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1	HOUSE BILL BO. 30
2	INTRODUCED BY BARDANOUVE
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIPY THE LAWS RELATING TO VOCATIONAL REHABILITATION,
6	PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY
7	DISABLED, AND THE MEMTALLY ILL; ABENDING SECTIONS 30-110,
8	38-120, 38-210, 38-506, 38-1202, 38-1205, 38-1206, 38-1208,
9	38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211,
10	71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226,
11	71-230, 71-233.1, 71-233.3, 71-302.2, 71-303, 71-305,
12	71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509,
13	71-710, 71-901, 71-1401, 71-1516, 71-1803, 71-2304, 71-2404,
14	71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912,
15	80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, R.C.M.
16	1947; AND REPEALING SECTIONS 71-101, 71-107, 71-118, AND
17	71-233.5, R.C.M. 1947."
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19	BE IT BRACTED BY THE LEGISLATURE OF THE STATE OF HOUTANA:
20	Section 1. Section 38-110, R.C.#. 1947, is amended to
21	read as follows:
22	#38-110. Maintenance of indigent persons <u>patients</u> on

23 discharge. Prior to the discharge of a patient from a mental 24 health facility, the professional person in charge of the facility shall notify the welfare department of the county 25

patient is in financial need. If the patient is found to be in financial need, the county welfare department shall 4 5 properly care for and maintain the discharged patient under 6 the laws of this state relating to public welfare assistance 7 until the patient is able to care for himself, or until 8 another provision has been made for care of the patient." 9 Section 2. Section 38-120, R.C.H. 1947, is amended to 10 read as follows: 11 "38-120. Receipt of nonresident ingnos person who is 12 seriously mentally ill pending return to home state. In 13 insame A person, who is seriously mentally ill and not a 14 resident of this state, may be received into the state 15 hospital for a period not to enceed thirty (30) days pending 16 return to the state of his residence." 17 Section 3. Section 38-210, R.C.B. 1947, is amended to 18 read as follows: 19 "38-210. Heneys Disposal of moneys of on person who is 20 seriously mentally ill incare person disposal of. When a 21 person is adjudged instant to be seriously mentally ill and 22 ordered committed to the state hospitaly or is adjudged to 23 be in such a condition of mind that he should be placed in 24 the state hospital for observation, the money found on him

from which the patient was committed. The county welfare

department shall at once ascertain whether the discharged

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at the time he is taken into custody must be certified to by

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1 the indge- and sent with the person to the state hospital. 2 The money must be delivered to the superintendent of the 3 state hospital, whose receipt for the money shall be taken 4 by the officer or other person delivering his the patient to 5 the hospital who The officer must file the receipt with 6 the clerk of the district court of the county in which the 7 proceedings were held. If the amount exceeds one hundred 8 dollars (\$100), the excess must be applied to the payment of 9 the expenses of the person while in the hospital. If the 10 amount is one-bundred dollars (\$100) or less, it must be 11 kept and delivered to the person when discharged or released 12 from the hospital or applied in payment of funeral expenses 13 if the person dies while in the hospital. If an amount 14 remains to the credit of a person paroled, discharged, or 15 releasedy or after payment of the funeral expenses of the 16 person who dies while in the hospitaly and the amount 17 remains unclaimed for one-(1) year after the parole. 18 discharge, release, or death, fifty per-oont (50%) of the 19 amount, but not in any event exceeding fifty dellars (\$50). 20 shall be withdrawn from the account and placed in the agency 21 fund in the state treasury, to be expended for indigent 22 patients at the times and in the manner and for such 23 purposes as may be prescribed by the superintendent of the 24 hospital. A balance which remains to the credit of the 25 person, shall be transmitted to the county treasurer of the

1 county from which the person was sent, and if a sum remains 2 after paying the costs of hearing, and transportation to the 3 hospital, the balance shall be paid into the state treasury to the credit of the general fund." a 5 Section 4. Section 38-506, R.C.H. 1947, is amended to 6 read as follows: 7 "38-506. Support of patient conditionally released. 8 When a mental health facility conditionally releases a 9 patient committed to its care, it is not liable for his support while conditionally released. Liability devolves 10 11 upon the legal quardian, parent, or person under whose care the patient is placed when conditionally released, or upon 12 any other person legally liable for his support. The public 13 14 welfare officials of the county where the patient resides or is found, are responsible for providing relief and care for 15 a conditionally released patient who is unable to maintain 16 himself, or who is unable to secure support from the person 17 under whose care he was placed on convalescent leave, like 18 19 any other person in need of relief and care, under the 20 public welfage assistance laws." 21 Section 5. Section 38-1202, R.C.M., 1947, is amended to 22 read as follows:

23 *38-1202. Definitions. As used in this act the

24 <u>following definitions apply</u>:

25 (1) "Board" means the mental disabilities board of

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1 visitors created by this act.

2 (2) "Community-based facilities" or "community-based services" includes those services and facilities 3 which are available for the evaluation, treatment, and 4 5 habilitation of the developmentally disabled in a community setting, including but not limited toy outpatient б 7 facilities, special education services, group homes, foster homes, day care day care facilities, sheltered workshops, 8 and other community-based services and facilities. 9

10 (3) "Court" means the <u>a</u> district court of the state of
11 Montana.

12 (4) "Developmentally disabled" means suffering from disabilities attributable to mental retardation, cerebral 13 palsy, epilepsy, autism, or any other neurologically 14 handicapping condition closely related to mental retardation 15 and requiring treatment similar to that required by mentally 16 retarded individuals; which condition has continued or can 17 18 be expected to continue indefinitely and constitutes a 19 substantial handicap of such individuals.

20 (5) "Habilitation" means the process by which a person 21 who is developmentally disabled is assisted to acquire and 22 maintain those life skills which enable him to cope more 23 effectively with the demands of his own person and 24 environment and to raise the level of his physical, mental, 25 and social efficiency. Habilitation includes but is not limited to formal, structured education and treatment.

2 (6) "Next of kin" includes but need not be limited to
3 the spouse, parents, adult children, and adult brothers and
4 sisters of a person.

(7) "Professional person" means:

(a) a medical doctory; or

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7 (b) a person trained in the field of developmental 8 disabilities and certified by the department of institutions 9 or the department of social and rehabilitation services in 10 accordance with standards of professional licensing boards, 11 federal regulations, and the joint commissions on 12 accreditation of hospitals.

13 (8) "Resident" means a person admitted to a
14 residential facility for a course of evaluation, treatment_x
15 or habilitation.

16 (9) "Residential facility" or "facility" means any 17 residential hospital or hospital and school which exists for 18 the purpose of evaluating, treating, and habilitating the 19 developmentally disabled on an inpatient basis, including 20 the Boulder River School school and Respital hospital and the Bastmont Training Contor training center. The term does 21 not include a group home, or foster home, or a halfway 22 23 house. A correctional facility or a facility for the 24 treatment of the mentally ill shall not be a "residential facility" within the meaning of this act. 25

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1 (10) "Respondent" means a person alleged in a petition 2 filed pursuant to this act to be developmentally disabled 3 and in need of developmental <u>disabilities</u> <u>disability</u> 4 services.

(11) "Responsible person" means any person willing and 5 6 able to assume responsibility for a person who is 7 developmentally disabled or alleged to be developmentally disabled. Whenever, in any proceeding under this act, the 8 court believes that a conflict of interest may exist between 9 a person who is developmentally disabled or alleged to be 10 developmentally disabled and his parents or quardiany or 11 12 that the parents or quardian are unable to protect the interests of such person, or whenever there is no parent or 13 quardian, the court shall appoint a responsible person to 14 15 protect the interests of the person who is developmentally disabled or alleged to be developmentally disabled. Only 16 17 one person shall at any one time be the responsible person within the meaning of this act. In appointing a responsible 18 19 person, the court shall consider the preference of the 20 respondent or patient. The court may at any time, for good cause shown, change its designation of who is the 21 22 responsible person.

23 (12) "Seriously developmentally disabled" means
24 developmentally disabled due to developmental or physical
25 disability or a combination of both rendering a person

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1 unable to function in a community-based setting."

Section 6. Section 38-1205, R.C.M. 1947, is amended to
read as follows:

#38-1205. Proceedare for reporting developmentally £1 disabled Petition for involuntary treatment. (1) Any person 5 who believes that there is a person who is developmentally б disabled and in need of developmental disability services 7 may report the situation to a professional person. If the 8 9 professional person believes from the facts given to him that the person may be developmentally disabled and in need 10 of developmental disability services, he shall contact the 11 parents or guardian of the person alleged to be 12 developmentally disabled or the person himself. If any of 13 the persons so contacted refuse to cooperate with the 14 professional person and if the professional person believes 15 from all the circumstances of the case that the person may 16 17 be developmentally disabled and in need of developmental disabilities disability services, he shall request the 18 county attorney to file a petition alleging that there is a 19 20 person in the county who is developmentally disabled and in 21 need of developmental disabilities disability services. 22

23 of:
24 (a) the name and address of the professional person
25 and any other person requesting the petition, and their

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1 interest in the case;

2 (b) the name and address of the respondent;
3 (c) the name and address of the parents or guardian of
4 the respondent, and of any other person believed to be
5 legally responsible for the care, support, and maintenance
6 of the respondent;

7 (d) the name and address of the respondent's next of
8 kin, to the extent known;

9 (6) the name and address of any person whom the county 10 attorney believes might be willing and able to be appointed 11 responsible person; and

12 (f) a statement of the rights of the respondent and 13 his parents or guardian which shall be in conspicuous print 14 and identified by a suitable heading.

(3) Upon presentation to the court by the county 15 16 attorney, the court shall immediately consider the petition 17 with or without a hearing to determine if there is probable cause to believe that the respondent is developmentally 18 19 disabled and in need of evaluation and treatment. If the 20 court finds no such probable cause, it shall dismiss the petition. If the court finds that probable cause does 21 exist, it shall direct a professional person to examine the 22 respondent and to make an inquiry concerning the 23 circumstances of the case. Such examination shall not 24 exceed four-(4) hours in length. If probable cause is 25

1 found, the court may appoint a responsible person other than 2 the respondent's parents or quardian to protect the 3 interests of the respondent. The responsible person shall Æ be notified as soon as possible that a petition has been 5 filed. Notice of the petition and the finding of probable б cause shall be mailed or delivered to the respondent and to 7 all other persons named in the petition and to any person 8 who would have been named in the petition had his name. 9 address, and relationship to the respondent been known at, 10 the time.

11 (4) When the professional person first contacts the 12 respondent, before he begins any examination, he shall give 13 the respondent a copy of the petition and explain to the 14 respondent the nature of the proceeding and his rights as 15 set forth in the petition. If the respondent is incapable 16 of understanding the explanation and proceeding. the 17 professional person shall give the petition and make the 18 explanation to the parents or guardian of the respondent. 19 Before making any inquiry of the parents or quardian of the 20 respondent, the professional person shall give them a copy 21 of the petition- and explain the nature of the proceeding 22 and their rights as set forth in the petition." 23 Section 7. Section 38-1206, R.C.H. 1947, is amended to read as follows: 24

#38-1206. Petition dissignal - hearing - counsel -

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1 treatent Action on petition. (1) If the professional 2 person, based on his examination and inquiry, determines 3 that the respondent is not developmentally disabled or is not in need of developmental disability services, he shall 4 5 report this finding in writing to the court and the petition 6 shall be dismissed. If the professional person concludes 7 that the respondent is developmentally disabled and in need 8 of developmental disability services, he shall report this 9 conclusion to the court in writing together with his 10 recommendations for evaluation and treatment. The report 11: shall include an explanation of the basis on which the 12 professional person has reached his conclusion and shall include a description of any tests or evaluation devices he 13 14 has employed. If the professional person's recommendation 15 is for further evaluation and treatment, notice of this 16 recommendation shall be sent to the respondent, his parents 17 or quardian, the next of kin, the responsible person 18 appointed by the court, if any, and any attorney 19 representing the respondent or his parents or quardian. If 20 no responsible person has yet been appointed, the court may 21 appoint one at this time.

22 (2) If the respondent, his parents or guardian, the 23 responsible person, if any, or counsel for any party requests a hearing on the recommendation, the court shall 24 25 set a time and place for hearing. The hearing shall be

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before the court without a jury. The rules of civil procedure shall apply. 2

(3) Prior to any hearing held pursuant to this 3 4 section, the court shall appoint counsel to represent the 5 respondent, if the respondent has not retained independent counsel. The parents (or quardian) shall be informed of 6 their right to counsel, and if they are indigent, the court 7 8 shall, on their request, appoint counsel for them. In no case shall may the same attorney represent the respondent 9 10 and his parents or quardian.

11 (4) If the hearing is vaived or if the court finds, 12 after hearing, that the respondent is developmentally 13 disabled and in need of further evaluation and treatment, 14 the court shall order that the respondent undergo such 15 evaluation and treatment. Evaluation and treatment ordered pursuant to this subsection shall may not be for no more 16 17 than thirty (30) days. It shall take place in the least 18 restrictive environment in which the necessary evaluation 19 and treatment can be accomplished. Evaluation and treatment 20 in a residential facility shall may be ordered only if the 21 necessary evaluation and treatment cannot be accomplished 22 through the use of community-based facilities."

23 Section 8. Section 38-1208, R.C.E. 1947, is amended to 24 read as follows:

25 "38-1208. Recommendation to residential facility. (1)

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If as a result of the evaluation and treatment, either 1 2 agreed to by the parents, guardian, or the person himself pursuant to postion 38-1204 or ordered by the court, the 3 4 professional person in charge of the case concludes that the 5 person evaluated is seriously developmentally disabled and 6 recommends that treatment and habilitation be had in a 7 residential facility on an extended basis, the professional 8 person shall file his written recommendation and report 9 with the court and request that the court order the 10 admission. The report shall include the factual basis for 11 the recommendation, and shall describe any tests or 12 evaluation devices which have been employed in evaluating 13 the patient. If no responsible person has yet been 14 appointed, the court may appoint one at this time. If there 15 is no parent or quardian, the court shall appoint a 16 responsible person. At the request of the respondent, his 17 parents or quardian, or the responsible person, the court shall appoint counsel for the respondent. If the parents 18 19 for quardian) are indigent and if they request it, the court 20 shall appoint counsel for the parents or guardian. Notice 21 of the recommendation shall be mailed or delivered to the respondent, his parents or quardian, the responsible person, 22 23 next of kin, if known, and the attorney for the respondent, 24 if any, and for the parents or quardian, if any.

(2) The respondent, his parents or guardian, the

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responsible person, or the attorney for any party may request that a hearing be had on the recommendation. If a hearing is requested, the court shall mail or deliver notice of the date, time, and place of the hearing to each of the parties listed at the beginning of this subsection. The hearing shall be to the court without jury. The rules of civil procedure shall apply.

8 (3) If the court finds that the respondent is 9 seriously developmentally disabled and that available 10 community-based services are not adequate. it shall order 11 the respondent admitted to a residential facility for an 12 extended course of treatment and habilitation. If the court 13 finds that the respondent is developmentally disabled. and 14 in need of developmental disabilities disability services, 15 but and that available community-based services are 16 adequate, it shall order the respondent to undertake a 17 community-based course of treatment and habilitation. If the court finds that the respondent is not developmentally 18 19 disabled or is not in need of developmental disability 20 services, it shall dismiss the request.

(4) If none of the parties notified of the recommendation request a hearing, the coart may issue an order authorizing the person to be admitted to the residential facility for an extended period of treatment and habilitation, or the court may initiate its own inguiry as

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to whether the order should be granted. The court may
refuse to authorize admission of a person to a residential
facility for an extended period of treatment and
babilitation if such admission is not in the best interests
of the person.

(5) If any person is admitted to a residential 6 7 facility for an extended course of habilitation without a hearing, and if subsequent to such admission one of the 8 parties who could have requested a hearing learns that an 9 10 alternative course of treatment is available which is more 11 suitable to the needs of the resident, the party may request 12 the professional person in charge of the resident to release 13 the resident to the alternative, if it is a community-based 14 alternative, or transfer the resident to the alternative, if 15 it is a residential alternative. Any such transfer or release shall comply with the requirements of section 16 17 38-1209. If the professional person in charge of the 18 resident refuses to authorize the release or transfer, then the party may petition the court for a hearing to determine 19 20 whether the present residential alternative should be 21 continued. The hearing shall comply with the procedures set 22 forth in subsection (2) of this section."

23 Section 9., Section 38-1222, R.C.H. 1947, is amended to
24 read as follows:

25 *38-1222. Other-sights while is a regidential facility

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Right to habilitation. (1) Persons admitted to residential 1 facilities shall have a right to habilitation, including 2 medical treatment, education, and care, suited to their 3 needs, regardless of age, degree of retardation, or 4 5 handicapping condition. Back resident has a right to a habilitation program which will maximize his human abilities б and enhance his ability to cope with his environment. Every 7 R residential facility shall recognize that each resident, 9 regardless of ability or status, is entitled to develop and realize his fullest potential. The facility shall implement 10 11 the principle of normalization so that each resident may 12 live as normally as possible. 13 (2) Residents shall have a right to the least restrictive conditions necessary to achieve the purposes of 14 15 habilitation. To this end, the facility shall make every 16 attempt to move residents from: (a) more to less structured living: 17 18 (b) larger to smaller facilities; 19 (c) larger to smaller living units; 20 (d) group to individual residence; 21 (e) segregated from the community to integrated into 22 the community living;

23 (f) dependent to independent living.

24 (3) Within thirty-(30) days of his admission to a
25 residential facility, each resident shall have an evaluation

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by appropriate specialists for programming purposes. 1 (4) Each resident shall have an individualized 2 habilitation plan formulated by the facility. This plan 3 shall be developed by appropriate professional persons and 4 implemented as soon as possible but no later than fourtoon 5 414) days after the resident's admission to the facility. 6 An interim program of habilitation, based on the 7 preadmission evaluation conducted pursuant to this act, B shall commence promptly upon the resident's admission. Each 9

10 individualized habilitation plan shall contain:

(a) a statement of the nature of the specificlimitations and specific needs of the resident;

(b) a description of intermediate and long-range
habilitation goals with a projected timetable for their
attainment;

16 (c) a statement of r and an explanation for r the plan 17 of habilitation for achieving these intermediate and 18 long-range goals;

19 (d) a statement of the least restrictive setting for
20 habilitation necessary to achieve the habilitation goals of
21 the resident;

(e) a specification of the professional persons and
other staff members who are responsible for the particular
resident's attaining these babilitation goals;

25 (f) criteria for release to less restrictive settings

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for habilitation, including criteria for discharge and a
 projected date for discharge.

