entitled Juvenile Detention Criteria which was marked Exhibit E and attached hereto. Mr. Nelson pointed out the fact that the number of youths detained in Montana has been declining for the past 5 years. This dramatic change has made it difficult to determine how many beds are needed to meet the needs of the Youth Courts.

Pete Howard, Teton County Sheriff, informed the committee that there is an exceedingly high rate among juveniles in jail. He said that jails do not make money, and there is nothing rehabilitative about jail. He feels the kids deserve the same respect and fairness that adults demand.

Craig J. Anderson, chief probation officer for the 7th Judicial District, testified in favor of SB 268. Ed Hall, Board of Crime Control, Department of Justice and Gordon Morris representing the Montana Association of Counties, wished to go on record as supporting this bill.

There were no further proponents or any opponents. In closing Senator Halligan said he doesn't want to put the

status offender anywhere near a detention center. This legislation will give the professionals clear guidance in placing these people in a detention center.

The floor was opened to questions from the committee.

Rep. Brown said that he was hesitant to place on the books a piece of rearranged statute or portion thereof without a really good reason for doing so. Rep. Brown suggested that this be looked into further and the committee consider drafting an amendment that doesn't reference existing statutes but rather lists these crimes specifically.

Rep. Brown said he has as a resolution as a follow up to the Youth Court, HB 103, that is not yet out of the Legislative Council. It requires an interim study to look at regional youth detention centers. Because of the limited cases in each of the jurisdictions within the state, it is too expensive to house specifically those youths who have problems of a serious nature. Rep. Brown asked if the Board of Crime Control has looked specifically at the issue of regional detention centers and, if so, how does it fit with the purpose of this bill. Mr. Nelson said SB 268 is way at the front end -- this is pre-trial pre-adjudication.

Rep. O'Hara said that he is unclear as to what happens to the status offenders. Mr. Nelson said that in most communities, there are group shelter care facilities. Most of the youths are ending up in a non-secure placement.

In response to a question asked by Rep. Rapp-Svrcek, Sheriff Howard said that he will not incarcerate most of the youths in need of care. He said that 90% of these types of youths need to be sent home, and their parents need to be made responsible for their children's welfare.

There being no further questions, hearing closed on SB 268.

ADJOURN: A motion having been made by Rep. Keyser and seconded, the meeting adjourned at 11:20 a.m.


TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/20/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily			✓
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. SB 268 (Sen. Halligan);
 SB 375; 376; 414 (Sen. Towe)

DATE March 20, 1985

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Harold E. Pesh SB 375 268/414 Not Council Mental Health		X	
Steve Nelson	Bd Crime Control	268	
PETE HOWARD	Teton Co. Sheriff	268	
Ed Hall	MBCC	268	
Craig Anderson	7th Jd. Dist	268	
G. Morris	MACO	268	
James Lee Johnson	Mont Legal Services	375/414	
" " "		376/women's	
Bob Rounal	Mental Health Assn	414	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

House Judiciary

COMMITTEE

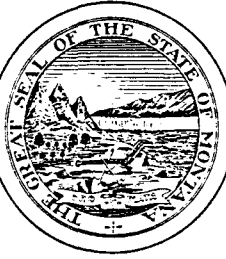
BILL NO. SB. 376DATE 3/20/85SPONSOR Towe

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
THOMAS M. POSEY	18 WHEATLAND BILLINGS, MT. 59102		X
Donald L. Harr	3010 Wendmere Lane Billings, Mt. 59102	X	
W. STORLI	Box 249 Kalispell	X	
Ruth Senter	240 Zimmerman Rd Kalispell	X	
Elvin LaBelle	117 Rogers Road Columbia Falls	X	
James Baidanow	P.O. Box 367 - Harlem Mt. 59152	X	
Jesse Cunningham	ACLU - Mt. Helena		X
Spence & Gerke	Mt. Council Mental Hlth Ctr	X	
Howard Engler	211 Central Health	X	
Nancy Adams	Montana House	X	
Jay R. Palminter	Western Mt. Mental Health Center - Mt. 35001a	X	
Phil Murphy	MHAM	X	
State Rep Paul S. Richter	Dr. Falls - Support SB. 375	X	
Steve			

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS



TED SCHWINDEN, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 444-3955

HELENA, MONTANA 59620

20 March 1985

Representative Tom Hannah, Chairman
House Judiciary Committee
Room 312-3
Capitol Station
Helena, MT 59620

RE: SB 375

Representative Hannah and Members of the Committee,

The Mental Disabilities Board of Visitors is responsible for reviewing patient care and treatment at Montana's Community Mental Health Centers, as well as the institutions for the mentally ill and the developmentally disabled. The Board of Visitors supports Senate Bill 375.