(5) As part of his habilitation plan, each resident 3 8 shall have an individualized post-institutionalization postinstitutionalization plan. This plan shall be developed -5 by a professional person who shall begin preparation of such 6 7 plan upon the resident's admission to the institution and shall complete such plan as soon as practicable. The 8 q parents or quardian or next of kin of the resident, the responsible person appointed by the court, if any, and the 10 11 resident, if able to give informed consent, shall be 12 consulted in the development of such plan and shall be 13 informed of the content of such plan.

(6) In the interests of continuity of care, one 14 professional person shall whenever possible be responsible 15 for supervising the implementation of the habilitation plan. 16 integrating the various aspects of the habilitation 17 program, and recording the resident's progress as measured 18 19 by objective indicators. This professional person shall also be responsible for ensuring that the resident is 20 21 released when appropriate to a less restrictive habilitation 22 setting.

23 (7) The habilitation plan shall be continuously
24 reviewed by the professional person responsible for
25 supervising the implementation of the plan and shall be

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1 modified if necessary. In addition, siz-fob months after 2 admission and at least annually thereafter. each resident 3 shall receive a comprehensive psychological, social, educational, and medical diagnosis and evaluation, and his 4 5 habilitation plan shall be reviewed by an interdisciplinary 6 team of no less than two (2) professional persons and such 7 resident care workers as are directly involved in his habilitation and care. A habilitation plan shall be 8 q reviewed monthly.

10 (8) Bach resident discharged to the community shall have a program of transitional habilitation assistance. 11.

12 (9) The professional person in charge of the 13 residential facility shall report in writing to the parents 14 or guardian of the resident, or the responsible person, at 15 least every six (6) months on the resident's educational, 16 vocational, and living skills progress and medical 17 condition. Such report shall also state any appropriate 18 habilitation program which has not been afforded to the 19 resident because of inadequate habilitation resources.

20 (10) The parents or guardian of each resident, or the 21 responsible person appointed by the court, shall promptly 22 upon the resident's admission receive a written copy of all 23 the above standards for adequate habilitation. Each 24 resident, if the resident is able to comprehend, shall 25 promptly upon his admission be orally informed in clear

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1 language of the above standards and, where appropriate, be 2 provided with a written copy." з Section 10. Section 38-1302, R.C.H. 1947, is amended а to read as follows: "38-1302. Definitions. As used in this act 5 the 6 following definitions apply: 7 (1) "Board" means the mental disabilities board of 8 visitors created by this act. q (2) "Court" means the a district court of the state of 10 Hontana. 11 (3) "Department" means the department of institutions 12 provided for in Title 821, chapter 10. (4) "Emergency situation" means a situation in which 13 any person is in inminent danger of death or serious bodily 14 harm from the activity of a person who appears to be 15 seriously mentally ill. 16 (5) "Hental disorder" means any organic, mental, or 17 18 enotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions. 19 20 (6) "Hental health facility" or "facility" means a 21 public hospital or a licensed private hospital or τ a 22 community mental health center, or any mental health clinic

or treatment center approved by the department. 24 correctional institution or facility, or jail, is a mental

25 health facility within the meaning of this act.

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(7) "Next of kin" shall include, but need not be
 limited to, the sponse, parents, adult children, and adult
 brothers and sisters of a person.

4 (8) "Patient" means a person committed by the court to
5 a seventy-two (72)-hear <u>72-hour</u> evaluation or treatment or
6 for a longer period.

7 (9) "Peace officer" means any sheriff, deputy sheriff,
8 marshal, policeman, or other peace officer.

9 (10) "Professional person" means:

10 (a) a medical doctor; or

(b) a person trained in the field of mental health and
certified by the department of institutions in accordance
with standards of professional licensing boards, federal
regulations, and the joint commission on accreditation of
hospitals.

16 (11) "Respondent" means a person alleged in a petition
17 filed pursuant to this act to be seriously mentally ill.

18 (12) "Responsible person" means any person willing and 19 able to assume responsibility for a seriously mentally ill person or person alleged to be seriously mentally ill, 20 21 including next of kin; the person's conservator or legal quardian, if any: representatives of a charitable or 22 religious organization; or any other person appointed by 23 24 the court to perform the functions of a #responsible person# set out in this act. Only one person shall at any one time 25

be the "responsible person" within the meaning of this act.
 In appointing a responsible person, the court shall consider
 the preference of the respondent. The court may, at any
 time for good cause shown, change its designation of the
 "responsible person".

(13) "Seriously mentally ill" means suffering, from a 6 mental disorder which has resulted in self-inflicted injury 7 or injury to others, or the issinent threat thereof+ or 8 9 which has deprived the person afflicted of the ability to 10 protect his life or health. No person may be involuntarily 11 committed to a mental health facility new or detained for 12 evaluation and treatment because he is an epileotic. 13 mentally deficient, mentally retarded, senile, or suffering 14 from a mental disorder unless the condition causes the 15 person to be seriously mentally ill within the meaning of 16 this act."

17 Section 11. Section 41-817, R.C.M. 1947, is amended to18 read as follows:

19 "41-817. Definitions. (1) "Severely handicapped
20 person" means any individual:

(a) who has a physical or mental impairment which
requires multiple services over an extended period of time
and results from amputation, blindness, cancer, cerebral
palsy, cystic fibrosis, deafness, heart disease, hemiplegia,
respiratory or pulmonary dysfunction, mental retardation.

mental illness, multiple sclerosis, muscular dystrophy,
 neurological disorders (including stroke and epilepsy),
 paraplegia, quadriplegia, and other spinal cord conditions,
 remal failure, and any other disability, specified by the
 department in regulations it shall prescribe; and/or

(b) who, because of lack of social competence,
mobility, experience, skills, training, or other successful
characteristics, is in need of sheltered employment or work
activity services in a protective setting.

10 (2) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to 11 12 limiting, or, if not corrected, will probably result in 13 limiting an individual's activities or functioning. The term includes behavioral disorders characterized by deviant 14 15 social behavior or impaired ability to carry out normal relationships with family and community which may result 16 17 vocational, educational. cultural, social, from 18 environmental, or other factors.

19 (3) "Vocational rebabilitation services" means goods 20 or services provided handicapped persons to enable such 21 persons to be fit for gainful occupation or to attain or 22 maintain a maximum degree of self-support or self-care and 23 includes every type of goods and services for which federal 24 funds are available for vocational rehabilitation purposes, 25 including, but not limited to, the establishment,

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construction, development, operation, and maintenance of
 workshops and rehabilitation facilities.

3 (4) "Self-care" means a reasonable degree of
4 restoration from dependency upon others for personal needs
5 and care and includes but is not limited to ability to live
6 in own home, rather than requiring nursing home care and
7 care for self rather than requiring attendant care.

8 (5) "Department" means the department of social and
9 rebabilitation services.

10 (6) "Sheltered workshop" seabs charitable organization or institution conducted not for profit, but 11 for the purpose of carrying out a recognized program of 12 13 rebabilitation for handicapped workers, and/or providing such individuals with remunerative employment or other 14 15 occupational rehabilitating activity of an educational or 16 therapeutic nature.

(7) "Work activity center" means a physically 17 separated department of a workshop having an identifiable 16 19 program, separate supervision and records, and which is planned and designed exclusively to provide therapeutic 20 21 activities for handicapped workers whose physical or mental 22 impairment is so severe as to make their productive capacity inconsequential. Therapeutic activities include custodial 23 24 activities (such as activites where the focus is on teaching the basic skills or of living), and any purposeful activity 25

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so long as work or production is not the main purpose." 1 Section 12. Section 71-113, R.C.H. 1947, is amended to 2 3 read as follows: #71-113. Bond of contractor --- duty of physician to 4 examine and notify contractor. Any 1 person with whom any a 5 6 each contract for the maintenance or medical attendance of the poor or indigent sick is made must execute a bond to the 7 state in a sum not less than one thousand \$1,000 por or more 8 than five theread dellars \$5,000, with two or more 9 sureties, conditioned for the faithful performance of his 10 contract+, said The bond is to be approved by and filed with 11 the chairman of the board. It is the the the the The 12 physician with whom the a contract for medical attendance is 13 wade te examine shall each week examine any person who is a 14 charge upon the county, and if, after such the examination, 15 he is satisfied that such the person is able to support and 16 maintain himself, he must so notify the contractor having 17 the person in charge, by leaving with the contractor a 18 notice of the fact that such the person requires no further 19 medical attendancer, and <u>He shall</u> file a duplicate thereof 20 notice with the clerk of the board. After the serving of 21 said physician serves the notice and filing files the 22 23 duplicate thereof with the clerk, the person mentioned therein ceases to be a charge upon the county." 24

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Section 13. Section 71-207, R.C.M. 1947, is amended to

2 *71-207. Logal services Attorney general to act as 3 legal adviser to department. The attorney general of the state shall act as legal adviser to the state department. 4 5 and shall perform such legal services as may be required. and he is hereby espected to may employ such other and 6 additional counsel as may be necessary for this parpose, and 7 8 any fix the compensation therefory, provided, howevery that the The total yearly sus per-anses for the service shall may 9 not exceed treaty-four-hendred-(\$2,400-00)-dollars, which 10 11 compensation shall be paid out of state public welfare 12 assistance funds." 13 Section 14. Section 71-210, R.C.E. 1947, is amended to 14 read as follows: 15 "71-210. Authority Poyers and autivities duties of the 16 state department. (1) The state department has authority 17 over-and administration-or-expertione-of-all--the---purposes and operations as set forth proof fitte 71. The state 18 19 department shall: 20 (a) Administer administer or supervise all forms of

21 public assistance, child protection, and child welfare, 22 including the provision of medical care payments in behalf 23 of recipients of public assistance;

24 (b) Administer administer or supervise all child
 25 welfare activities, including importation and exportation of

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1 read as follows:

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children; licensing and supervising of private and local
child-caring agencies; the care of dependent, neglected, and
delinquent children in foster family homes, especially
children placed for adoption or those of illegitimate birth;
(c) Give give consultant service to private
institutions providing care for the needy, indigent,
handicapped, or dependent adults;

8 (d) Develop and cooperate with other state agencies 9 <u>and develop</u> provisions for services to the blind, including 10 the prevention of blindness, the location of blind persons, 11 medical services for eye conditions, and vocational guidance 12 and training of the blind;

(e) Provide provide services in respect to
organization and supervise county departments of public
welfare and county boards of public welfare in the
administration of public welfare assistance functions, and
for efficiency and economy;

(f) there is a set and cooperate with other state and
federal departments, bureaus, agencies, and institutions,
when so requested, by performing services in conformity with
the purposes of this act, public assistance purposes; and

(g) Idminister administer and supervise all federal
funds allocated to this state and all state funds
appropriated to this the state department for the activities
set forth in Title 71 public assistance activities. The

state department shall do all things necessary, in
 conformity with federal and state law, for the proper
 fulfillment of the purposes set forth in Title 74 public
 assistance purposes.

5 (2) The state department may:

6 (a) Purchase purchase, exchange, condemn, or receive 7 by gift, either real or personal property which is necessary 8 to carry out its <u>public assistance</u> functions under Title 71. 9 Title to property obtained under this subsection shall be 10 taken in the name of the state of Montana, for the use and 11 benefit of the state department. 12 (b) Generate contract with the federal government to

13 carry out its <u>public assistance</u> functions under Title 71.
14 The state department may do all things necessary in order to
15 avail itself of federal aid and assistance."

16 Section 15. Section 71-211, R.C.N. 1947, is amended to
17 read as follows:

18 "71-211. State department to act as agency of federal government --- assistance to ward Indians. (1) The state 19 20 department shall act as the agent of the federal government in public welfare assistance matters of mutual concern in 21 conformity with this act and the Federal federal Social 22 Security Acty and in the administration of any federal funds 23 24 granted to the state to aid in the purposes and functions of 25 the state department.

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(2) The counties shall not be required to reimburse 1 2 the state department for any portion of old-age assistance, 3 nedical assistance, aid to needy dependent children, or aid to needy blind, or aid to the totally disabled paid to ward . 5 Indians or for any payment on behalf of any person in a state-operated medical institution, further provided that 6 7 the The federal government may reimborse the state of 8 Montana in behalf of counties, providing general relief to ward Indians, a sum in lieu of taxes which the counties 9 10 would collect if the lands of such ward Indians were not in 11 trust status. A "ward Indian" is hereby defined as an Indian 12 who is living on an Indian reservation set aside for tribal 13 user or is a member of a tribe or nation accorded certain 18 rights and privileges by treaty or by federal statutes. If and when the Federal federal Social Security Act is amended 15 to define a "ward Indiany", such definition shall supersede 16 17 the foregoing definition."

18 Section 16., Section 71-212, R.C.H. 1947, is amended to 19 read as follows:

20 *71-212. State <u>Power</u> of <u>state</u> <u>department</u> in 21 <u>administering</u> <u>state</u> grants-in-aid. In administering or 22 supervising any state or federal funds appropriated or made 23 available to the state department for public volfare 24 <u>assistance</u> purposes, the state department shall have the 25 authority to: ٦

1 (a) (1) Require require as a condition for receiving 2 grants-in-aid that the county shall bear the proportion of 3 the total of local public assistance as is fixed by law 4 relating to such assistance-;

5 (b) (2) Hake make use of all legal processes to enforce 6 the minimum standards prescribed by the state department 7 under laws providing for grants-in-aid, provided that such 8 standards shall not enceed in cost the amount derived from 9 levies established by state law-icand

10 (3) (3) Boquire require that each part of this act, the
 11 public assistance laws shall be in effect in all counties of
 12 the state."

13 Section 17., Section 71-213, R.C.E. 1947, is amended to
14 read as follows:

15 #71-213. County departments to be established. There shall be established is each county of the state a county 16 17 department of public welfare which shall consist of a county 18 board of public welfare and such staff personnel as may be necessary for the efficient performance of the public 19 20 welfare assistance activities of the county. Provided. 21 hevever, if If conditions warrant and if two or more county 22 boards enter into an agreement, two or more counties may 23 combine into one administrative unit and use the same staff 24 personnel throughout the administrative unit." 25 Section 18. Section 71-214, R.C.H. 1947, is amended to

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1 read as follows:

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2 *71-214. County commissioners ex officio county з velfare board --- compensation. The board of county commissioners, ex officio, shall be the county welfare board 4 5 and is hereby authorized to devote such additional time for 6 public welfare assistance matters as may be found necessary. 7 The members of the county welfare board shall receive the 8 same compensation for their services and the same mileage 9 when acting as the county board of public welfare as they 10 receive when acting as the board of county commissioners and 11 shall be limited as to meetings as now provided by law, and 12 the compensation and mileage of the members of the board 13 shall be paid from county funds. They may transact business 14 as a board of county commissioners and as a county welfare 15 board on the same day, and in such cases they shall be paid 16 as a board of county conmissioners, but shall in no sase may 17 not receive compensation for more than one 1 day's work for 18 all services performed on the same calendar day."

19 Section 19. Section 71-216, R.C.H. 1947, is amended to
20 read as follows:

21. "71-216. Powers and duties of the county board. The
22 county board of public welfare shall be is responsible for
23 establishing local policies and such rules and regulations
24 as are necessary to govern the county department and local
25 administration of public velfare assistance activities

except that all such policies and rules and required aust 1 be in conformity with general policies and rules and 2 regulations established by the state department. The county 3 board of public welfare shall review the determinations of ۵ eligibility and amount of payment to or on behalf of 5 6 individuals made by the staff of the county department for 7 conformity with the aforesaid rules and roculations. 8 Determinations not in conformity will be referred to the staff by the county welfare board for appropriate action as 9 10 authorized by said the board."

Section 20. Section 71-217, B.C.S. 1947, is asended to
read as follows:

13 "71-217. Staff personnel - how selected, paid, and controlled --- dismissal. (1) Each county board shall select 14 15 and appoint from a list of qualified persons furnished by 16 the state department such staff personnel as are necessary. 17 The staff personnel in each county shall consist of at least 18 one qualified staff worker (or investigator) and such clerks 19 and stenographers as may be decided necessary. If conditions 20 warrant, the county board, with the approval of the state department, may appoint some fully qualified person listed 21 by the state department as supervisor of its staff 22 23 personnel. The staff personnel of each county department are 24 directly responsible to the county board, but the state 25 department chall-have the authority to may supervise such

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county employees in respect to the efficient and proper 1 2 performance of their duties. The county board of public 3 velfare shall may not dismiss any member of the staff 4 personnel without the approval of the state department+, but 5 the state department shall have the acthority to may request 6 the county board to dismiss any member of the staff 7 personnel for inefficiency, incompetence, or similar cause. 8 (2) - Public assistance staff personnel attached to the 9 county board shall be paid from state public welfare 10 assistance funds, both their salaries and their travel 11 expenses, as provided for in goglions 59-538, 59-539, and 12 59-801, when away from the county seat in the performance of 13 their duties, but the county board of public welfare shall 14 reinburse the state department, from county poor funds, 15 one-half of the payments so made to its public assistance 16 staff personnel, except that, ender circumstances prescribed 17 by the state department, the reimbursement by the county board of public welfare may be less than one-half. All other 18 administrative costs of the county department shall also be 19 paid from county poor funds. 20

21 <u>(3)</u> On or before the 20th day of the month following 22 the month for which the payments to the public assistance 23 staff personnel of the county were made, the state 24 department shall present to the county department of public 25 welfare a claim for the required reimbursements. The county

board shall make such reimbursements within twonty-(20) days after the presentation of the claim, and the state department shall credit (add) all such reimbursements to its account for administrative costs." Section 21. Section 71-222, B.C.H. 1947, is amended to read as follows: "71-222. Hillage taxes to be levied expenditures for public assistance activities. (1) The board of county commissioners in each county shall levy somether (17) 13.5 wills for the county poor fund as provided by lawor so much thereof as may be necessary. The board shall budget and expend so much of the funds in the county poor fund for all public assistance purposes of this act as will enable the county welfare department to pay the general relief activities of the county and to reimburse the state

all public assistance and its proportionate share of any
other velfare <u>public assistance</u> activity that may be carried
on jointly by the state and the county.
(2) The amounts set up in the budget for the
reimbursements to the state department shall be sufficient
to make all of these reimbursements in full. The budget
shall make separate provision for each one of these public

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department for the county's proportionate share of the

administrative costs of the county welfare department and of

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assistance activities, and proper accounts shall be
 established for the funds for all such activities.

3 (3) As soon as the preliminary budget provided for in а section 16-1903 has been agreed upon, a copy thereof shall 5 without delay be mailed to the state department, and at any 6 time before the final adoption of the budget, the department 7 shall make such recommendations with regard to changes in 8 any part of the budget relating to the county poor fund as 9 considered necessary in order to enable the county to 10 discharge its obligations under the Public - Welfare - Act 11 public assistance laws.

12 (4) The state department shall promptly examine the 13 preliminary budget in order to ascertain if the amounts provided for reimburgements to the state department are 14 15 likely to be sufficienty and shall notify the county clerk 16 of his its findings. The board shall make such changes in 17 the amounts provided for reimbursements, if any are 18 required, is order that the county will be able to make the 19 reimbursements in full.

20 (5) The board of county commissioners may not make any 21 transfer from the amounts budgeted for reimbursing the state 22 department without having first obtained a statement in 23 writing from the state department to the effect that the 24 amount to be transferred will not be required during the 25 fiscal year for the purposes for which the amounts were 1 provided in the budget.

(6) No part of the county poor fund, irrespective of 2 the source of any part thereof, may be used directly or 3 indirectly for the erection or improvement of any county £. building so long as the fund is needed for general relief 5 expenditures by the county or is needed for paying the 6 county's proportionate share of public assistance, or its 7 proportionate share of any other welfare public -assistance B activity that may be carried on jointly by the state and the 9 county. Expenditures for improvement of any county buildings 10 used directly for care of the poor may be made out of any 11 moneys in the county poor fund, whether such moneys are 12 produced by the seventeen (17) mill 13.5-mill levy provided 13 for in paragraph one subsection (1) of this section or from 14 any additional levy authorized or to be authorized by law. 15 Such expenditure shall be authorized only when any county 16 building used for the care of the poor must be improved in 17 order to meet legal standards required for such buildings by 18 the department of health and environmental sciences, and, 19 when such expenditure has been approved by the state 20 department." 21 Section 22. Section 71-226, B.C.E. 1947, is amended to 22

23 read as follows:

24 N71-226. Fraudulent acts Fraudulent obtainment of

25 public assistance a misdemeanor. Whoever knowingly obtainsy

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or attempts to obtain or aids, or abets any person to 1 obtain, by means of a willfully false statement or 2 3 representation or by impersonation- or other fraudulent device. public assistance to which he is not entitled, or ĽL. assistance greater than that to which he is justly 5 6 entitled, or whoever aids or abets in baying or in any way 7 disposing of the property, either personal or real, of a 8 recipient of assistance without the consent of the county 9 department and with the intent to defeat the purposes of 10 this act_{τ} shall be is guilty of a misdemeanor. In assessing 11 the penalty, the court shall take into consideration, among 12 other factors, the amount of money frandulently received." 13 Section 23. Section 71-230, R.C.B. 1947, is amended to

14 read as follows:

15 71-230. Method of issuing assistance grants ---16 reisbursement. (a) (1) - Checks in payment of public assistance, as provided for in each part of the act, with 17 the exception of general relief, shall be issued by the 18 19 state department upon approved certificates of award and reports of changes of such eligible grantees as are 20 forwarded by the county department to the state department. 21 and all such checks will be mailed to the individual 22 recipient or the appropriate vendor. The checks in payment 23 of public assistance shall be issued in the full approved 24 25 amount for each eligible approved grantee, and the original

monthly payment shall be from the state public welfare 1 2 assistance accounts. All public assistance checks shall 3 represent cash on demand at full par value to the recipient ā. and vendor.

5 (b)-(2) Whenever the state department, acting pursuant to standards established by said the department, shall 6 7 determine determines that any otherwise eligible recipient of old age old age assistance, aid to the needy blind. or 9 aid to the permanently and totally disabled, has, by reason 10 of any physical or mental condition, such inability to 11 sanage funds that making payments to him would be contrary 12 to his welfare, the department may, under standards 13 established under the state plan, make the public assistance 14 payment on behalf of such recipient to another person found by the department to be interested in or concerned with the 15 16 welfare of such needy individual. Before such payments may 17 be paid to such other person, such person shall give a bond. with adequate corporate surety and in form to be approved by 18 19 the state department, running in favor of the needy individual and the state of Montana, conditioned upon the 20 21 faithful use by such other person of the funds for the 22 welfare of the said needy individual. Such bond shall be in 23 an amount equal to six (6) times the amount of the monthly 24 payment involved. 25

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the state department will shall present a claim 1 for 2 reisbursement to each county department for its 3 proportionate share of public assistance granted in the county to recipients during the month and for vendor medical 4 5 payments made on behalf of recipients in the previous month. 6 The county department aust shall make such the reimbursement 7 to the state department within twomts (20) days after such 8 the claim is presented."

9 Section 24. Section 71-233.1, R.C.E. 1947, is amended
10 to read as follows:

15 (a)(1) investigate matters relating to public welfare 16 assistance and vendor payments, including but not limited to 17 the claim for an acceptance of welfare public assistance 18 benefits by welfare public assistance recipients, and the 19 receipt and disbursal of welfare public assistance funds by 20 state, county, or other governmental agencies;

21. (b) (2) institute civil or criminal actions in the
22 appropriate courts to enforce the wolfare public assistance
23 laws and violations thereof."

24Section 25., Section 71-233.3, R.C.M. 1947, is amended25to read as follows:

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"71-233.3. Information made available to department of 1 revenue. (1) The department of social and rebabilitation 2 services and its local units shall make available to the 3 department of revenue information contained in the wolfare a public assistance files pertinent to the investigations and 5 indicial actions described in section-1-[-71-233.1-]. 6 (2) Every other state, county, or other governmental 7 agency shall make available to the agents or attorneys of 8 the department of revenue, all records, files, memoranda, 9 forms, or other papers relating to public wolfare assistance 10 satters, including income tax returns filed with the 11 12 department of revenue." Section 26. Section 71-302.2, R.C.B. 1947, is amended 13 14 to read as follows: "71-302.2. Residency requirements. (1) Any person 15 otherwise qualified who makes his home in the state of 16 Montana with the intent to become a resident shall be 17 eligible for general relief. Opon the filing of his 18 application in the county of residence, his a qualified 19 applicant's general relief assistance shall be paid entirely 20 from state funds until he has resided for one-(1)- continuous 21 year in the state of Montana, at which time he shall become 22 a financial responsibility of the county in which he resides 23 at the expiration of the one-(1) year 1-year period. A 24

25 person who leaves the state of Montana with the intent to

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reside in another state, and later returns to reside in the 1 2 state-of Montana,--shall--be--deemed is considered a new 3 resident for the purposes of this act. If a recipient novas 4 from his original county of residence to reside in another 5 county, he shall continue to be a financial responsibility of the original county of residence for one-(1) year from 6 7 the date of his change of residence. If during this ene (1) year 1-year periody the individual resides in several 8 9 counties. he shall become a financial responsibility of the 10 county in which he resides at the expiration of the ene-(1). year 1-year period. County medical assistance under section 11 12 71-308 shall not be entitled to be paid from state funds.

13 (2). If a person is absent from the state voluntarily,
14 he shall be is ineligible for general relief in the state of
15 montana. Aliens found to be illegally within the United
16 States shall are not be eligible for relief from state
17 funds.

(3) Recipients of public assistance who become wards 18 or patients in a licensed nursing home or hospital; foster 19 home, or a private charitable institution shall have the 20 21 county share of financial participation paid entirely from state funds for energinal date of 22 entrustment or the original date of state residency, 23 whichever is earlier. At the expiration of such period, the 24 25 appropriate county, as defined by the following guidelines,

shall become financially responsible to the extent of its 1 2 legally required share of participation. The county in which 3 commitment of an adult is initiated shall be deemed is ħ. considered the county of financial responsibility except 5 where court decree declares the residency to be otherwise. 6 where When an adult is transferred from a facility or 7 institution to one of the above-enumerated facilities, the 8 county which initiated the original commitment shall be 9 deemed is considered the county of financial responsibility 10 except in the case of an adult transfer from an out-of-state 11 institution, in which case the county is which the facility 12 is located shall be deeped is considered the county of 13 financial responsibility. In all cases where a minor patient 14 or ward is involved, the county of financial responsibility 15 shall be is the county in which the parent or guardian 16 resides. Where If the custody of a minor is entrusted to a 17 state agency, the agency shall have the power to may make a reasonable declaration of the county residency of its ward 18 19 using applicable guidelines enumerated in this section. A 20 person who reaches majority in an institution, shall upon 21 release and restoration to competency, have the power to may determine his own county residency. Such person shall 22 23 continue to be a financial responsibility of the county 24 which initiated the original commitment for one (1) year 25 from the date of release, at which time he shall become a

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1 financial responsibility of his new county of residence.

2 <u>(4)</u> Wonresidents or interstate transients may receive 3 temporary relief from county funds in cases of extreme 4 necessity and destitution until they may be are returned at 5 state expense to their state of residence or origin. Medical 6 expenses arising from accidental injury to interstate 7 transients shall be paid from county funds and reimbursed by 8 the state upon submission of a proper claim.

9 <u>(5)</u> "Interstate transient", as the term is used in 10 this act, is defined as an individual who has signed a 11 declaration that he is unable to pay for his own necessities 12 or transportation to return to his state of residence or 13 origin and is en route to a point outside of this state, 14 being unable, due to unexpected distress, to reach his 15 destination."

Section 27. Section 71-303, R.C.8. 1947, is amended to
read as follows:

18 #71-303. Bligibility for general relief -- based_on-19 investigation of resources. An applicant for general relief assistance, including medical care and hospitalization, 20 shall be eligible to receive assistance only after 21 22 investigation by the county department reveals that the 23 income and resources are insufficient to provide the 24 25 provided to meet a minimum subsistence compatible with

1 decency and health."

2 Section 28. Section 71-305, R.C.H. 1947, is amended to 3 read as follows:

* "71-305. Equal Right of equal consideration. Persons
eligible for and in need of <u>general</u> relief shall-be, whether
employable or unemployable, <u>shall be</u> given equal
consideration for public assistance as those persons
eligible for assistance under other parts of this act."

9 Section 29. Section 71-306, R.C.E. 1947, is amended to
10 read as follows:

11 *71-306. Bight of hearing Griegances concerning general relief assistance. Individuals or consittees with 12 complaints or grievances concerning general relief 13 assistance may present their complaints or grievances to 14 either the county board or the state department, and due 15 consideration shall be given all proven facts presented by 16 the individuals or committees. The county board or the state 17 18 department shall take action to relieve situations brought. to their attention under this section to the extent of funds 19 20 available."

Section 30. Section 71-307, R.C.M. 1947, is amended to
 read as follows:

23 "71-307. Relief by check or disbursing orders. (1) All
 24 <u>general</u> relief disbursements by county departments of public
 25 welfare shall be by warrant or check. However, if the county

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welfare department finds that a recipient is in the habit of 1 dissipating general relief allowances instead of using them 2 for the purposes intended, or that for any other reason it 3 is better for the recipient and his family to receive the ÉL. allowance through disbursing orders, then disbursing orders 5 6 shall be used instead of cash payments - but all such 7 disbursing orders must be written in such form that the 8 goods and merchandise to be provided may be furnished by any regular dealer in such goods and merchandise within the 9 10 county. A recipient of general relief must register for exployment with the State Beployment Service state 11 employment service and must accept available employment 12 13 within his or her capability. Refusal to accept such employment will render the recipient ineligible for further 14 general relief assistance. If the county has work available 15 which a recipient of general relief is capable of 16 performing, then the county department of public welfare may 17 require the recipient to perform the work at the prevailing 18 rate of wages paid by that county for similar work, to be 19 paid from the county poor fund in place of granting his 20 21 general relief.

22 (2) The county department of public welfare shall 23 provide coverage under the **Workers** <u>Workers</u> Compensation 24 Act for those recipients of general relief working under the 25 provisions hereof₇ and may enter into such agreements with the division of workens's workers' compensation of the
 department of labor and industry as may be necessary to
 carry out the provisions of this section.

4 (3) hny recipient of general relief who is subject to
5 the provisions of this section and who without cause refuses
6 to perform work assigned to him as herein providedy shall
7 lose his eligibility for general relief for ens-(1) week for
8 each refusal."

9 Section 31. Section 71-308, R.C.H. 1947, is amended to
10 read as follows:

11 *71-308. Sodical County to provide sedical aid and 12 hospitalization to indigent, (1) Hodical Except as provided 13 in other parts of this act, medical aid and hospitalization 14 for nonresidents within the county and county residents 15 unable to provide such necessities for themselves are the legal and financial duty and responsibility of the board of 16 17 county commissioners, except as otherwise previded in other 18 parts of this out payable from the county poor fund. The board of county commissioners shall make provisions for 19 competent and skilled medical or surgical services as 20 21 approved by the department of health and environmental 22 sciences or the state medical association, or in the case of 23 osteopathic practitioners by the state osteopathic association or chiropractors by the state chiropractic 24 25 associationy or optometrical services as approved by the

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Nontana optometric association and dental services as
 approved by the dental association. "Medical" or "medicine"
 as used in this ast section refers to the healing art as
 practiced by licensed practitioners.

5 (2) The board, in arranging for medical care for those 6 unable to provide it for themselves, may have the care 7 provided by the physicians appointed by the board who shall 8 be known as county physicians or deputy county physicians, 9 and may fix a rate of compensation for the furnishing of the 10 medical attendance.

11 (3) The board of county commissioners shall make
12 suitable arrangements to provide respectable burial for
13 nonresidents within the county and county residents for whom
14 such expenses are not otherwise available.

15 (4) The department of social and rehabilitation 16 services may promulgate rules to determine under what 17 circumstances persons in the county are unable to provide 18 medical aid and hospitalization for themselves, including 19 the power to define the term "medically _ needy-"_- Provided, 20 however, such definition may not allow payment by a 21 county for general assistance-sedical for persons whose 22 23 limitation for obtaining regular county general relief 24 assistance.

(5) In any case where the county or state pays medical

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expenses or hospitalization for an individual, the county or
 state is subrogated to the claims of the physician or
 hospital to the extent of payment."

4 Section 32. Section 71-311, R.C.E. 1947, is amended to 5 read as follows:

6 **71-311.** Grants from state funds to counties. (1) If the whole of a sim (6) will the 13.5-mill levy together with 7 the whole of the per capita tax authorized by said meetion 8 71-106- and the income to the county poor fund from all 9 other sources shall prove is inadequate to pay for the 10 general relief in the county actually necessary and to meet 11 the county's proportionate share of public assistance and 12 its proportionate share of any other welfare public 13 assistance activity that may be carried on jointly by the 14 state and the county, and if warrants upon the county poor 15 fund can no longer lawfully be issued to meet these charges; 16 and if the board of county commissioners is unable to 17 declare an emergency for the purpose of providing additional 18 funds or to provide additional funds from any other source; 19 and if the county has in all respects expended the county 20 poor fund only for lawful purposes, and if all of these 21 22 conditions actually exist in any county of the state, then the state department shall, in so far insofar as it has 23 funds available, come to the assistance of such county, in 24 25 the following manners,

(2) When the county in question has submitted proof to 1 the state department, through such reports as it may require 2 and through other evidence that may be desmod considered 3 necessary, that these conditions exist, then the state 4 department any authorize the state department is authorized 5 to issue a check to the county treasurer of the county for 6 general relief purposes, and the county department of public 7 welfare shall make the disbursements of these state funds 8 for general relief purposes within the county. These 9 grants-in-aid from the state department may be used for any 10 relief activity lawfully conducted by the county, including 11 medical aid, hospitalization, and institutional care; but no 12 part thereof may be used, directly or indirectly, to pay for 13 the erection or improvement of any county building or for 14 furniture, fixtures, appliances, or equipment for any such 15 building. 16

(3) Inmediately upon receiving notice that such 17 grant-in-aid has been made by the state department, it shall. 16 he-the detr of the board of county commissioners to shall 19 adopt an emergency budget in accordance with the provisions 20 of section 16-1907 but without being are not required to 21 publish any notice of intention to adopt such emergency 22 budget or to hold a hearing thereon. This emergency budget 23 shall appropriate the whole amount of the general relief 24 grant from the state department for the various classes of 25

expenditures from the poor fund for which the grant-in-aid was made by the state department. The money received through such general relief grant from the state department shall be placed in a special poor fund account kept separate and distinct from the poor fund accounts arising under the original poor fund budget, and all expenditures from this special poor fund account shall be made by a separate series of warrants or checks." Section 33. Section 71-314, R.C.W. 1947, is amended to

10 read as follows:

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11 "71-314. Granting of ensistence inount of general 12 relief assistance to be determined by county board. The 13 amount of general relief assistance granted any person or 14 family shall be determined by the county board of public 15 velfare according to the rules and regulations and standards 16 of assistance established by the state department." 17 Section 34. Section 71-501, R.C.B. 1947, is amended to 18 read as follows: 19 "71-501. "Dependent child" defined. (1) (a) The term

20 "dependent child", for welfare public assistance purposes,
21 means:

22 (a) (i) a child under the age of eighteen (18); or

23 (b) (11) a person under the age of twenty-ene---(21) who

24 is a student under the regulations prescribed by the state

25 department.

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1 (b) Such The children child (1 (a) (i) and or B (a) (ii) 2 above) must be deprived of parental support or care by 3 reason of the death, continued absence from the home, 4 continued unemployment, or physical or mental incapacity of 5 a parent, and who is living be living with his father, б nother. grandfather, grandmother, brother, sister. 7 stepfather, stepsother, stepbrother, stepsister, uncle, 8 aunt, nephew, niece, or first cousing in a place of 9 residence saintained by one or more of such relatives as his 10 or their own home.

11 (2) Aid to dependent children may not be denied to or 12 for the care of children who would otherwise be entitled to 13 such aid under the laws of this state by the fact that the 14 child is living in the home of his or her father, who is, in 15 the opinion of the county board of public welfare of the 16 appropriate county, either unemployable or who is honestly 17 and responsibly seeking proper employment and is unable to 18 find such employment nor or by the fact that the child is living in the home of a head of a household who is, at the 19 20 time, receiving job training under the laws of this state: 21 nor shall may the benefits which would otherwise accrue to 22 the child for aid to dependent children under the laws of 23 the state be reduced by reason of any such cause.

24 (3) Primary factors in determining whether a father is25 honestly and responsibly seeking employment include his

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villingness to register for employment with the department of labor and industry, if that department has a representative in his county of residence, and his willingness to accept employment in which he is able to engage which will increase his ability to maintain himself and his family.

7 (4) The state department of social and robabilitation
8 services may establish additional criteria for determining
9 whether a father is honestly and responsibly seeking
10 employment."