The Board worked with Senator Towe, representatives of the Mental Health Centers, the County Attorney offices, Montana Legal Services and family members on the initial draft proposals which resulted in Senate Bill 375. We feel that the bill is acceptable in its current format.

We strongly support the language on page 6 (lines 3-21) and page 7 (lines 2-25) which provides for a court hearing. The court hearing provides assurance that an individuals rights are protected.

The Board of Visitors supports Senate Bill 375 and respectfully asks the committee to give a do pass recommendation. Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Moorse".

Kelly Moorse
Executive Secretary

①. Following statement by:
Lowry L. and Laura M. Risdall, Mission
2405 39th St.
(Inst. Bill 376) Our Experience

EXHIBIT B

Our son has been ill with a label of
Paranoid Schizophrenia for 14 years. He
has a masters degree in education and
taught secondary English for nine years.

When we first brought him home
after a 1-month stay at Deaconess
Hospital in Great Falls he was able
to work at a job and also correct
English high school papers.

Under the care of psychiatric doctors
in Missoula, his condition steadily
deteriorated. My husband and I
pleaded with several doctors and
visited the mental health center at
Fort Missoula but no one would
tell us anything about his care and
treatment or coach us on how to
cope and work with this completely
unknown responsibility. To this
day the doctors and professionals
refuse to take our family into
their confidence so that we may assist
in the process of trying to ^{help} ~~assist~~ our
son ^{get} well.

He was then in and out of the
hospital. On one occasion we
visited him ^{at his home} on a Friday evening and
discovered he was very ill. Upon
begging his doctor to come and see
him, the doctor coldly said, "Tell
him to come in Monday morning".
By Monday morning he was so sick

(2)

that he had to go to the hospital at St Pats and was there for 10 day. A great cost to the taxpayers when an immediate treatment would have prevented the hospital stay.

On another occasion, while in the hospital, he called over home and said he thought he was going to die and could we come to the hospital. A nurse there said he was over-medicated but they could do nothing because his doctor was skiing and could do nothing until the doctor came back. We walked the floor with him all afternoon in his desperate condition. By evening we went home, returning in a few hours. While we were gone he had a seizure due to the over medication and finally was able to quiet down.

He tried the program at River House but they had no program for someone with his education & experience background, and when he did go he was made to feel more afraid & insecure by unkind and meaningless remarks and intimidation.

On another occasion he had taken extra medication, prescribed by his doctor, shortly after he had taken all of this new medication, along with his regular, he felt strange and went to see his father at his shop. His dad told him to get in touch with his doctor immediately. His doctor was at River House where he went. However, he was made to sit

(3)

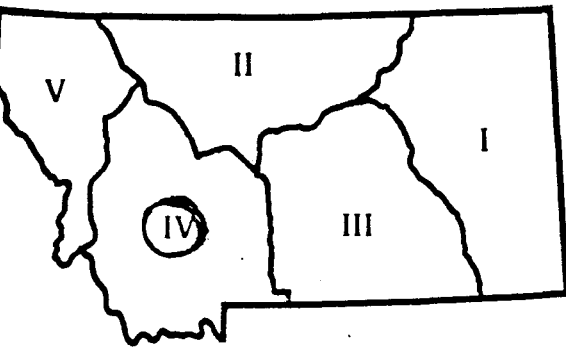
and wait for a long period of time and finally experienced a bad seizure at which time he chewed his cheeks & tongue and raw. The seizure was so violent that his jaws closed so tightly that his front teeth were loosened.

We could go on and on but this is a sample of our experience in dealing with the system.