Section 35. Section 71-509, R.C.H. 1947, is amended to read as follows:

13 *71-509. Periodic reconsideration and changes in 14 amount of assistance - appointment of quardian or payment 15 to another person. (1) All assistance grants made under this 16 chapter shall be reconsidered by the county department as 17 frequently as may be required by the rules of the state 18 department. After such further investigation as the county department may deem consider necessary or the state 19 20 department may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the state 21 22 or county departments find that the child's circumstances have altered sufficiently to warrant such actiony, providedy 23 24 havever, that if If the county department, after 25 investigation, finds that any recipient is not utilizing the

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grant adequately for the needs of the child or children, ee 1 is dissipating such grant, or refuses or fails to accept 2 employment or training, and payments made to him would not 3 be used in the best interests of the child or children, the 4 county department may request the county attorney to file a 5 petition in the district court for the appointment of such 6 recipient as guardian of the assistance grant in behalf of 7 the child or children. Such petition shall set forth the 8 facts warranting such appointment. Notice of the hearing on 9 such petition shall be served upon the recipient and the 10 county department not less than five-(5) days before the 11 date set for such hearing; such petition may be filed with 12 the clerk of the district court and all process issued and 13 14 served without payment of costs. If upon the hearing of such petition the court is satisfied that it is for the best 15 interests of the child or childreny and all parties 16 17 concerned, that such guardian be appointed, he shall order such appointment, and may require such quardian to render to 18 19 the court a detailed itemized account of expenditures of such assistance payments at such times as the court may doom 20 21 considers advisable.

22 (2) It is the intention of this even section that the 23 guardianship herein provided for shall be a special and 24 limited guardianship solely for the purpose of safeguarding 25 the assistance grants made to dependent children. Such

quardianship shall terminate upon the termination of such 1 2 assistance grant, or sooner on order of the court, upon good 3 cause shows. In lien of said quardianship proceedings. payments may be made in behalf of the child or children to a. another person found by the county department to be 5 interested in or concerned with the welfare of such needy 6 7 child or children in accordance with the rules and regulations established by the state department. Before such а 9 payments may be paid to such other person, such person shall 10 give a bond, with adoquate corporate surety and in form to 11 be approved by the state department, running in fever of the 12 needy individual and the state of Bontaga, - conditioned --- upon -13 the faithful use by such other person of the funds for the 14 welfare of the needy individual. Such bond shall be in an 15 anoant equal to six times the amount of the monthly payment 16 involved. 17 [3] Providing hovever, when When federal law or 18 regulations permit-that require, any amount in-a-sum-net 19 exceeding one hundred dollars (\$100.00) in any one (1) 20 galendar year received by an enrolled member of a recognized 21 Indian tribe as per capita payments or a share in the

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profits and receipts from tribal lands and interests or

tribal enterprises shall may not be used to decrease the

paysonte-may-be-paid-te-such-other-persony-such-person-shall

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8 Section 36. Section 71-710; R.C.E. 1947, is amended to 9 read as follows:

10 "71-710. Child rehabilitation. The state department11 shall:

12 (a) (1) Baferee enforce all laws pertaining to children 13 and take the initiative in all matters involving the 14 interest of illegitimate, dependent, neglected, and 15 delinquent children where adequate provision therefor has 16 not been made by law; and to

17 (2) use funds available for cases where special
18 medical or material assistance is necessary to rehabilitate
19 subnormal or physically handicapped children and where it is
20 not otherwise provided for by law; and compared.

21 (3) cooperate for the purposes hereof with all
 22 reputable shild helping child_helping and shild placing
 23 child_placing agencies; and

24 (b) (4) Inspect, license, and supervise public
 25 and private infants' homes, and shild caring child-caring

and child placing child-placing institutions and agencies."
 Section 37. Section 71-901, R.C.M. 1947, is amended to
 read as follows:

8 *71-901. Receipt-of-funds State treasurer to receive 5 funds. The treasurer of the state of Montana is hereby 6 designated as the appropriate fiscal officer of the state to 7 receive federal funds. All money for public assistance 8 perposes appropriated by the legislature for public -- volfere 9 perposes, all monoy received from the United States government for public wolfare purposes, and all money or 10 11 received from any other source for the personal not forth is 12 the Public Wolfers Act shall be paid into the state treasury 13 to the credit of the state department." 14 Section 38. Section 71-1401, R.C.B. 1947, is amended 15 to read as follows: 16 "71-1401. Definitions. As used in this act the 17 following definitions apply: 18 (1) "Vocational rehabilitation and "vocational 19 rehabilitation services" mean any services, provided 20 directly or through public or private instrumentalities.

21 found by the state department of social and rehabilitation
22 services to be necessary to compensate a blind individual
23 for his employment handicapy and to enable him to engage in
24 a remunerative occupation includingy but not limited toy
25 medical and vocational diagnosis, vocational guidance,

counseling and placement, rehabilitation training, physical
restoration, transportation, occupational and business
licenses, tools, equipment, initial stocks and supplies,
including livestock, capital advances, maintenance, and
training books and materials.

6 (2) "Rehabilitation services" means any services, 7 provided directly or through public or private 8 instrumentalities. found by the state department of cogial 9 and rehabilitation corriges to be necessary to compensate a 10 blind individual for his employment handicap or to enable 11 him to achieve the maximum degree of self-care and to engage 12 in productive tasks.

13 (3) "Rehabilitation training" means all necessary
14 training provided to a blind individual to compensate for
15 his employment handicap, including, but not limited to;
16 manual, preconditioning prevocational, and supplementary
17 training and training provided for the purpose of achieving
18 broader or more remunerative skills and capacities.

(4) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to correct or substantially reduce a blind individual's employment handicap within a reasonable length of time, including, but not limited to, medical, psychiatric, dental, and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding carative treatment for
 acute or transitory conditions.

3 (5) "Prosthetic appliance" means an artificial device
4 necessary to support or take the place of a part of the body
5 or to increase the acuity of a sense organ.

6 (6) "Occupational licenses" means a license, permit, 7 or other written authority required by any governmental unit 8 to be obtained in order to engage in an occupation.

9 (7) "Business licenses" means any license, permit, or 10 other written authority required by any governmental unit to 11 be obtained in order to engage in a business.

12 (8) "Maintenance" means money payments not exceeding 13 the estimated cost of subsistence during the provision of 14 vocational rehabilitation and rehabilitation services.

15 (9) "Blind individual" means an individual whose 16 central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is 17 greater than 20/200 but is accompanied by a limitation in 18 19 the fields of vision such that the widest diameter of the 20 visual field subtends an angle no greater than 20 degrees+ 21 or who has other eye conditions which render vision equally 22 defective; or who has an eye condition which will cause 23 blindness."

24 Section 39. Section 71-1516, R.C.M. 1947, is amended 25 to read as follows:

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 "71-1516. Eligibility requirements for-modical

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 assistance. Medical assistance shall be granted in behalf of

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 all persons:

4 (1) who reside in the state of Montana, including 5 residents temporarily absent from the state; and

6 (2) who meet any of the following requirements:

7 (1) (a) She receive all or part of their income from
8 the federally aided federally-aided public assistance
9 programs: old-age assistance, aid to the blind, aid to
10 dependent children, and aid to the permanently and totally
11 disabled;

12 (2) (b) All-porcess, she upon application, would be 13 eligible for financial assistance under any one of the 18 federally aided federally-aided programs referred to above; 15 (3) (c) All-persons who would be entitled to financial 16 assistance under one of the foderally aided federally aided 17 categories except that they do not meet the durational 18 residence requirements or relative responsibility 19 requirements of any of the public assistance programs above 20 enumerated:

(4) (d) Persons are in medical institutions whey and if
 they were no longer in such institution, would be eligible
 for financial assistance under one of the above programs;

24 (5) (e) all children are under twenty one who 21 years
 25 of age and meet the conditions of eligibility in the state's

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plan for aid to dependent children, other than with respect
 to school attendance;

3 (6) (f) All children are under twenty one who are 21
4 years of age and in foster care under the supervision of the
5 state;

6 (7) (g) All persons whose have income is less than one
bundred-thirty-three and one-third per-cont-(133 1/3%) of
6 the amounts specified as maximum income levels for federally
9 eided federally-aided categories of assistance;

10 (8) (h) hll -- modically -- needy -- shildren are under
11 twesty one (21) years of age and medically needy, as defined
12 by the state department of social and rehabilitation
13 services; or --

14 (9) (1) All shildren are under twenty one (21) years of
15 age, whe were in foster care under the supervision of the
16 state, and who have been adopted as "hard-to-place"
17 children."

18 Section 40. Section 71-1903, R.C.H. 1947, is amended
19 to read as follows:

20 "71-1903. Application for protective services —
21 contents department as guardian or trustee desision as to
22 eligibility. (1) Protective services may be provided on a
23 voluntary basis for any developmentally disabled person who
24 requests them for bimself or at the request of any
25 interested person, when the department determines that such

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person is a developmentally disabled person who would 1 benefit from services provided in this act, and that the 2 department is currently able to supply services to such 3 person. A parent may name the department as guardian of the 4 mentally developmentally disabled person in his will. A 5 parent may also name the department as guardian or trustee 6 of the acatally developmentally disabled persony to assume 7 such duties during the parents parents! lifetime. Voluntary 8 services may be discontinued upon the written request of the 9 ward or any personal representative of the ward. 10

(2) Application for protective services under this act 11 shall be made to the designated field staff of the 12 department or other designated state agency in the county in 13 which the applicant resides, and the application shall be 14 transmitted promptly to the department, Such application 15 shall be in writing or reduced to writing in the manner and 16 upon the form prescribed by the department and shall contain 17 the name, age, and residence of the applicant and such other 18 information as may be required by the rules and regulations 19 of the department. The rules and regulations of the 20 department shall simplify the application process in order 21 that protective services may be furnished as soon as 22 possible. Adequate safequards shall be established by the 23 department to insure that only eligible persons receive 24 protective services under this act. The department shall 25

notify the applicant and the designated field staff of the department or other designated state agency in writing of its decision concerning eligibility for protective

4 services."

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5 Section 41. Section 71-2304, R.C.M. 1947, is amended 6 to read as follows:

7 #71-2304. Definitions. As used in this act the

8 <u>following definitions apply</u>:

9 (1) "Department" means the department of social and
10 - rehabilitation services.

(2) "Adult foster family: care homes" means private
homes owned by one or more persons over the age of nighteen
(18) years of age or older which offer light personal care
or custodial care to aged persons or disabled adults who are
not related to the owner by blood or marriage.
(3) "Aged person" means a person defined by the

17 department as aged.

18 (4) "Disabled adult" means a person over the age of
19 oighteen (18) years of age or older defined by the
20 department as disabled.

(5) "Light personal care" means assisting the aged
person or disabled adult in accomplishing such personal
hygiene tasks as bathing, dressing, hair grooming, and
supervision of prescriptive medicine administration but not
administration of prescriptive medications.

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1 (6) "Custodial care" means providing a sheltered 2 family type family-type setting for an aged person or 3 disabled adult so as to provide for their his basic needs of 4 food, and shelter and having a specific person available to 5 help them him meet their his basic needs.

6 (7) "Skilled nursing care" means twenty four (24) hour
7 <u>24-hour</u> care supervised by a registered nurse or a licensed
8 practical nurse under orders of an attending physician."

9 Section 42. Section 71-2404, R.C.B. 1947, is amended
10 to read as follows:

"71-2404. Belos and regulations ; Department to adopt 11 12 rules. The department shall control developmental disabilities programs which receive any state assistance by 13 14 adopting rules, for providing developmental disabilities 15 facilities and services. It shall set minimum standards for 16 programs, and establish appropriate qualifications, and 17 compensation scales, and personnel policies for persons 18 employed in such programs. All developmental disabilities 19 facilities and services shall comply with existing federal 20 guidelines and with requirements which will enable the 21 services and facilities to qualify for available aid funds. 22 However, nothing herein chall imply the negocity for 23 requires facilities serving the developmentally disabled to meet the same or equal standards as licensed medical 24 25 facilities, unless the developmental disabilities facility

1 is providing professional or skilled medical care."

2 Section 43. Section 71-2405, B.C.B. 1947, is amended
3 to read as follows:

4 #71-2405. Community services. (1) The department may 5 establish and administer community comprehensive services, programs, clinics, or other facilities throughout the state 6 7 for the purpose of aiding in the prevention, diagnosis, 8 amelioration, or treatment of developmental disabilities. Programs, clinics, or other services may be provided 9 directly by state agencies, or indirectly through contract 10 or co-operative cooperative arrangements with other agencies 11 of government, regional or local, private or public 12 agencies, or private professional persons; or in accredited 13 14 health or long-ters long-ters care facilities.

(2) Comprehensive services, programs, clinics, or
other facilities established or provided by the department
under this chapter shall conform, as nearly as possible, to
the plans of the advisory council created under 71-2406, and
the regional councils provided for in 71-2407."

Section 44. Section 80-1405, R.C.M. /1947, is amended
to read as follows:

22 #80-1405. Powers and duties of department. The
23 department shall:

24 (1) Adopt adopt rules for the admission, custody,
25 transfer, and release of residents of institutions except as

otherwise provided by law-: However however, no such rules
 ohall may amend or alter the statutory powers and duties of
 the state board of pardons-:

(2) Subject subject to the functions of the department 4 5 of administration. lease or purchase lands for use by institutions, and classify those lands to determine which 6 7 are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs 8 of all institutions for the food products that can be grown 9 10 or produced on the lands, and the relative value of agricultural programs in the treatment or rehabilitation of 11 the persons confined in the institutions. 12

13 (3) Utilize utilize the staff and services of other
14 state agencies and units of the university of Hontana
15 <u>university system</u>, within their respective statutory
16 functions, to carry out the purposes of this ast, its
17 functions under this title;

(4) Propose programs to the logicaletive
acceptly legislature to meet the projected long-range needs
of institutions, including programs and facilities for the
diagnosis, treatment, care, and aftercare of persons placed
in institutions-: and

23 (5) Encourage encourage the establishment of programs
24 at the local level for the prevention and rehabilitation of
25 physical and mental disability."

Section 45. Section 80-1410, R.C.H. 1947, is amended
 to read as follows:

3 "80--1410. Establishment of juvenile correctional а facilities. The department, within the annual or bianneal 5 biennial budgetary appropriation, may establish, maintain, and operate facilities to properly diagnose, care for, 6 7 train, educate, and rehabilitate children in need of these 8 services. The children must be ten-(10) years of age or 9 older and under tweaty one (21) years of age. The facilities 10 include but are not limited to the Hountain View School, the 11 Pine Hills school, and the wouth forest camp."

Section 46. Section 80-1413, R.C.N. 1947, is amended
to read as follows:

14 "80-1413. Participation" b٧ geverning beards 15 institutions in research programs. The department may direct a penal- and corrective- or onetodial institution of the 16 17 state to participate in and so-operate cooperate with. programs of research and development being conducted and 18 19 carried on by any units of the montana university system, by 20 any of the other educational institutions of the state of 21 Montana, or by any foundation or agency thereofy in the 22 fields of science, health, education, and natural resources. 23 These programs may include the voluntary participation of 24 the inmates of the institution in testing and experimental 25 work conducted as a part thereof. Any funds received from

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1 the authorized programs may be shared with the participating 2 inmates or otherwise held and used for the welfare and 3 rehabilitation thereof_{τ} and shall may not become a part of 4 the regular budgeted operation of the institution."

5 Section 47. Section 80-1603, R.C.B. 1947, is amended
6 to read as follows:

7 8 compatization of Fato in restigation oldis state review deposit of receipts Computation of per diem 9 rate, monthly assessment, and disposition of receipts. 10 11 (1) The department shall assess monthly against each 12 resident or responsible persony the full per dien charge, a 13 proportionate share of the per diem charge, or no per diem 14 charge, plus full ancillary charge, a proportionate share of 15 the ancillary charge, or no ancillary charge, based upon 16 financial information given to the department during its 17 investigation. The per diem shall be computed on July 1 of 18 each year by the department.

(2) In assessment made by the department under this
section shall be based on the resident's or responsible
person's ability to pay. The department shall may not make
an assessment which would place an undue financial burder on
the resident or the responsible person.

24 (3) For the purpose of these investigations, every
25 agency of the state is required to render all reasonable

1 assistance to the department in obtaining all information necessary for the proper implementation of the purposes of 2 this investigation. A representative of the department, daly 3 authorized by the director, may administer oaths, take а testimony, and subpoena and compel the attendance of 5 witnesses and the production of books, papers, records, and 6 documents in connection with the duty of securing payments 7 8 for support as provided by this act. A person who fails to 9 obey the subpoena, upon petition of the departmenty to any judge of the district court of the state, may be ordered by 10 11 the judge to appear and show cause for his disobedience of 12 the subpoena. The judge, after the hearing, may order that 13 the subpoena be obeyed, or, if it is made to appear to the 14 judge that the subpoena was for any reason inappropriately 15 issued, may dismiss the petition. A person who fails to obey 16 the subpoena when ordered to do so by the judge may be 17 punished for contempt of court on application of the 18 district court by the department.

(4) The state has a claim against the estate of a patient and against the estate of a responsible persony for an amount due to the state at the date of death of the resident or the responsible person. The claim against the estate of a responsible person does not have priority against the estate for the amount necessary to rear and educate surviving children of the responsible person. 1 (5) The attorney general shall collect any claim which 2 the state may have against such estate. This claim may not 3 be enforced against any real estate while it is occupied as 4 a home by the surviving spouse or of the resident or 5 responsible person.

6 (6) If a resident or responsible person disagrees with 7 the determination of the department as to the ability of the resident or responsible person to pay any part of the per 8 9 dies or ancillary charge, an appeal may be filed within 10 thirty (30) days of the determination with the board of institutions. If the resident disagrees with the 11 12 determination of the appeal by the board of institutions, an appeal may be filed in any court of record in Bontana having 13 jurisdiction of the resident or responsible person liable 14 15 for the payment.

16 (7) The department may, at any time, review and change 17 a determination for per diem or ancillary charge payments. 18 In any case, however, a resident of an institution may not 19 be released by reason of the nonpayment of the per diem or 20 the ancillary charge, if, in the judgment of the 21 superintendent of the institution at which he is a resident, 22 this release is medically inadvisable.

(8) A per diem payment received by the department
shall be deposited in the state treasury to the credit of
the general fund."

Section 48. Section 80-1912, R.C.B. 1947, is amended
 to read as follows:

3 #80-1912. Expense of trial for essays offenses 4 committed in prison. Whenever a trial takes place of any 5 person under any of the provisions of soction 94-7-306, and 6 whenever a prisoner in the state prison shall be is tried 7 for any crime committed therein, the county clerk of the я county where such trial is had held shall make out a statement of all the costs incurred by the county for the 9 10 trial of such case, and of quarding and keeping such 11 prisoner, properly certified by a district judge of said 12 county, which statement shall be sent to the beard-of-state 13 prison commissioners department of institutions for their 14 its approval, and after such approval, said beard the 15 department must cause the amount of such costs to be paid 16 out of the money appropriated for the support of the state 17 prison to the county treasurer of the county where such 18 trial was had held."

19 Section 49., Section 80-2412, R.C.N. 1947, is amended20 to read as follows:

21 "80-2412. Interstate compact on mental health enacted
22 -- tert. The interstate compact on montal health Interstate
23 Compact on Sental Bealth as contained herein is hereby
24 enacted into law and entered into by this state with all
25 other jurisdiction legally joining therein in the form

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3 Article I Article -- I. The party states find that the proper and £ 5 expeditious treatment of the mentally ill and mentally 6 deficient can be facilitated by so-operative cooperative 7 action, to the benefit of the patients, their families, and 8 society as a whole. Further, the party states find that the 9 necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or 10 11 citizenship of the patient but that, on the contrary, the 12 controlling factors of community safety and humanitarianism 13 require that facilities and services be made available for 14 all who are in need of them. Consequently, it is the purpose 15 of this compact and of the party states to provide the 16 necessary legal basis for the institutionalization or other 17 appropriate care and treatment of the mentally ill and 18 mentally deficient under a system that recognizes the 19 paramount importance of patient welfare and to establish the 20 responsibilities of the party states in terms of such 21 welfare.

The contracting states solemnly agree, that:

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substantially as follows:

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the provisions of the compact or from which it is 1 2 contemplated that a patient may be so sent-:

(b) (2) "Receiving receiving state" shall-mean means a 3 . party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated 5 that a patient may be so sent-: 6

7 (3) "Institution" shall-mean means any 8 hospital or other facility maintained by a party state or 9 political subdivision thereof for the care and treatment of 10 mental illness or mental deficiency-;

11 (4) "Patiest patiest" shall seen means any person subject to or eligible, as determined by the laws of the 12 13 sending state. for institutionalization or other care, 14 treatment, or supervision pursuant to the provisions of this 15 compact-1

(c) (5) "aftercare aftercare" shall means care, 16 17 treatment, and services provided a patient, as defined herein, on convalescent status or conditional releaser: 18

19 (f) (6) "Mental mental illness" shall-mean means mental 20 disease to such extent that a person so afflicted requires 21 care and treatment for his own welfare, or the welfare of 22 others, or of the community-:

23 (q) (7) "Hontal mental deficiency" shall means 24 mental deficiency as defined by appropriate clinical 25 authorities to such extent that a person so afflicted is

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party state from which a patient is transported pursuant to

Article II

Article II. As used in this compact:

{a} {1} "Sonding sending state" shall sean geans a
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incapable of managing himself and his affairs, but shall not
 include mental illness as defined herein, and

3 (h) (8) "State state" shall seen means any state,
4 territory, or possession of the United States, the District
5 of Columbia, and the Commonwealth of Puerto Rico.

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Article III

7 <u>Article III. (3) (1)</u> Whenever a person physically 8 present in any party state shall be in need of 9 institutionalization by reason of mental illness or <u>mental</u> 10 <u>deficiency. he shall be eliqible for care and</u> treatment in 11 an institution in that state irrespective of his residence, 12 settlement, or citizenship qualifications.

(b) (2) The provisions of paragraph (a) subsection (1) 13 of this article to the contrary notwithstanding, any patient 14 may be transferred to an institution in another state 15 whenever there are factors based upon clinical 16 17 determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any 18 such institutionalization may be for the entire period of 19 care and treatment or for any portion or portions thereof. 20 The factors referred to in this paragraph subsection shall 21 include the patient's full record with due regard for the 22 23 location of the patient's family, character of the illness 24 and probable duration thereof, and such other factors as 25 shall be considered appropriate.

1 (0) (3) No state shall be obliged to receive any 2 patient pursuant to the provisions of paragraph. (b) 3 subsection (2) of this article unless the sending state has ą eiven gives advance notice of its intention to send the 5 patient, fersished furnishes all available medical and 6 other pertinent records concerning the patient, gives 7 the gualified medical or other appropriate clinical 8 authorities of the receiving state an opportunity to examine 9 the patient if said authorities so wisht, and unless the 10 receiving state shall agrees to accept the patient.

11 (4)(4) In the event that the laws of the receiving 12 state establish a system of priorities for the admission of 13 patients, an interstate patient under this compact shall 14 receive the same priority as a local patient and shall be 15 taken in the same order and at the same time that he would 16 be taken if he were a local patient.

17 (e) (5) Pursuant to this compact, the determination as 18 to the suitable place of institutionalization for a patient 19 may be reviewed at any time and such further transfer of the 20 patient may be made as seems likely to be in the best 21 interest of the patient.

Article_IV

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23 determined that the patient should receive aftercare or

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supervision, such care or supervision may be provided in a 1 2 receiving state. If the medical or other appropriate 3 clinical authorities having responsibility for the care and 4 treatment of the patient in the sending state shall have 5 reason to believe that aftercare in another state would be in the best interest of the patient and would not jeopardize 6 7 the public safety, they shall request the appropriate 8 authorities in the receiving state to investigate the 9 desirability of affording the patient such aftercare in said 10 receiving state, and such investigation shall be made with 11 all reasonable speed. The request for investigation shall 12 be accompanied by complete information concerning the 13 patient's intended place of residence and the identity of 14 the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and 15 16 such other documents as may be pertiment.

17 (b) (2) If the medical or other appropriate clinical authorities having responsibility for the care and treatment 18 of the patient in the sending state and the appropriate 19 20 authorities in the receiving state find that the best 21 interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient 22 23 may receive aftercare or supervision in the receiving state. 24 (3) In supervising, treating, or caring for a 25 patient on aftercare pursuant to the terms of this article,

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a receiving state shall employ the same standards of
 visitation, emaination, care, and treatment that it
 employes for similar local patients.

Article V

Articlo - W. Whenever a dangerous or potentially 5 dangerous patient escapes from an institution in any party 6 state, that state shall promptly notify all appropriate 7 authorities within and without the jurisdiction of the 8 escapee in a manner reasonably calculated to facilitate the 9 speedy apprehension of the escapee. Immediately upon the 10 apprehension and identification of any such dangerous or 11 12 potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with. 13 14 lav.

<u>Article VI</u>

16 **Article VI.** The duly accredited officers of any state 17 party to this compact, upon the establishment of their 18 authority and the identity of the patient, shall be 19 permitted to transport any patient being moved pursuant to 20 this compact through any and all states party to this 21 compact, without interference.

Article VII

23 <u>Article VII. (a) (1)</u> No person shall be deemed a patient
24 of more than one (1) institution at any given time.
25 Completion of transfer of any patient to an institution in a

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receiving state shall have the effect of making the person a
 patient of the institution in the receiving state.

3 (b) (2) The sending state shall pay all costs of and 4 incidental to the transportation of any patient pursuant to 5 this compact, but any two (2) or more party states may, by 6 making a specific arrangement for that purpose, arrange for 7 a different allocation of costs as among themselves.

8 (*)-(3) No provision of this compact shall be construed 9 to alter or affect any internal relationships among the 10 departments, agencies, and officers of and in the government 11 of a party state, or between a party state and its 12 subdivisions, as to the payment of costs, or 13 responsibilities therefor.

14 (4) (4) (4) Nothing in this compact shall be construed to 15 prevent any party state or subdivision thereof from 16 asserting any right against any person, agency, or other 17 entity in regard to costs for which such party state or 18 subdivision thereof may be responsible pursuant to any 19 provision of this compact.

20 (e) (5) Nothing in this compact shall be construed to 21 invalidate any reciprocal agreement between a party state 22 and a nonparty state relating to institutionalization, care, 23 or treatment of the mentally ill or mentally deficient, or 24 any statutory authority pursuant to which such agreements 25 may be made.

Article VIII

2 Article VIII, (a) (1) Nothing in this compact shall be 3 construed to abridge, diminish, or in any way impair the . rights. duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for 5 whom he may serve, except that, where the transfer of any 7 patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian. any 9 court of competent jurisdiction in the receiving state may 10 make such supplemental or substitute appointment and the 11 court which appointed the previous guardian shall, upon being duly advised of the new appointment, and upon the 12 13 satisfactory completion of such accounting and other acts as 14 such court may by law require, relieve the previous quardian 15 of power and responsibility to whatever extent shall be 16 appropriate in the circusstancest, provided, however, that 17 in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the 18 19 sending state shall have the sole discretion to relieve a 20 guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court 21 22 in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as 23 quardian in the sending state in lieu of making a 24 supplemental or substitute appointment. 25

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(b) (2) The term "guardian" as used in paragraph (a)
<u>subsection (1)</u> of this article shall include any guardian,
trustee, legal committee, conservator, or other person or
agency however denominated who is charged by law with power
to act for or responsibility for the person or property of a
patient.

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Article II

8 Article-IL--(a) (1) No provisions of this compact except 9 Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or 10 11 while subject to trial on a criminal charge- or whose 12 institutionalization is due to the commission of an offense 13 for which, in the absence of mental illness or mental. 14 deficiency, said person would be subject to incarceration in 15 a penal or correctional institution.

16 (+)+(2). To every extent possible, it shall be the 17 policy of states party to this compact that no patient shall 18 be placed or detained in any prison, jail, or lockup, but 19 such patient shall, with all expedition, be taken to a 20 suitable institutional facility for mental illness or mental 21 deficiency.

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Article I

23 Article I. (1) Each party state shall appoint a
 24 "compact administrator" who, on behalf of his state, shall
 25 act as general co-ordinator coordinator of activities under

the compact in his state and who shall receive copies of all 1 2 reports, correspondence, and other documents relating to any 3 patient processed under the compact by his state either in ۵. the capacity of a sending or receiving state. The compact 5 administrator or his duly designated representative shall be the official with whom other party states shall deal in any б 7 matter relating to the compact or any patient processed 8 therennder.

9 (b) (2) The compact administrators of the respective
10 party states shall have power to promulgate reasonable rules
11 and regulations to carry out more effectively the terms and
12 provisions of this compact.

13

<u>Article XI</u>

Article--- II. The duly constituted administrative 14 15 authorities of any two (2) or more party states may enter 16 into supplementary agreements for the provision of any 17 service or facility or for the maintenance of any 18 institution on a joint or se operative cooperative basis whenever the states concerned shall find that such 19 20 agreements will improve services, facilities, or 21 institutional care and treatment in the fields of mental 22 illness or mental deficiency. No such supplementary 23 agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under 24 25 other provisions of this compact.

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Article III

2 Inticle III. This compact shall enter into full force
3 and effect as to any state when enacted by it into law, and
4 such state shall thereafter be a party thereto with any and
5 all states legally joining therein.

Article XIII

7 Article - IIII. (1) 1 state party to this compact may 8 withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one---{}- year after notice 9 thereof has been communicated officially and in writing to 10 11 the governors and compact administrators of all other party states. However, the withdrawal of any state shall not 12 change the status of any patient who has been sent to said 13 state or sent out of said state pursuant to the provisions 14 15 of the compact.

16 (b) (2) Withdrawal from any agreement permitted by
17 Article VII (b) (2) as to costs or from any supplementary
18 agreement made pursuant to Article XI shall be in accordance
19 with the terms of such agreement.

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Article XIV

21 **Inticle IIF.** (1) This compact shall be liberally 22 construed so as to effectuate the purposes thereof. The 23 provisions of this compact shall be severable and if any 24 phrase, clause, sentence, or provision of this compact is 25 declared to be contrary to the constitution of any party

state or of the United States or the applicability thereof 1 to any government, agency, person, or circumstance is held 2 3 invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this 5 6 compact shall be held contrary to the constitution of any party thereto, the compact shall remain in full force and 7 8 effect as to the remaining states and in full force and q effect as to the state affected as to all severable matters. 10 (2) The director of the department of institutions, 11 hereafter called "the directory", shall be the compact 12 administrator and shall have the power to make any rules and pogniations necessary for the administration of this 13 14 article. The director shall co-operate cooperate with all 15 departments, agencies, and officers of the state and any 16 political subdivision thereof to facilitate the proper 17 administration of the interstate compact on monthly health 18 Interstate Compact on Hental Health or of any supplementary 19 agreement or agreements entered into by this state 20 thereunder.

21 (3) The director may enter into supplementary 22 agreements with appropriate officials of other states 23 pursuant to Articles VII and XI of the compact.

24 (4) The department of institutions in its annual
25 budget shall include such amounts necessary to discharge the

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financial obligations incurred by it to carry out the
 purposes of the interstate compact on mental health
 <u>Interstate Compact on Mental Health</u>, and the general
 assembly shall appropriate such sums necessary therefor.

5 (5) The compact administrator is hereby directed to consult with the immediate family of any proposed transferee 6 and, in the case of a proposed transferee from an 7 institution in this state to an institution in another party A state, to make no transfer out of the state without approval 9 of the district or probate court. Before granting such 10 approval the court shall hold such hearings as it deems 11 considers appropriate. In addition, the court shall 12 13 designate some appropriate person to deliver written notice of the proposed transferee's right to a hearing to the 14 proposed transferee and his quardian ad lites. The person 15 16 serving such notices shall make a written return to the 17 court that such has been done. At the conclusion of such hearing, if any, the court may approve the proposed 18 19 transfer, order the release of the proposed transferee, or 20 enter any other suitable order.

21 (6) Duly authenticated copies of the article shall,
22 upon its approval, be transmitted by the secretary of state
23 to the governor of each state, the attorney general, and the
24 secretary of state of the Dmited States, and the Council of
25 State Governments."

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Section 50. Section 80-2701, B.C.M. 1947, is amended
 to read as follows:

3 "80-2701. Purpose-and intent of act ----- Policy of state Legislative purpose. It is the purpose of this act and the 4 5 policy of this state to recognize alcoholism and 6 drug dependence as problems affecting the health, safety, 7 morals, economy, and general welfare of this state; to recognize algohol alcoholigs and drug dependence as problems 8 subject to treatment; and to recognize the sufferer of 9 alcohol alcoholism, drug dependence, or bothy as worthy of 10 treatment and rehabilitation. It is the intent of this act 11 to establish means whereby the appropriate resources of this 12 state may be focused fully and effectively upon the problems 13 of alsohol alcoholism and drug dependence and utilized in 14 implementing programs for the control and treatment of these. 15 problems, " 16

17 Section 51. Section 80-2702, R.C.M. 1947, is amended
18 to read as follows:

19 "80-2702. Duties of department -- department
20 authorized to accept gifts -- enter into contracts -21 acquire and dispose of property. (1) The department of
22 institutions, hereafter referred to as department in this
23 chapter, shall:

(a) Plan plan, promote, and assist in the support of
 alcohol alcoholism and drug dependence prevention,

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treatment, and control programs;

(b) Conduct <u>conduct</u>, sponsor, and support research,
investigations, and studies, including evaluation, of all
phases of alsohol alcoholism and drug dependence;

5 (c) Assist assist the development of educational and 6 training programs relative to also algobal algobalism and drug 7 dependence, and carry on programs to assist the public, and 8 technical and professional groups, in becoming fully. 9 informed about algobal algobalism and drug dependence;

10 (d) **Presete** <u>promote</u>, develop, and assist, financially 11 and otherwise, alsohel <u>alcoholiss</u> and drug dependence 12 programs administered by other state agencies, local 13 government agencies, and private monprofit organizations and 14 agencies; <u>and</u>

(e) **Excernage** <u>encourage</u> and promote effective use of facilities, resources, and funds in the planning and conduct of programs and activities for prevention, treatment, and control of <u>algebel</u>: <u>alcoholism</u> and drug dependence and, in this respect, cooperate with and utilize to the maximum possible extent the resources and services of federal, state, and local agencies.

22 (2) To carry out this act, the department may:

(a) *lesopt* accept gifts, grants, and domations of
noney and property from public and private sources;

25 (b) Bater enter into contracts; and

1 (c) Acquire acquire and dispose of property."

2 Section 52. Section 80-2717, B.C.B. 1947, is amended
3 to read as follows:

2 #80-2717. Emergency commitment of intexicated persons. (1) An intoxicated person who (a) has threatened, attempted, 5 or inflicted physical harm on another and is likely to 6 7 inflict physical harm on another unless committed, or (h) who is incapacitated by alcoholy may be committed to an я approved public treatment facility for emergency treatment. q A refusal to undergo treatment does not constitute evidence 10 of lack of judgment as to the need for treatment. 11

(2) The certifying physician, sponse, guardian, or 12 relative of the person to be committedy or any other 13 14 responsible person, may make a written application for commitment under this section, directed to the administrator 15 of the approved public treatment facility., The application 16 shall state facts to support the need for emergency 17 treatment and be accompanied by a physician's certificate 18 stating that he has examined the person sought to be 19 committed within two-(2) days before the certificate's date 20 and facts supporting the need for emergency treatment. A 21 22 physician employed by the admitting facility or the department is not eligible to be the certifying physician. 23

24 (3) Upon approval of the application by the25 administrator of the approved public treatment facility, the

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person shall be brought to the facility by a peace officer, health officer, the applicant for commitment, the patient's sponse, the patient's guardian, or any other interested person. The person shall be **sotained** <u>detained</u> at the facility to which he was admitted, or transferred to another appropriate public or private treatment facility, until discharged under subsection (5).

8 (4) The administrator of an approved public treatment 9 facility shall refuse an application if in his opinion the 10 application and certificate fail to sustain the grounds for 11 commitment.

12 (5) When on the advice of the medical staff the 13 administrator determines that the grounds for commitment no 14 longer exist, he shall discharge a person committed under 15 this section. No person committed under this section may be 16 detained in any treatment facility for more than five (5) 17 days. If a petition for involuntary commitment under soution 18 59-6221 has been filed within the five-(5) days and the 19 administrator in charge of an approved public treatment 20 facility finds that grounds for emergency commitment still 21 exist, he may detain the person until the petition has been 22 heard and determined, but no longer than ten-(10) days after 23 filing the petition.

24 (6) A copy of the written application for commitment
25 and of the physician's certificate, and a written

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explanation of the person's right to counsel, shall be given
 to the person within twenty four (24) hours after commitment
 by the department, who. The department shall provide a
 reasonable opportunity for the person to consult counsel."
 Section 53., Section 80-2802, R.C.H. 1947, is amended
 to read as follows:

7 *80-2802. Duties of department. The department shall:
8 (1) take cognizance of matters affecting the mental
9 health of the citizens of the state;

(2) initiate preventive mental health activities of 10 the statewide mental health programs, including, but not 11 limited to- the implementation of mental health care and 12 treatment, prevention, and research as can best be 13 accomplished by community-----contered community--contered 14 services. Such means shall be utilized to initiate and 15 operate these services in cooperation with local agencies as 16 established under this act+. 17

18 (3) make scientific and medical research
19 investigations relative to the incidence, cause, prevention,
20 treatment, and care of the mentally ill;

21 (4) collect and disseminate information relating to22 mental health;

(5) prepare and maintain a comprehensive plan for the
development of public mental health services in the state.
The public mental health services shall include, but not be

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limited to, community comprehensive mental health centers,
 mental health clinics, traveling service units, and
 consultative and educational services;

4 (6) provide by regulations for the examination of
5 persons, who apply for examination or who are admitted
6 either as inpatients or outpatients into Warm Springs state
7 hospital or other public mental health facilities;

8 (7) receive from agencies of the United States and 9 other state agencies, persons or groups of persons, 10 associations, firms, or corporations, grants of money, 11 receipts from fees, gifts, supplies, materials, and 12 contributions, for the development of mental health services 13 within the state;

14 (8) establish standards for public mental health
15 facilities; and

16 (9) evaluate performance of public mental health
17 facilities in compliance with federal and state standards."
18 Section 54. Repealer. Sections 71-101, 71-107, 71-118,
19 and 71-233.5, R.C.H. 1947, are repealed.