(but yet another time -- he was so ill and we went to the police, the hospital, the sheriff's office trying to, somehow, get him to the hospital before he was so much worse. All they could say was, "Has he hummed himself or done something wrong?" As yet he had not so he could not receive help. So after too much delay, again he spent many days in the hospital -- a great expense to the taxpayers.

(Bill 376 contains a ray of hope. It will allow "next of kin" to act on behalf of an ill person in times of urgent need.

(It is necessary to examine with great care all frustrating rules, laws & roadblocks that prevent care & treatment for the mentally ill. These citizens, helpless in their own defense, receive less care and consideration than criminals convicted of crimes against society.



Montana Council of Regional Mental Health Boards, Inc.

March 19, 1985

Representative Tom Hannah, Chairman
House Judiciary Committee
State Capitol Room 312-3
Helena MT 59620

Dear Representative Hannah:

The Montana Council of Regional Mental Health Boards, Inc.,
urges the House Judiciary Committee to re-amend SB 376,
Section 4, to read as follows:

"Section 53-21-121, MCA. Petition for commitment -- person in need of treatment -- contents of -- notice of. (1) The county attorney, upon the written request of any person, may file a petition with the court:"

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy Adams", is written over the typed name.

NANCY ADAMS, MSW
Chairman
MCRMHB Commitment Law Committee

cz

REGION I — EASTERN

819 Main Street
Missoula MT 59301
(406-32-0234)

REGION II — NORTH CENTRAL

2307 Eleventh Avenue South
Great Falls, MT 59403
(727-2991)

REGION III — SOUTH CENTRAL

1245 North 29th Street
Billings MT 59101
(252-5658)

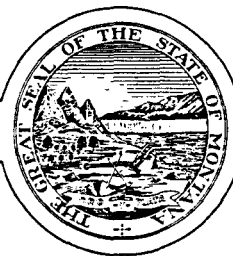
REGION IV — SOUTHWEST

801 North Last Chance Gulch
Helena MT 59601
(442-0310)

REGION V — WESTERN

Fort Missoula T-12
Missoula MT 59801
(543-5177)

OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS



TED SCHWINDEN, GOVERNOR

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HELENA, MONTANA 59620

20 March 1985

Representative Tom Hannah, Chairman
House Judiciary Committee
Room 312-3
Capitol Station
Helena, MT 59620

Representative Hannah and Members of the Committee,

The Mental Disabilities Board of Visitors is in support of Senate Bill 414. We are familiar with many persons released from Warm Springs who have difficulty in managing their finances. Since the majority of these persons are living on fixed incomes of less than \$300/month (Social Security or SSI) budgeting is crucial. In our review of mental health centers throughout the state we have found staff in the Aftercare programs will provide some assistance and guidance in financial matters. For those individuals who have no relative or friend to assist in the management of their funds, the public administrator offers another alternative.

The Board of Visitors also endorses the language on page 5, lines 8-11, which sets a limit on the fees a public administrator may charge. As we stated earlier, budget planning is critical for those on fixed incomes.

We urge your support of Senate Bill 411. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Moorse".

Kelly Moorse
Executive Secretary

S.B. 268 BY HALLIGAN

*Submitted by
Steve Nelson*

JUVENILE DETENTION CRITERIA

PROBLEM - JUVENILES CAN NO LONGER BE HELD IN ADULT JAILS

1. The Federal Juvenile Justice and Delinquency Prevention Act of 1984 mandates removal of all juveniles from adult jails.
2. An Oregon federal court case (D.B. vs. Tewksbury) condemned the practice of using adult jails for juveniles. It also held county officials personally liable for damages.
3. National jail standards developed by the National Sheriff's Association, the American Corrections Association and the American Bar Association/Institute for Judicial Administrations call for the removal of juveniles from adult jails and the development of objective criteria for the use of secure detentions.
4. The United State Supreme Court Decision (Shall vs. Martin) in 1984 authorized the use of "Preventive Detention", but cautioned that the decision to detain a youth must be based on clearly stated, objective criteria.

MONTANA'S STATUS

1. County jails are the only secure (pretrial detention) facilities available to hold youth awaiting court action. Most of these facilities do not meet nationally accepted standards for adults, and are not prepared to meet the special needs of young people.
2. Montana and Wyoming are the only states in the nation with no juvenile detention facilities. The cost of constructing a 10 bed facility would exceed \$1,000,000 and cost over \$120,000 to operate per year.
3. Montana does not have enough youth to justify detention facilities. The daily population of youth in Montana jails is less than 5. The recommended minimum size of a detention facility is 20.
4. The number of youth detained in Montana has been declining for the past 5 years. A 56% decline occurred from 1977 to 1983, and the projected data for 1984 indicates another 50% reduction. This dramatic change makes it nearly impossible to determine the number of secure beds needed to meet the needs of Youth Courts.
5. There is little statutory guidance for making the pretrial detention decision. The responsibility is left with individual probation officers. The use of objective criteria

for detaining youth would establish more consistency and uniformity in this decision and result in a more stable rate of detention.

YOUTH JUSTICE COUNCIL - BOARD OF CRIME CONTROL

During 1984 the Juvenile Detention Task Force of the Youth Justice Council met to determine solutions to the detention problem. An initial project was a survey of the Youth Courts to determine what detention criteria would be acceptable. The results of this survey were presented to the Montana Probation Officers Association and the Task Force adopted a model set of criteria which could be implemented by Youth Courts.

The Task Force, Youth Justice Council and Board of Crime Control endorsed 3 major recommendations for this legislative session.

1. Require Youth Courts to develop Detention Criteria (SB 268)
2. Providing financial assistance to Youth Courts implementing the Council's criteria (HB 589).
3. Permit the detention of youth at state correctional facilities, (HB 667).

WHAT ARE CRITERIA

Objective written criteria spell out the reasons a young person should or should not be held in secure detention. These criteria should be based on offense, legal status and legal history. Only those youths who meet the criteria ought to be held in secure detention. Those who do not meet the criteria would be released to their parents or would be supervised in nonsecure facilities.

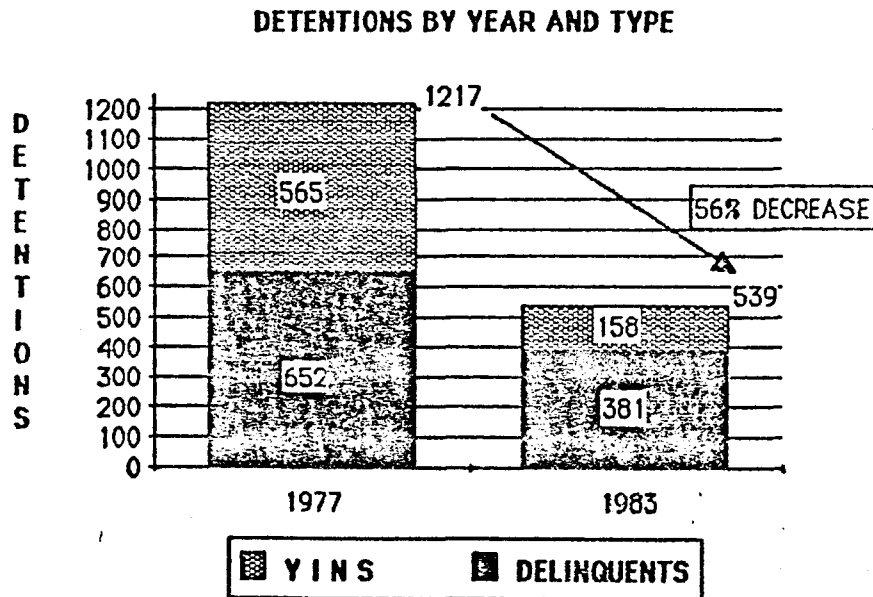
RESULT OF CRITERIA

Implementation of the YJC criteria would reduce the number of youth held in jail in 1983 by 80%.