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State Capitol Helena, 59601

LC 0008

1977 Legislature Code Commissioner Bill - Summary

Bill No.

FOR THE GENERAL REVISION AND CLARIFICATION OF LAWS RELATING TO STATE INSTITUTIONS, VOCATIONAL REHABILITATION, PUBLIC ASSISTANCE, THE DEVELOPMENTALLY DISABLED, AND THE MENTALLY ILL.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. <u>38-110</u>. "Public welfare" was changed to "public assistance" for consistency and to update language.

Section 2. <u>38-120</u>. "An insane person" was changed to "a person who is seriously mentally ill for consistency, to update language, and to bring the section into conformity with the current RCM chapter on commitment of seriously mentally ill persons (chapter 13, Title 38).

Section 3. <u>38-210</u>. "Person is adjudged insane" was changed to "person is adjudged to be seriously mentally ill" for consistency, to update language, and to bring the section into conformity with the current RCM chapter on commitment of seriously mentally ill persons (chapter 13, Title 38). "Him" was changed to "the patient" and "who" was changed to "the officer" for purposes of clarity and grammar.

Section 4. <u>38-506</u>. "Public welfare laws" was changed to "public assistance laws" for consistency and to update language.

Section 5. <u>38-1202</u>. "The following definitions apply" was added to this definitional section to make the lead-in phrase a complete thought, thereby correcting certain punctuation problems that could not be solved by compiler's change.

Section 6. <u>38-1205</u>. "And" was added to the last sentence of this section for grammatical reasons and to clarify meaning.

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Section 7. <u>38-1206</u>. "And" was added to the last sentence in subsection (1) for grammatical reasons and for "Shall" was changed to "may" throughout for grammatical reasons.

Section 8. <u>38-1208</u>. "But" was changed to "and" in subsection (3) for consistency and grammatical reasons.

Section 9. <u>38-1222</u>. "The" was added in subsection (10) for grammatical reasons.

Section 10. <u>38-1302</u>. "The following definitions apply" was added to this definitional section to make the lead-in phrase a complete thought, thereby correcting certain punctuation problems that could not be solved by compiler's changes.

Section 11. 41-817. In subsection (7), "and which is" was added for grammatical reasons, and "or" was changed to "of" for obvious reasons.

Section 12. <u>71-113</u>. "Such" was deleted in the first sentence and "for the maintenance or medical attendance of the poor or indigent sick" was added because it wasn't clear what contracts the "such" in "any such contract" referred to.

Section 13. 71-207. "Public Welfare" was changed to "public assistance" for consistency and to update language.

Section 14. 71-210. References to functions or purposes under "this act" or "Title 71" were deleted and "public assistance" inserted to clearly define what type of activities are referred to. "This act" refers to the original 1939 Welfare Act which has been amended and added to many times. The amendments make it clear that all public assistance activities are covered no matter when they were enacted or where they were codified. These amendments are also necessary to facilitate recodification.

Section 15. <u>71-211</u>. "Public welfare" was changed to "public assistance" in the first sentence for consistency and to update language.

Section 16. 71-212. "Public welfare" was changed to "public assistance" in the first sentence for consistency and to update language. "This act" was changed to "the public assistance laws" in subsection (3) to aid recodification.

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Sections17 through 20. Sections 71-213, 71-214, 71-216, and 71-217. "Public welfare" was changed to "public assistance" for consistency and to update language.

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Section 21. <u>71-222</u>. "Seventeen (17) mills" was changed to "13.5 mills" in subsections (1) and (6) for consistency and clarification and to further the legislative intent shown by section 2, Chapter 279, Laws of 1974, in which the "17- mill" language was changed in 71-106 but not in 71-222. "All purposes of this act "was changed to "public assistance purposes" in subsection (1) to aid recodification. "Public welfare "was changed to "public assistance in subsection (1) to aid recodification. "Public welfare" was changed to "public assistance" in subsections (1), (3), and (6) for consistency and to update language. "The" was added in subsection (6) for obvious reasons.

Section 22. 71-226. "Or" was added for grammatical reasons.

Section 23. <u>71-230</u>. "Public welfare" was changed to "Public assistance in subsection (1) [formerly (a)] for consistency and to update language. "or" was added to subsection (2) [formerly (b)] for grammatical reasons.

Sections 24 and 25. <u>Sections 71-233.1</u> and <u>71-233.3</u>. "Public Welfare" was changed to "public assistance" throughout these sections for consistency and to update language.

Section 26. <u>71-302.2</u>. "His" was changed to a qualified applicant's in the first paragraph to facilitate recodification (this section will be substantially broken up and "his", as a result, will lose its antecedent). "General relief" was added in paragraph one for consistency and clarification.

Sections 27 through 30. Sections 71-303, 71-305, 71-306, and 71-307. "General" or "general relief" was added to these sections for consistency and clarification.

Section 31. 71-308. "Relief" was added in subsection (4) for consistency and clarification.

Section 32. <u>71-311</u>. The "6-mill levy" and "per capita tax" language was changed to "13-5- mill levy" in the first paragraph for consistency and clarification and to further legislative intent shown by section 2, Chapter 279, Laws 1974, in which the "17-mill" language was changed in 71-106 but not in 71-311. "Welfare" was changed to "public assistance" for consistency and to update language. "State department may

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authorize the state department" was changed to "state department is authorized" in the second paragraph for grammatical reasons.

Section 33. <u>71-314</u>. "General relief" was added for consistency and clarification.

Section 34. <u>71-501</u>. "Welfare" was changed to "public assistance" in subsection (1) for consistency and to update language. "And" was changed to "or" in subsection (1) to further legislative intent and to clarify an otherwise contradiction. "Who is living" was changed to "be living" in subsection (1) for grammatical reasons and clarification. "Children" was changed to "child" in subsection (1) for grammatical reasons.

Section 35. <u>71-509</u>. The first "sentence" of the third paragraph, which is not a complete sentence, was amended to make it a complete sentence and to bring this section into line with current federal regulations.

Section 36. <u>71-710</u>. "And" was added to the last sentence of this section for grammatical reasons.

Section 37. <u>71-901</u>. References to "the Public Welfare Act" and "public welfare purposes" were deleted and "for public assistance purposes" was added to aid recodification.

Section 38. <u>71-1401</u>. "The following definitions apply" was added to this definitional section to make the lead-in phrase a complete thought, thereby eliminating certain punctuation problems that could not be solved by compiler's changes.

Section 39. <u>71-1516</u>. This section was amended for style and grammatical purposes only.

Section 40. <u>71-1903</u>. "Mentally disabled" was changed to "developmentally disabled" in subsection (1) for consistency with the rest of the section and for clarification.

Section 41. <u>71-2304</u>. "The following definitions apply" was added to this definitional section to make the lead-in phrase a complete thought, thereby correcting certain punctuation problems. In subsection (6), "and" was added for grammatical reasons and clarification. "Their" was changed to "his" and "them" to "him" in subsection (6) for grammatical reasons.

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Section 42. <u>71-2404</u>. "And" was added in the second sentence for grammatical reasons and clarification.

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Section 43. 71-2405. "Or" was added to the last sentence in subsection (1) for grammatical reasons and clarification.

Section 44. <u>80-1405</u>. "The purposes of this act" was changed to "its functions under this title" in subsection (3) to aid recodification.

Section 45. <u>80-1410</u>. "Biannual" was changed to "biennial" for clarification ----- there are no biannual appropriations.

Section 46. <u>80-1413</u>. "Or custodial" was deleted in the first sentence to clarify that only a penal and corrective institution may be directed to participate in research programs.

Section 47. <u>80-1603</u>. "And" was added in subsection (3) for grammatical reasons. "Or" was changed to "of" in subsection (5) to correct an apparent misprint and for clarification.

Section 48. <u>80-1912</u>. The "board of state prison commissioners" was changed to the "department of institutions", which has taken over the functions of the now defunct board.

Section 49. 80-2412. Articles III (a) and XIV were amended to add language left out of Montana"s version of the Interstate Compact on Mental Health.

Sections 50 and 51. 80-2701 and 80-2702. The phrase "alcohol and drug dependence" was changed to "alcoholism and drug dependence" throughout these sections for purposes of clarification.

Section 52. <u>80-2717</u>. "Who" was added in subsection (1) for purposes of clarification. "Retained" was changed to "detained" in subsection (3) for clarification and to correct poor word choice. "Who" was changed to "which" in subsection (6) for grammatical reasons.

Section 53. <u>80-2802</u>. "And" was added to subsection (5) for grammatical reasons.

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Section 54. <u>Repealer</u>. Section 71-101, which vests the "Superintendence" of the poor" in the board of county commissioners, was repealed as outdated, and because 71-221 provides a similar function to 71-101. Sections 71-107 and 71-118, relating to poor farms, were repealed as outdated and no longer necessary. Section 71-233.5, which defines "public welfare" and "welfare" for the purposes of sections 71-233.1 through 71-233.4, was repealed as outdated and no longer necessary. In this regard, sections 25 and 26 of this bill amend the references to "public welfare" or "welfare" in 71-233.1 through 71-233.4 (which appear only in 71-233.1 and 71-233.3) to read "public assistance", and 71-201.1 (2) defines "public assistance" in almost the exact language 71-233.5 used in defining "public welfare" and "welfare" (71-201.1 (2) applies to entire Title 71). HE 0030/02

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Аp	proved	by Committee
on	Public	Health,Welfare
ÔC.	Safety	•

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HOUSE BILL NC. 30

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A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 4 CLARIPY THE LAWS BELATING TO VCCATIONAL BEHABILITATION, 5 6 PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY DISABLED. AND THE MENTALLY ILL: AMENCING SECTIONS 38-110, 7 38-120, 38-210, 38-506, 38-1202, 38-1205, 38-1206, 38-1208, 8 9 38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211, 10 71-212. 71-213. 71-214. 71-216. 71-217. 71-222. 71-226. 71-230, 71-233,1, 71-233,3, 71-302,2, 71-303, 71-305, 11 12 71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509, 13 71-710, 71-901, 71-1401, 71-1516, 71-1903, 71-2304, 71-2404, 14 71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912, 15 80-2412, 8C-27C1, 80-2702, 80-2717, AND 8C-2802, B.C.H. 16 1947: AND REPEALING SECTIONS 38-210, 71-101, 71-107, 71-118, 17 AND 71-233.5. B.C.M. 1947."

INTRODUCED BY BARDANOUVE

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

20 Section 1. Section 38-110, R.C.M. 1947, is amended to 21 read as follows:

*38-11C. Maintenance of indigent percens <u>ratients</u> on
discharge. Prior to the discharge of a patient from a mental
health facility, the professional person in obarge of the
facility shall notify the welfare department of the county

SECOND READING

1 from which the patient was committed. The county welfare department shall at once ascertain whether the discharged 2 patient is in financial need. If the matient is found to be 3 61 in financial need, the county welfare department shall 5 properly care for and maintain the discharged patient under the laws of this state relating to public welfare assistance 6 7 until the patient is able to care for himself, or until 8 another provision has been made for care of the patient." 9 Section 2. Section 38-120, R.C.M. 1947, is amended to 10 read as follows: #38-120. Receipt of nonresident incame person who is 11 12 seriously mentally ill pending return to home state. An 13 insame A person, who is seriously mentally ill and not a 14 resident of this state, may be received into the state 15 hospital for a period not to exceed thirty-{30} days pending 16 return to the state of his residence." 17 18 read-as-follows+ 19 #38-210, -- Moneys Disposal-of-generg of on-person-who-is 20 21 PEEGOD--is--edjudged-insane to be serievely eetally ill and 22 ordered-committed-to-the-state-bospitaly-or-is--adjudged--te 23 be--in---even-a-condition-of-pind-that-he-should-be-flaced-in 24 the state hoppital for cheersation, the sonoy found - on - his 25 at- the- time-be-in-taken-inte-ourtedy-weet-be-gertified-to-by

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2 3 4	The-monoy-must-be-delworedtothesuperintendentsfthe statehespitalywhose-receipt-for-the-money-shall-be-takem by-the-officer-or-other-person-deliwering-him- <u>the-potient</u> to the-hespitalyy who <u>The-officer</u> must-filethereceiptwith theslerksfthe-district-court-of the-scunty-in-shich-the
4	by the officer or other person delivering his the patient to the hespitaly, who <u>The officer</u> suct file - the - receipt - with
	the hespitalyy who The offiger aust-filethereceiptwith
-	
5	theslerksfthe-district-court-of-the-sounty-in-shich-the
6	-
7	proceedings-were-beldIf-theamountexceedssushundred
8	dellars-{\$100},-the-exces-sust-be-applied-te-the-payment-of
9	theexponsesoftheperson-while-in-the-hespitalIf -the
10	amount-is-one-hundrod-dollars-{\$400}-or-lessy itaustbe
11	<u>kept-and-delivered-to-the-person-when-discharged-er-releared</u>
12	fromtho-hospital-or-applied-im-paymont-of-functal-capenace
13	if-the-person-dies-whileimthehospitalvIfamamount
14	Femilastothe -sredit-of-a-person-parolady-discharged, or
15	roleasedy-or-aftor payment-of-the-funeralexpenses ofthe
16	personwhodieswhileinthehespitalyand-the-asount
17	remains
18	discharge,release,ordeath, fifty-per-cent-(50%)-of-the
19	amounty-but-not-in-any-ovent-excoeding-fifty-dollars{\$50}*
20	shall-be-withdrawn-from-the-account-and-plaged-in-th e-agency
21	fundinthestatetreasury,to-bo-expended-for-indigent
22	pationts-at-thetimesandinthemannerandfersuch
23	purposesasmay-be-preseribed-by-the-superintendent-si-the
24	bospitalb-balanse-whichrowainstothesreditsfthe
25	person,shall-bo-transmitted-to-the county-treasurce-of-the

county-from-which-the-person-was-menty-and-if-a-sum--remains
 after-paying-the-couts-of-hearing,-and-transportation-to-the
 heapitaly--the-balance-shall-be-paid-inte-the-state-treaswry
 to-the-state-of-the-general-fund.¹¹
 Section 3. Section 38-506, B.C.M. 1947, is amended to

6 read as follows:

7 "38-506. Support of patient conditionally released. When a mental health facility conditionally releases a 8 patient committed to its care, it is not liable for his 9 10 support while conditionally released. Liability devolves upon the legal quardian, parent, or person under whose care 11 the patient is placed when conditionally releasedy or upon 12 13 any other person legally liable for his support. The public welfare officials of the county where the patient resides or 14 15 is foundy are responsible for providing relief and care for 16 a conditionally released patient who is unable to maintain himself, or who is unable to secure support from the person 17 18 under whose care he was placed on convalescent leave, like 19 any other person in need of relief and care, under the 20 public welfare assistance laws." 21 Section 4. Section 38-1202, R.C.M. 1947, is amended to 22 read as follows: 23 "38-1202. Definitions. As used in this act the

24 <u>fcllcwing definitions apply</u>:

25 (1) "Poard" means the mental disabilities board of

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visitors created by this act.

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(2) "Community-based facilities" or "community-based 2 services" includes those services and facilities ٦ ii. which are available for the evaluation, treatment, and habilitation of the developmentally disabled in a community 5 setting, including but not limited to, outpatient 6 7 facilities, special education services, group homes, foster homes, day-care day-care facilities, sheltered workshops, A ٩ and other community-based services and facilities.

10 (3) "Court" means the <u>a</u> district court of the state of
11 Montana.

12 (4) "Developmentally disabled" sears suffering from disabilities attributable to mental retardation, cerebral 13 palsy, epilepsy, autism, or any other neurologically 14 15 handicapping condition closely related to mental retardation 16 and requiring treatment similar to that required by mentally retarded individuals+, which condition has continued or can 17 be expected to continue indefinitely and constitutes a 18 substantial handicar of such individuals. 19

20 (5) "Hatilitation" means the process by which a person 21 who is developmentally disabled is assisted to acquire and 22 maintain those life skills which enable him to cope more 23 effectively with the demands of him own person and 24 environment and to raise the level of him physical, mental, 25 and social efficiency. Habilitation includes but is not

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1 limited to formal, structured education and treatment.

2 (6) "Next of kin" includes but need not be limited to
3 the spouse, parents, adult children, and adult brothers and
4 sisters of a person.

5 (7) "Professional person" means:

(a) a medical dcctcry; cr

6

7 (b) a person trained in the field of developmental
8 disabilities and certified by the department of institutions
9 or the department of social and rebabilitation services in
10 accordance with standards of professional licensing boards,
11 federal regulations, and the joint commissions on
12 accreditation of hospitals.

13 (8) "Resident" means a person admitted to a
14 residential facility for a course of evaluation, treatment,
15 or habilitation.

16 (9) "Residential facility" or "facility" means any 17 residential hospital or hospital and school which exists for 18 the purpose of evaluating, treating, and habilitating the developmentally disabled on an inpatient basis, including 19 20 the Boulder River School school and Hecpital hospital and the Eastmont Training-Conter training center. The term does 21 22 not include a group home, or foster home, or a halfway 23 house. A correctional facility or a facility for the 24 treatment of the mentally ill shall not be a "residential 25 facility" within the meaning of this act.

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(10) "Respondent" means a person alleged in a petition
 filed pursuant to this act to be developmentally disabled
 and in need of developmental disabilities disability
 services.

5 (11) "Responsible person" means any person willing and 6 able to assume responsibility for a person who is 7 developmentally disabled or alleged to be developmentally 8 disabled. Whenevery in any proceeding under this act, the 9 court believes that a conflict of interest may exist between a person who is developmentally disabled or alleged to be 10 11 developmentally disabled and his parents or quardiany or 12 that the parents or guardian are unable to protect the 13 interests of such person, or whenever there is no parent or 14 quardian, the court shall appoint a responsible person to 15 protect the interests of the person who is developmentally 16 disabled or alleged to be developmentally disabled. Only 17 one person shall at any one time be the responsible person 18 within the meaning of this act. In appointing a responsible 19 person, the court shall consider the preference of the 20 respondent or patient. The court may at any time, for good 21 cause shown, change its designation of who is the 22 responsible person.

23 (12) "Seriously developmentally disabled" means
24 developmentally disabled due to developmental or physical
25 disability or a combination of both rendering a person

1 unable to function in a community-based setting."

Section 5. Section 38-1205, R.C.B. 1947, is amended to
read as follows:

4 "38-1205. Procedure for reporting developmentally 5 disabled Petition for involuntary treatment. (1) Any person 6 who believes that there is a person who is developmentally 7 disabled and in need of developmental disability services may report the situation to a professional person. If the 8 professional person believes from the facts given to him 9 that the person may be developmentally disabled and in need 10 of developmental disability services, he shall cortact the 11 parents or guardian of the person alleged to be 12 developmentally disabled or the person himself. If any cf 13 the persons so contacted refuse to cooperate with the 14 15 professional person and if the professional person telieves 16 from all the circumstances of the case that the person way 17 be developmentally disabled and in need of developmental 18 disabilities disability services, he shall request the 19 county attorney to file a petition alleging that there is a 20 person in the county who is developmentally disabled and in 21 need of developmental disabilities disability services.

22 (2) The petition shall contain the rate and address
23 of:

(a) the name and address of the professional person
 and any other person requesting the petition, and their

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1 interest in the case;

2 (b) the name and address of the respondent;

3 (c) the name and address of the parents or guardian of
4 the respondent, and of any other person believed to be
5 legally responsible for the care, support, and maintenance
6 of the respondent;

7 (d) the name and address of the respondent's next of
8 kin, to the extent known;

9 (e) the name and address of any person whom the county
10 attorney believes might be willing and able to be appointed
11 responsible person; and

12 (f) a statement of the rights of the respondent and
13 his parents or guardian which shall be in conspicuous print
14 and identified by a suitable heading.

(3) Open presentation to the court by the county 15 attorney, the court shall immediately consider the petition 16 with or without a hearing to determine if there is probable 17 cause to believe that the respondent is developmentally 18 disabled and in need of evaluation and treatment. If the 19 court finds no such probable cause, it shall dismiss the 20 petition. If the court finds that probable cause does 21 exist, it shall direct a professional person to examine the 22 respondent and to make an inquiry concerning the 23 24 circumstances of the case. Such examination shall not exceed four (4) hours in length. If probable cause is 25

1 found, the court may appoint a responsible person other than 2 the respondent's parents or quardian to protect the 3 interests of the respondent. The responsible person shall 11 be notified as scon as possible that a retition has been 5 filed. Notice of the petition and the finding of probable 6 cause shall be mailed or delivered to the respondent and to 7 all other persons named in the petition and to any rerson 8 who would have been named in the petition had his name. 9 address, and relationship to the respondent been known at 10 the time.

11 (4) When the professional person first contacts the 12 respondent, before he begins any examination, he shall give 13 the respondent a copy of the petition and explain to the 14 respondent the nature of the proceeding and his rights as 15 set forth in the retition. If the respondent is incapable of understanding the explanation and proceeding. the 16 17 professional person shall give the petition and make the 18 explanation to the parents or quardian of the respondent. 19 Before making any inquiry of the parents or quardian of the 20 respondent, the professional person shall give them a copy 21 of the petition, and explain the nature of the proceeding 22 and their rights as set forth in the petition." 23 Section 6. Section 38-1206, R.C.B. 1947, is amended to

24 read as follows:

25 "38-1206. Petition-disaisal-----bearing-----seensel-----

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1 treatment Action on retition. (1) If the professional 2 person, based on his examination and inquiry, determines З that the respondent is not developmentally disabled or is â, not in need of developmental disability services, he shall 5 report this finding in writing to the court and the petitics 6 shall be dismissed. If the professional rerson concludes 7 that the respondent is developmentally disabled and in need 8 of developmental disability services, be shall report this 9 conclusion to the court in writing together with his 10 recommendations for evaluation and treatment. The rerort 11 shall include an explanation of the basis on which the 12 professional person has reached his conclusion and shall 13 include a description of any tests or evaluation devices be 14 has employed. If the professional person's recommendation 15 is for further evaluation and treatment, notice of this 16 recommendation shall be sent to the respondent, his parents 17 or quardian, the next of kin, the responsible person 18 appointed by the court, if any, and any attorney representing the respondent or his parents or quardian. If 19 20 no responsible person has yet been apprinted, the court may 21 appoint one at this time.

(2) If the respondent, his parents or guardian, the
responsible person, if any, or counsel for any party
requests a hearing on the recommendation, the court shall
set a time and place for hearing. The hearing shall be

before the court without a jury. The rules of civil
 procedure shall apply.

(3) Prior to any bearing held pursuant to this 3 section, the court shall appoint counsel to represent the 8 5 respondenty if the respondent has not retained independent counsel. The parents (or guardian) shall be infersed of 6 7 their right to counsel, and if they are indigent, the court 8 shally on their requesty appoint counsel for them. In no case chall may the same attorney represent the respondent 9 10 and his parents or quardian.

11 (4) If the bearing is vaived or if the court finds, 12 after bearing, that the respondent is developmentally 13 disabled and in need of further evaluation and treatment. 14 the court shall order that the respondent undergo such 15 evaluation and treatment. Evaluation and treatment crdered 16 pursuant to this subsection shall may not be for ne more 17 than thirty-(30) days. It shall take place in the least 18 restrictive environment in which the necessary evaluation 19 and treatment can be accomplished. Evaluation and treatment 20 in a residential facility shall way be ordered only if the 21 necessary evaluation and treatment cannot be accouplished 22 through the use of community-based facilities."

23 Section 7. Section 38-1208, R.C.B. 1947, is amended to
24 read as follows:

25 "38-1208. Recommendation to residential facility. (1)

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If as a result of the evaluation and treatment, either 1 agreed to by the parents, guardian, or the person himself 2 cursuant to section 38-1204 or ordered by the court, the 3 a professional person in charge of the case concludes that the 5 person evaluated is seriously developmentally disabled and recommends that treatment and habilitation be had in a 6 7 residential facility on an extended basis, the professional 8 cerson shall file his written recommendation and report with the court and request that the court order the 9 10 admission. The report shall include the factual basis for the recommendation- and shall describe any tests or 11 evaluation devices which have been employed in evaluating 12 the ratient. If no responsible person has yet been 13 appointed, the court may appoint one at this time. If there 14 is no parent or quardian, the court shall appoint a 15 16 responsible person. At the request of the respondent, his 17 parents or quardian, or the responsible person, the court shall appoint counsel for the respondent. If the parents 18 (or quardian) are indigent and if they request it, the court 19 shall appoint counsel for the parents or quardian. Notice 20 of the recommendation shall be sailed or delivered to the 21 22 respondent, his parents or guardian, the responsible person, next of kin, if known, and the attorney for the respondent, 23 if any, and for the parents or quardian, if any. 24

25 (2) The respondent, his parents or guardian, the

responsible person, or the attorney for any party may request that a hearing te had on the recommendation. If a hearing is requested, the court shall mail or deliver notice of the date, time, and place of the hearing to each of the parties listed at the beginning of this subsection. The hearing shall be to the court without jury. The rules of civil procedure shall apply.

8 (3) If the court finds that the respondent is 9 seriously developmentally disabled and that available compunity-based services are not adequate, it shall order 10 11 the respondent admitted to a residential facility for an 12 extended course of treatment and habilitation. If the court 13 finds that the respondent is developmentally disabled, and in need of developmental disabilities disability services. 14 but and that available compunity-based services are 15 16 adequate, it shall order the respondent to undertake a community-based course of treatment and habilitation. If 17 18 the court finds that the respondent is not developmentally 19 disabled or is not in need of developmental disability services, it shall dismiss the request. 20

21 (4) If none of the parties notified of the 22 recommendation request a hearing, the court may issue an 23 order authorizing the person to be admitted to the 24 residential facility for an extended period of treatment and 25 habilitation, or the court may initiate its own inquiry as

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to whether the order should be granted. The court may
 refuse to authorize admission of a person to a residential
 facility for an extended period of treatment and
 habilitation if such admission is not in the best interests
 of the person.

6 (5) If any person is admitted to a residential 7 facility for an extended course of habilitation without a 8 hearing, and if subsequent to such admission one of the 9 parties who could have requested a bearing learns that an 10 alternative course of treatment is available which is more 11 suitable to the needs of the resident, the party may request 12 the professional person in charge of the resident to release 13 the resident to the alternative, if it is a community-based 14 alternative, cr transfer the resident to the alternative, if it is a residential alternative. Any such transfer or 15 release shall comply with the requirements of section 16 17 38-1209. If the professional person in charge of the 18 resident refuses to authorize the release or transfer. then 19 the party may petition the court for a hearing to determine 20 whether the present residential alternative should be 21 continued. The hearing shall couply with the procedures set 22 forth in subsection (2) of this section."

23 Section 8. Section 38-1222, R.C.E. 1947, is amended to
24 read as follows:

25 "38-1222. Othor-rights-while-in-a-residential-facility

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facilities shall have a right to habilitation, including 2 3 medical treatment, education, and carey suited to their needs, regardless of age, degree of retardation, or 4 handicapping condition. Bach resident has a right to a S. habilitation program which will maximize his human abilities 6 and enhance his ability to cope with his environment. Every 7 residential facility shall recognize that each resident, 8 9 regardless of ability or status, is estitled to develop and realize his fullest potential. The facility shall implement 10 11 the principle of normalization so that each resident may 12 live as normally as possible. (2) Residents shall have a right to the least 13 14 restrictive conditions necessary to achieve the purposes of habilitation. To this end, the facility shall make every 15 16 attempt to move residents from:

<u>Bight to habilitation</u>. (1) Persons admitted to residential

- 17 (a) more to less structured living;
- 18 (b) larger to smaller facilities;
- 19 (c) larger to smaller living units;
- 20 (d) group to individual residence;

21 (e) segregated from the community to integrated into22 the community living;

23 (f) dependent to independent living.

24 (3) Within thirty-(30) days of his admission to a
 25 residential facility, each resident shall have an evaluation

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by appropriate specialists for programming purposes.

(4) Each resident shall have an individualized 2 З habilitation plan formulated by the facility. This plan ы shall be developed by appropriate professional persons and E, implemented as seen as possible but no later than fourteen 6 -414+ days after the resident's admission to the facility. 7 In interim crogram of habilitatics, based on the 8 preadmission evaluation conducted pursuant to this act, 9 shall commence promptly upon the resident's admission. Each individualized habilitation plan shall contain: 10

11 (a) a statement of the nature of the specific
12 limitations and specific needs of the resident;

(b) a description of intermediate and long-range
habilitation goals with a projected timetable for their
attainment;

(c) a statement of, and an explanation for, the plan
of habilitation for achieving these intermediate and
long-range gcals;

49 (d) a statement of the least restrictive setting for
20 habilitation necessary to achieve the habilitation goals of
21 the resident;

(e) a specification of the professional persons and
other staff members who are responsible for the particular
resident's attaining these habilitation goals;

25 (f) criteria for release to less restrictive settings

for habilitation, including criteria for discharge and a
 projected date for discharge.

3 (5) As part of his babilitation plan, each resident 4 shall have an individualized sect-institutionalization 5 postinstitutionalization plan. This plan shall be developed 6 by a professional person who shall begin preparation of such 7 plan upon the resident's admission to the institution and 8 shall complete such plan as soon as practicable. The 9 parents or quardian or next of kin of the resident, the responsible person appcinted by the court, if any, and the 10 11 resident, if able to give informed consent, shall be 12 consulted in the development of such plan and shall be 13 informed of the content of such plan.

14 (6) In the interests of continuity of care, one 15 professional person shall whenever cossible be responsible for supervising the implementation of the habilitation plan, 16 17 integrating the various aspects of the habilitation 18 program, and recording the resident's programs as measured by objective indicators. This professional person shall 19 20 also be responsible for ensuring that the resident is 21 released when appropriate to a less restrictive habilitation 22 setting.

23 (7) The habilitation plan shall be continuously
24 reviewed by the professional person responsible for
25 supervising the implementation of the plan and shall be

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modified if necessary. In addition, cir. (6) months after 1 admission and at least annually thereafter, each resident 2 shall receive a conprehensive reychological, social, 3 educational, and medical diagnosis and evaluation, and his 4 habilitation plan shall be reviewed by an interdisciplinary 5 team of no less than two (2) professional persons and such 6 7 resident care workers as are directly involved in his babilitation and care. A babilitation plan shall be 8 reviewed monthly. 9

10 (8) Each resident discharged to the community shall
11 have a program of transitional habilitation assistance.

(9) The professional person in charge of the 12 13 residential facility shall report in writing to the parents 14 or guardian of the resident, or the responsible person, at least every six--{6} acaths on the resident's educational, 15 vocational, and living skills progress and medical 16 17 condition. Such report shall also state any appropriate habilitation program which has not been afforded to the 18 19 resident because of inadequate babilitation resources.

20 (10) The parents or guardian of each resident, or the 21 responsible person appointed by the court, shall promptly 22 upon the resident's admission receive a written copy of all 23 the above standards for adequate habilitation. Each 24 resident, if the resident is able to comprehend, shall 25 promptly upon his admission be orally informed in clear

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language of the above standards and, where appropriate, be 1 provided with a written copy." 2 Section 9. Section 38-1302, R.C.E. 1947, is arended to 3 read as fellews: 4 #38-1302. Definitions. As used in this act the 5 following definitions_apply: 6 (1) "Board" means the mental disabilities board of 7 visitors created by this act. R (2) "Court" means the a district court of the state of Q. 10 Scutana. (3) "Department" means the department of institutions 11 12 provided for in Title 824, chapter 10. 13 (4) "Bmergency situation" means a situation is which any person is in imminent danger of death or serious todily 14 15 harm from the activity of a person who appears to be seriously mentally ill. 16 (5) "Mental disorder" seaps any organic, sental, or 17 emotional impairment which has substantial adverse effects 18 19 on an individual's cognitive or volitional functions. (6) "Rental health facility" or "facility" means a 20 public hospital or a licensed private hospital or, a 21 22 compunity mental health center, or any mental health clinic or treatment center approved by the department. Bo 23 24 correctional institution or facility or jail, is a sental 25 health facility within the meaning of this act.

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(7) "Next of kin" shall include, but need not be
 limited to, the spouse, parents, adult children, and adult
 brothers and sisters of a person.

4 (8) "Patient" means a person committed by the court to
5 a seventy-two---(72)-hour 72-hour evaluation or treatment or
6 for a longer period.

7 (9) "Peace officer" means any sheriff, deputy sheriff,
8 marshal, pcliceman, or other peace officer.

9 (10) "Professional person" means:

10 (a) a medical doctory; or -

(b) a person trained in the field of mental health and
certified by the department of institutions in accordance
with standards of professional licensing boards, federal
regulations, and the joint commission on accreditation of
hospitals.

16 (11) "Respondent" means a person alleged in a petition
17 filed pursuant to this act to be seriously mentally ill.

(12) "Responsible person" seans any person willing and 18 able to assume responsibility for a seriously mentally ill 19 20 person, or person alleged to be seriously mentally ill, 21 including next of kin; the person's conservator or legal 22 quardian, if any; representatives of a charitable or religious organization; or any other person appointed by 23 24 the court to perform the functions of a "responsible person" set out in this act. Cnly one person shall at any one time 25

1 be the #responsible person# within the meaning of this act. 2 In appointing a responsible person, the court shall consider 3 the preference of the respondent. The court xay_7 at any 4 time for good cause shown₇ change its designation of the 5 #responsible person#.

(13) "Seriously mentally ill" means suffering from a 6 7 mental disorder which has resulted in self-inflicted injury 8 or injury to others, or the issignent threat thereof, or 9 which has deprived the person afflicted of the ability to 10 protect his life or health. No person may be involuntarily 11 consitted to a mental health facility non or detained for 12 evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, serile, or suffering 13 from a mental disorder unless the condition causes the 14 15 person to be seriously mentally ill within the meaning of 16 this act."

17 Section 10. Section 41-817, R.C.H. 1947, is amended to
18 read as follows:

19 #41-817. Definitions. (1) "Severely handicapped
20 person" means any individual:

(a) who has a physical cr mental impairment which
requires multiple services over an extended period cf time
and results from amputation, blindness, cancer, cerebral
palsy, cystic fibrosis, deafness, heart disease, hemiplegia,
respiratory or pulmonary dysfunction, mental retardation,

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neutal illness, multiple sclerosis, muscular dystropby,
 neurological disorders (including stroke and erilersy),
 paraplegia, quadriplegia, and other spinal cord conditions,
 renal failure, and any other disability, specified by the
 department in regulations it shall prescribe; and/or

6 (b) who, because of lack of social competence,
7 mobility, emperience, skills, training, or other successful
8. characteristics, is in need of sheltered employment or work
9 activity services in a protective setting.

10 (2) "Physical or mental disability" means a physical 11 or mental condition which saterially limits, contributes to 12 limiting, or, if not corrected, will probably result in 13 limiting an individual's activities or functioning. The term 14 includes behavioral disorders characterized by deviant 15 social behavior or impaired ability to carry out normal relationships with family and community which may result 16 17 from vocational. educational. cultural, sccial. 18 environmental, or other factors.

19 (3) "Vocational rehabilitation services" means goods 20 or services provided handicapped persons to enable such 21 persons to be fit for gainful occupation or to attain or 22 maintain a maximum degree of self-support or self-care and 23 includes every type of goods and services for which federal 24 funds are available for vocational rehabilitation purposes, 25 including, but not limited to, the establishment,

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construction, development, operation, and maintenance of
 workshops and rehabilitation facilities.

3 (4) "Self-care" means a reasonable degree of
restoration from dependency upon others for personal needs
and care and includes but is not limited to ability to live
in own homey rather than requiring nursing home care and
7 care for self rather than requiring attendant care.

8 (5) "Department" means the department of social and
9 rehabilitation services.

10 (6) "Sheltered workshop" charitable seans а 11 organization or institution conducted not for profity but 12 for the purpose of carrying out a recognized program of rehabilitation for handicarred workers,---and/or providing 13 such individuals with remunerative engloyment cr other 14 15 occupational rehabilitating activity of an educational or 16 therapeutic nature.