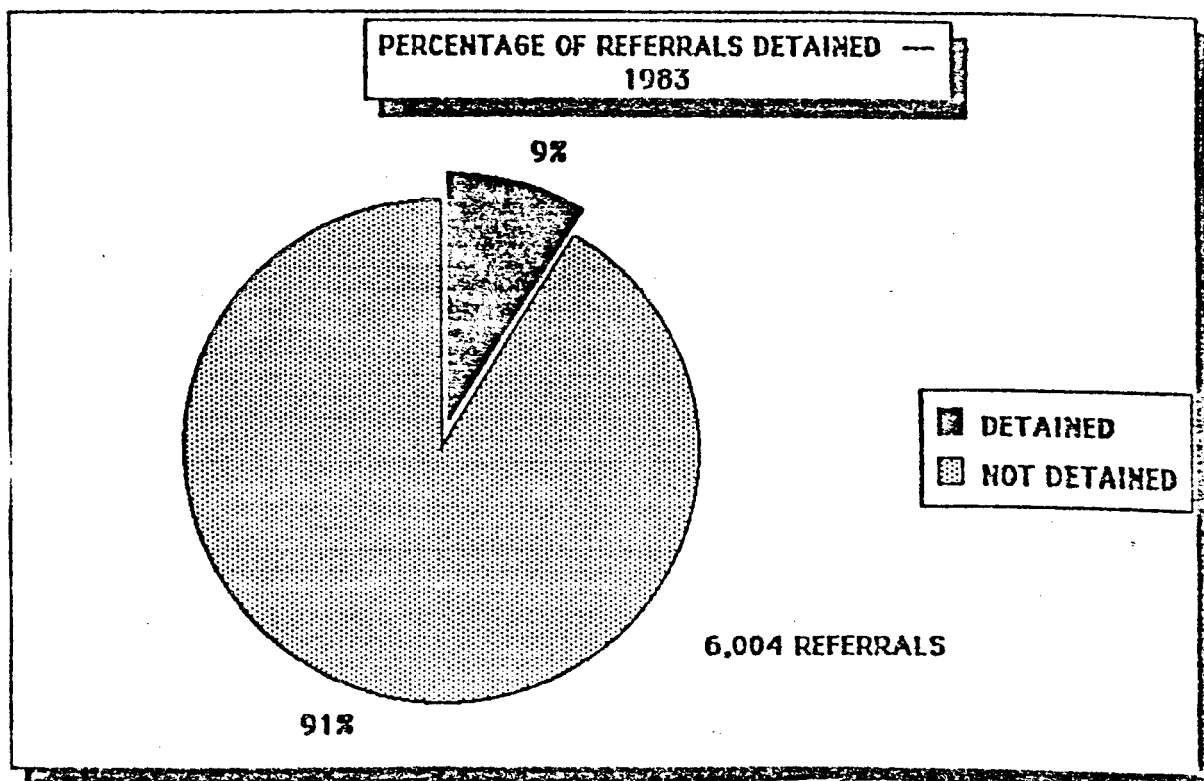
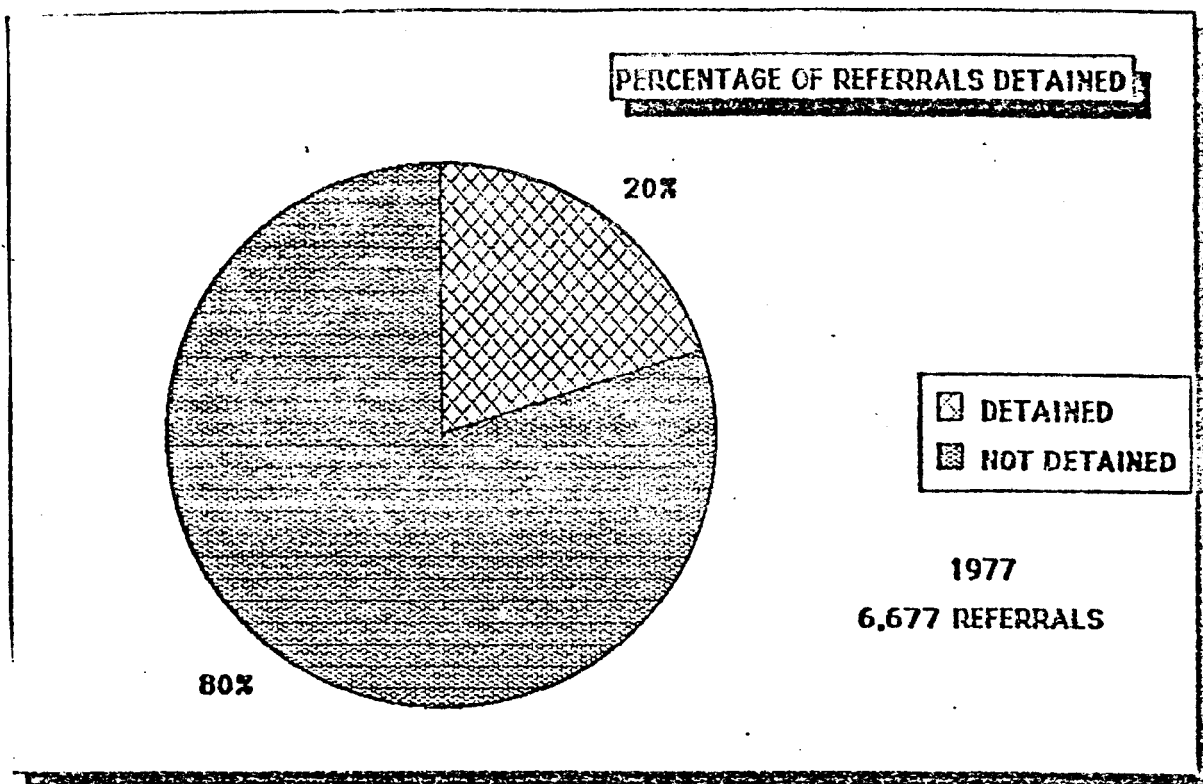
Implementation of criteria will create consistent decision making and a stable detention population, allowing courts to project their need for secure beds.

Implementation of criteria will give Youth Court officials clear guidance for making the detention decision and reduce their vulnerability to liability.

JUVENILE DETENTIONS IN 1977 AND 1983



JUVENILE DETENTION



41-5-206. Transfer to criminal court. (1) After a petition has been filed alleging delinquency, the court may, upon motion of the county attorney, before hearing the petition on its merits, transfer the matter of prosecution to the district court if:

(a) the youth charged was 16 years of age or more at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

- (i) criminal homicide as defined in 45-5-101;
- (ii) arson as defined in 45-6-103;
- (iii) aggravated assault as defined in 45-5-202;
- (iv) robbery as defined in 45-5-401;
- (v) burglary or aggravated burglary as defined in 45-6-204;
- (vi) sexual intercourse without consent as defined in 45-5-503;
- (vii) aggravated kidnapping as defined in 45-5-303;
- (viii) possession of explosives as defined in 45-8-335;
- (ix) criminal sale of dangerous drugs for profit as included in 45-9-101;

(x) attempt as defined in 45-4-103 of any of the acts enumerated in subsections (1)(a)(i) through (1)(a)(ix);

(b) a hearing on whether the transfer should be made is held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing will be to the youth court without a jury;

(c) notice in writing of the time, place, and purpose of the hearing is given to the youth, his counsel, and his parents, guardian, or custodian at least 10 days before the hearing; and

(d) the court finds upon the hearing of all relevant evidence that there are reasonable grounds to believe that:

- (i) the youth committed the delinquent act alleged;
- (ii) the seriousness of the offense and the protection of the community require treatment of the youth beyond that afforded by juvenile facilities; and
- (iii) the alleged offense was committed in an aggressive, violent, or premeditated manner.

(2) In transferring the matter of prosecution to the district court, the court may also consider the following

Mental care needs families 3-12-85

For as long as I can remember, psychiatrists have tended to see families as annoying intrusions into the purity of the therapeutic relationship at best and a malignant pathogenic agent at worst.

Things got so bad during the early 1970s that most of us shuddered when we fantasized what organizations of family members of the seriously and chronically mentally ill might be up to. I must admit that the focus of many family therapists and some experts in schizophrenia on the family as causal etiological agent and therefore as treatment target didn't help things much.

But luckily for everyone, things seem to be changing. First, advances in science (genetics, neurotransmitters, imaging techniques, etc.) demonstrate convincingly the role, albeit not exclusive, of organic components in the etiology of psychotic illnesses.

Second, research on the elements that provoke or prevent exacerbation of serious illnesses demonstrates a clear role for educating family members and patients as to aggravating factors (using so-called psychoeducational approaches). Third, family members have organized both locally and nationally (NAMI), which has resulted in a successful self-stigmatization effort, much like families of the mentally retarded did 25 years ago.

In addition, they are seeking better relations with psychiatry and psychiatrists — for example by inviting them to speak at their meetings, participating in psychiatric committees and writing for psychiatric publications.

Fourth, psychiatrists working with the chronically ill, who have been depopulated from public institutions, have realized that their patients' continued maintenance in the community depends on support systems, most critical that of their families.

Finally, psychiatrists engaged in lobbying for public money for the mentally ill have become aware that going it alone before congressional or state legislative

committees to argue for more funding, appears singularly self-serving. So as with their colleagues involved in burn units, kidney dialysis programs, cardiac surgery among others, they see the necessity of coalitions, not only with the traditional mental-health organizations, but with family groups.

I don't want to paint an overly optimistic picture. Family members with seriously mentally ill relatives still harbor a great deal of resentment toward us for blaming them for their relatives' illnesses; for expecting them to carry the burden of "community care" without adequate support and services; and for not having found either cures or successful treatments for disabling psychotic conditions. But they have matured to the point where they realize as individuals they need us to help them and their relatives, and as organizations they need us to support and carry out their quest for a cure to serious mental illnesses.

The questions for us are:

- Have we matured to a point where we can tolerate their suspicion and resentment while working towards a common goal?

- Can we forge an alliance with their alliances to more effectively lobby for better funding for research and services?

- Can we help them manage their ill relative at home or in nearby community settings in ways that we are not accustomed to, such as counseling, advising, and recommending about clinical and economic decisions, without feeling we are destroying confidentiality or our pristine one-to-one therapeutic relationship?

I hope so.

Our concerns, our goals, and our futures are one, linked by our common dedication to our patients and their relatives. — John A. Talbott, M.D., president of the American Psychiatric Association; brought to the Missoulian's attention by Laura M. Risdahl, 2405 39th St., Missoula.

WITNESS STATEMENT

Name Cliff Murphy Committee On Judiciary
Address Billings Date _____
Representing Mental Health Assoc. of MT. Support _____
Bill No. 5375- Oppose ✓
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. This bill gives ~~adequate~~ adequate protection to the client in the conditional release provision and promises
2. some pressure to keep the person on treatment.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name W. STORLI Committee On _____
Address Box 249 Kalspell Mt. 59901 Date 3.20.85
Representing FLAME (Affiliate of NITMI) Support ✓
Bill No. 375, 376, 414 Oppose _____
A Parent Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Support 3 bills except 376 should have 53-21-121
re-amended to original wording to any person.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Nancy Adams Committee On House Judiciary
Address 214 E. 6th Date 3/20/85
Representing Mental Health Support ✓ 375, 376, 414
Bill No. SB 375, 376, 414 Oppose _____
Amend SB 376

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

see letter
from
Montana Council
of Regional Health
Boards

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

NAME Ruth Senter BILL No. _____

ADDRESS 340 Zimmerman Rd DATE 3-20-85

WHOM DO YOU REPRESENT _____

SUPPORT 375, 376, 414 OPPOSE _____ AMEND ---

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY. Parent

Comments:

Support 3 will except 376 should
have 53-21-121 re-amended to original wording
to any person

WITNESS STATEMENT

NAME Cliff Murphy BILL No. 4101

ADDRESS Billings DATE _____

WHOM DO YOU REPRESENT M.H.A.M.

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Sileen La Belle BILL No. _____

ADDRESS 117 Regent Columbia Falls DATE 3-20-85

WHOM DO YOU REPRESENT Home (affiliated with Nami)

SUPPORT 375, 376, 414 OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY. Parent

Comments:

Support 3 bills except 376 should have 53-21-121
re-amended to original wording to any person,

WITNESS STATEMENT

NAME Pliff Murphy BILL No. 376

ADDRESS Billings DATE _____

WHOM DO YOU REPRESENT MHAM

SUPPORT ✓ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Mental Health Association supports the bill as it was submitted to the Senate with the provision that "any person" may initiate the process.

This bill came about by an unusually creative process and has the support of many with varied concerns. The bill deserves the chance to determine whether it will meet the problem addressed.