17 (7) "Work activity center" means a physically 18 separated department of a workshop having an identifiable program, separate supervision and records, and which is 19 20 planned and designed exclusively to provide therapeutic 21 activities for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity 22 23 inconsequential. Therapeutic activities include custodial activities (such as activites where the focus is on teaching 24 the basic skills or of living), and any purposeful activity 25

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so long as work or production is not the main purpose."
 Section 11. Section 71-113, B.C.M. 1947, is amended to
 read as follows:

"71-113. Bond of contractor -- duty of physician to 44 examine and notify contractor. Any A person with whom any a 5 б such contract for the maintenance or medical attendance of the poor or indigent sick is made must execute a bond to the 7 8 state in a sum not less than one thousand \$1,000 nor or more 9 than five-thousand-dollars \$5,000, with two or more sureties, conditioned for the faithful performance of his 10 11 contract+. said The bond is to be approved by and filed with 12 the chairman of the toard. It--is--the--duty--of--the The physician with whom the a contract for medical attendance is 13 14 made to-examine shall each week examine any person who is a 15 charge upon the county, and ify after such the examinationy be is satisfied that such the person is able to support and 16 maintain himself, he must so notify the contractor having 17 the person in charge, by leaving with the contractor a 18 notice of the fact that such the person requires no further 19 medical attendancer, and <u>He shall</u> file a duplicate thereof 20 21 notice with the clerk of the board. After the serving--of 22 said physician serves the notice and filing files the 23 duplicate thereof with the clerk, the person mentioned therein ceases to be a charge upon the county." 24

25 Section 12. Section 71-207, R.C.H. 1947, is amended to

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1 read as follows: 2 "71-207. Legal-services <u>Attorney general to act as</u> 3 legal adviser to department. The attorney general of the а state shall act as legal adviser to the state department. 5 and shall perform such legal services as may be required, 6 and he--is--hereby--empewered--to may employ such other and 7 additional counsel as may be necessary for this purcese, and 8 may fix the compensation therefory, provided, however, -- that 9 the The total yearly sum per-annum for the service shall may 10 not exceed twonty-four-bandred-{\$2,400-00}-dellare, which 11 compensation shall be paid cut of state public welfare 12 assistance funds." 13 Section 13. Section 71-210, B.C.B. 1947, is amended to 14 read as follows: 15 "71-210. Authority Powers and activities duties of the 16 state department. (1) The--state-department-has-authority 17 18 and--operations--as- set --forth--under--Title--71- The state 19 department shall: 20 (a) Administer administer or supervise all forms of 21 public assistance, child protection, and child welfare. 22 including the provision of medical care payments in behalf

23 of recipients of public assistance;

(b) Administer <u>administer</u> or supervise all child
 welfare activities, including importation and exportation of

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children; licensing and supervising of private and local
child-caring agencies; the care of dependent, neglected, and
delinguent children in foster family homes, especially
children placed for adoptice or those of illegitimate birth;
(c) Give give consultant service to private
institutions providing care for the needy, indigent,
handicapped, or dependent adults;

8 (d) Bovelep and ccoperate with other state agencies
9 <u>and_develop</u> provisions for services to the blind, including
10 the prevention of blindness, the location of blind persons,
11 medical services for eye conditions, and vocational guidance
12 and training of the blind;

(e) Previde rrovide services in respect to
organization and supervise county departments of public
welfare and county boards of public welfare in the
administration of public welfare assistance functions, and
for efficiency and economy;

(f) leaster assist and cooperate with other state and
federal departments, bureaus, agencies, and institutions,
when so requested, by performing services in conformity with
the purposes of this act, public assistance purposes; and

(g) desinister administer and supervise all federal
funds allocated to this state and all state funds
appropriated to this the state department for the activities
set forth in Title 71 public assistance activities. The

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state department shall do all things necessary, in
 conformity with federal and state law, for the proper
 fulfillment of the purposes-set-forth-in-fitle-74 public
 assistance_purposes.

(2) The state department may:

5

(a) Perchase purchase, exchange, condemn, or receive
by gift, either real or personal property which is necessary
to carry out its <u>public assistance</u> functions ander Title 71.
Title to property obtained under this subsection shall be
taken in the name of the state of Montana, for the use and
benefit of the state department.

(b) Contract contract with the federal government to
carry out its <u>public assistance</u> functions under Fitle-74.
The state department may do all things necessary in order to
avail itself of federal aid and assistance."

Section 14. Section 71-211, R.C.M. 1947, is amended to
read as follows:

18 "71-211. State department to act as agency of federal 19 government -- assistance to ward Indians. (1) The state 20 department shall act as the agent of the federal government 21 in public welfare assistance matters of mutual concern in 22 conformity with this act and the **Pederal** Social 23 Security Act, and in the administration of any federal funds 24 granted to the state to aid in the surroses and functions of 25 the state department.

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(2) The counties shall not be required to reimburse 1 the state department for any portion of old-age assistance, 2 medical assistance, aid to meedy dependent children, or aid 3 to needy blind, or aid to the totally disabled paid to ward a 5 Indians or for any rayment on behalf of any person in a state-operated medical institutiony, further-provided-that 6 the The federal government may reinfurse the state of 7 Montana in behalf of counties, providing general relief to 8 ward Indians, a sum in lieu of taxes which the counties 9 would collect if the lands of such ward Indians were not in 10 trost status. A "ward Indiam" is hereby defined as an Indian 11 who is living on an Indian reservation set aside for tribal 12 user or is a member of a tribe or maticn accorded certain 13 rights and privileges by treaty or by federal statutes. If 14 and when the federal federal Social Security Act is amended 15 to define a "ward Indian,", such definition shall supersede 16 the foregoing definition." 17

18 Section 15. Section 71-212, B.C.B. 1947, is amended to
19 read as follows:

20 *71-212. State Fover of state department in 21 <u>administering state</u> grants-in-aid. In administering or 22 supervising any state or federal funds appropriated or made 23 available to the state department for public welfare 24 <u>assistance</u> purposes, the state department shall have the 25 authority to: 1 (a)(1) Require require as a condition for receiving
2 grants-in-aid that the county shall bear the properties of
3 the total of local public assistance as is fixed by law
4 relating to such assistance.;

5 (b)(2) Make make use of all legal processes to enforce 6 the minimum standards prescribed by the state department 7 under laws providing for grants-in-aid, provided that such 8 standards shall not exceed in cost the amount derived from 9 levies established by state law-<u>; and</u>

10 (o) (3) Require require that each part of this act the
11 public assistance laws shall be in effect in all counties of
12 the state.*

13 Section 16. Section 71-213, R.C.H. 1947, is amended to
14 read as follows:

15 "71-213. County departments to be established. There shall be established in each county of the state a county 16 17 department of public welfare which shall consist of a county board of public welfare and such staff personnel as may be 18 necessary for the efficient performance of the public 19 20 welfare assistance activities of the county. Providedy hesevery -- if If conditions warrant and if two or more county 21 boards enter into an agreement, two or more counties may 22 combine into one administrative unit and use the same staff 23 24 personnel throughout the administrative unit."

25 Section 17. Section 71-214, R.C.M. 1947, is amended to

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read as follows:

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2 #71-214. County commissioners ex officic county 3 velfage board -- cospensation. The board of coupty а counissioners, ex officic, shall be the county welfare board and is hereby authorized to devote such additional time for 5 6 public welfare assistance matters as may be found necessary. 7 The members of the county welfare board shall receive the 8 same compensation for their services and the same mileage 9 when acting as the county board of public welfare as they 10 receive when acting as the board of county commissioners and 11 shall be limited as to meetings as now provided by law, and 12 the compensation and mileage of the members of the board 13 shall be paid from county funds. They may transact business 14 as a board of county commissioners and as a county welfare 1.5 board on the same day, and in such cases they shall be paid 16 as a board of county commissioners, but shall-in-no-case may ngt receive compensation for more than one 1 day's work for 17 all services performed on the same calendar day." 18

19 Section 18. Section 71-216, R.C.M. 1947, is arended to
20 read as follows:

21 "71-216. Powers and duties of the county board. The
22 county board of public welfare shall-be is responsible for
23 establishing local policies and such rules and regulations
24 as are necessary to govern the county department and local
25 administration of public welfare assistance

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except that all such policies and rules and regulations must 1 be in conformity with general policies and rules and 2 regulations established by the state department. The county 3 board of public welfare shall review the determinations of 8 5 eligibility and amount of payment to or on behalf of individuals made by the staff of the county department for 6 7 conformity with the aforesaid rules and regulations. R Detersinations not in conformity will be referred to the 9 staff by the county welfare board for appropriate action as 10 authorized by said the board."

Section 19. Section 71-217, B.C.B. 1947, is amended to
read as follows:

13 "71-217. Staff personnel -- how selected, paid, and controlled --- dismissal. (1) Each county board shall select 14 and appoint from a list of qualified persons furrished by 15 16 the state department such staff personnel as are necessary. 17 The staff personnel in each county shall consist of at least 18 one qualified staff worker (or investigator) and such clerks 19 and stenographers as may be decided necessary. If conditions warrant, the county board, with the approval of the state 20 21 department, may appoint some fully qualified person listed 22 by the state department as supervisor of its staff 23 personnel. The staff personnel of each county department are 24 directly responsible to the county board, but the state 25 department shall--have--the-authority-to may supervise such

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county employees in respect to the efficient and proper 1 performance of their duties. The county board of public 2 welfare shall may not dismiss any member of the staff 3 u personnel without the approval of the state department+, but 5 the state department shall-bave-the-authority-te may request the county board to dismiss any member of the staff 6 personnel for inefficiency, incompetence, or similar cause. 7 8 (2) Public assistance staff personnel attached to the 9 county board shall be paid frca state public welfare assistance funds, both their salaries and their travel 10 expenses, as provided for in sections 59-538, 59-539, and 11 59-801, when away from the county seat in the performance of 12 13 their duties, but the county board of public welfare shall 14 reinburse the state department τ from county poor funds, one-half of the payments so made to its public assistance 15 16 staff personnel, except that, under circumstances prescribed by the state department, the reimbursement by the county 17 board of public welfare way be less than one-half. All other 18 administrative costs of the county department shall also be 19 20 paid from county poor funds.

21 (3) On or before the 20th day of the month following 22 the month for which the payments to the public assistance 23 staff personnel of the county were made, the state 24 department shall present to the county department of public 25 welfare a claim for the required reimbursements. The county board shall make such reisbursements within twenty-{20} days
 after the presentation of the clais, and the state
 department shall credit (add) all such reisbursements to its
 account for administrative costs."

5 Section 20. Section 71-222, E.C.H. 1947, is amended to 6 read as follows:

7 expenditures-budgets County to levy taxes, budget, and make 8 expenditures for public assistance activities. (1) The board 9 10 of county commissioners in each county shall levy coventeen 11 -(47) 13.5 wills for the county pccr fund as provided by lawor so much thereof as may be necessary. The board shall 12 budget and expend so much of the funds in the county poor -13 14 fund for all <u>public_assistance</u> purposes of-this-act as will enable the county welfare department to pay the general 15 16 relief activities of the county and to reimburse the state 17 department for the county's proportionate share of the 18 administrative costs of the county welfare department and of all public assistance and its proportionate share of any 19 20 other welfare public assistance activity that may be carried 21 on jointly by the state and the county.

22 (2) The amounts set up in the budget for the 23 reimbursements to the state department shall be sufficient 24 to make all of these reimbursements in full. The budget 25 shall make separate provision for each one of these public

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assistance activities, and proper accounts shall be
 established for the funds for all such activities.

З (3) As soon as the preliminary budget provided for in 4 section 16-1903 has been agreed upon, a copy thereof shall 5 without delay be mailed to the state department, and at any 6 time before the final adoption of the budget, the department 7 shall make such recommendations with regard to changes in 8 any part of the budget relating to the county roor fund as 9 considered necessary in order to enable the county to 10 discharge its obligations under the Public-Welfare-let 11 public assistance laws.

12 (4) The state department shall promptly examine the 13 preliminary budget in order to ascertain if the acounts 14 provided for reincursements to the state department are 15 likely to be sufficient, and shall notify the county clerk of his its findings. The board shall make such changes in 16 17 the amounts provided for reisbursements, if any are 18 required, in order that the county will be able to make the reinbursements in full. 19

20 (5) The board of county commissioners may not make any 21 transfer from the amounts budgeted for reimbursing the state 22 department without having first obtained a statement in 23 writing from the state department to the effect that the 24 amount to be transferred will not be required during the 25 fiscal year for the purposes for which the amounts were

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1 provided in the budget.

2 (6) We part of the coupty peer fund, irrespective of the scurce of any part thereof, may be used directly or 3 indirectly for the erectics or improvement of any county Д building so long as the fund is needed for general relief 5 expenditures by the county or is needed for paying the 6 7 county's proportionate share of public assistance, or its 8 proportionate share of any other **welfare** public assistance activity that may be carried on jointly by the state and the 9 10 county. Expenditures for increasent of any county buildings 11 used directly for care of the poor may be made out of any 12 someys in the county poor fund, whether such someys are 13 produced by the seventcen (17) - sill 13.5-sill levy provided for in paragraph one subsection (1) of this section or from 14 15 any additional levy authorized or to be authorized by law. 16 Such expenditure shall be authorized only when any county building used for the care of the poor sust be improved in 17 18 order to meet legal standards required for such buildings by 19 the department of health and environmental sciences, and, when such expenditure has been approved by the state 20 21 department."

22 Section 21. Section 71-226, R.C.H. 1947, is anended to
23 read as follows:

24 "71-226. Fraudulent-acts Praudulent obtainment of
 25 public assistance a misdemeanor. Whoever knowingly obtainsy

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or attempts to obtaing or aids, or abets any person to 1 obtain, by means of a willfully false statement or 2 representation or by impersonation, or other fraudulent З device. public assistance to which he is not entitled, or ġ, assistance greater than that to which he is justly 5 entitled, or whoever aids or abets in buying or in any way 6 disposing of the property, either personal or real, of a 7 recipient of assistance without the consent of the county 8 9 department and with the intent to defeat the purposes of this acty chall-be is guilty of a misdemeanor. In assessing 10 the penalty, the court shall take into consideration, among 11 other factors, the ascunt of money fraudulently received." 12

13 Section 22. Section 71-230, B.C.M. 1947, is amended to
14 read as follows:

#71-230. Method of issuing assistance grants --15 reinbursement. (a) (1) Checks in payment of public 16 assistance, as--provided for is-sach part-of-this-act, with 17 the exception of general relief, shall be issued by the 18 state derartment upon approved certificates of award and 19 reports of changes of such eligible grantees as are 20 21 forwarded by the county department to the state department, and all such checks will be mailed to the individual 22 23 recipient or the appropriate vendor. The checks in payment 24 of public assistance shall be issued in the full approved accunt for each eligible approved grantee, and the original 25

monthly payment shall be from the state public welfare
 <u>assistance</u> accounts. All public assistance checks shall
 represent cash on demand at full par value to the recipient
 and vendor.

5 -(b) (2) Whenever the state department, acting pursuant to standards established by said the department, shall 6 7 determine determines that any otherwise eligible recipient 8 of old-age <u>old-age</u> assistance, aid to the needy blind, or 9 aid to the permanently and totally disabled, has, by reason of any physical or mental condition, such inability to 10 11 samage funds that making payments to him would be contrary 12 to his welfare, the department may, under standards 13 established under the state plan, make the public assistance 14 payment on behalf of such recipient to another person found 15 by the department to be interested in cr concerned with the 16 welfare of such needy individual. Before such rayments may 17 be paid to such other person, such person shall give a bond, 18 with adequate corporate surety and in form to be approved by 19 the state department, running in favor of the needy 20 individual and the state of Montana, conditioned upon the faithful use by such other person of the funds for the 21 welfare of the said needy individual. Such bond shall be in 22 an amount equal to six (6) times the amount of the monthly 23 payment involved. 24

25 (c) (3) On or before the twestieth 20th of each month

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1 the state department will shall present a claim for reisborsement 2 to each county department for its 3 proportionate share of public assistance granted in the county to recipients during the month and for vendor medical 4 5 payments made on behalf of recipients in the previous month. 6 The county department such shall make such the reintursement 7 to the state department within twenty (20) days after such я the claim is presented."

9 Section 23. Section 71-233.1, B.C.M. 1947, is amended
10 to read as follows:

15 (a) (1) investigate matters relating to public velfare assistance and vendor payments, including but not lipited to the claim for an acceptance of velfare public assistance benefits by velfare public assistance recipients, and the receipt and disbursal of velfare public assistance funds by state, county, or other governmental agencies;

21 (b) (2) institute civil or criwinal actions in the
22 appropriate courts to enforce the velfare <u>public_assistance</u>
23 laws and violations thereof."

24 Section 24. Section 71-233.3, R.C.M. 1947, is amended 25 to read as follows: 1 *71-233.3. Information made available to department of 2 revenue. (1) The department of social and rehabilitation 3 services and its local units shall make available to the 4 department of revenue information contained in the velfage 5 <u>public_assistance</u> files pertinent to the investigations and 6 judicial actions described in section 1-[71-233.1].

7 (2) Every other state, county, or other governmental
8 agency shall make available to the agents or attorneys of
9 the department of revenue, all records, files, memoranda,
10 forms, or other papers relating to public welfame assistance
11 matters, including income tax returns filed with the
12 department of revenue.*

13 Section 25. Section 71-302.2, B.C.H. 1947, is amended
14 to read as follows:

15 "71-302.2. Residency requirements. (1) May person 16 otherwise qualified who makes his home in the-state-of 17 Bontana with the intent to become a resident shall be 18 eligible for general relief. Open the filing of his 19 application in the county of residence, his a gualified 20 applicant's general_relief assistance shall be paid entirely 21 from state funds until he has resided for one-(1) continuous 22 year in the state of Montana, at which time he shall become 23 a financial responsibility of the county in which he resides 24 at the expiration of the one--(1)-year 1-year period. A 25 person who leaves the state of fontana with the intent to

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1 reside in another state - and later returns to reside in the 2 state-of Hontanay--shall-be-deemed is considered a new 3 resident for the purposes of this act. If a recipient moves from his criginal county of residence to reside in another a 5 county, he shall continue to be a financial responsibility 6 of the criginal county of residence for energiate year from 7 the date of his change of residence. If during this one-(4) В year 1-year period, the individual resides in several 9 counties, he shall become a financial responsibility of the 10 11 **fear** <u>1-year</u> period. County medical assistance under meetion 71-308 shall not be entitled to be paid from state funds. 12

13 <u>(2)</u> If a person is absent from the state voluntarily,
14 he shall-be is ineligible for general relief in the state of
15 Montana. Aliens found to be illegally within the United
16 States shall are not be eligible for relief from state
17 funds.

18 [3] Recipients of public assistance who become wards 19 or patients in a licensed nursing home or hospital. foster 20 hower or a private charitable institution shall have the 21 county share of financial participation paid entirely from 22 state funds for energial year from the original date of 23 entrustment or the original date of state residency, 24 whichever is earlier. At the expiration of such period, the appropriate county, as defined by the following guidelines, 25

1 shall become financially responsible to the extent of its 2 legally required share of participation. The county in which commitment of an adult is initiated shall--be--deemed is 3 considered the county of financial responsibility except ш 5 where court decree declares the residency to be otherwise. 6 Shere When an adult is transferred from a facility or 7 institution to one of the above-enumerated facilities, the county which initiated the original commitment chall-be 8 9 decard is considered the county of financial responsibility 10 except in the case of an adult transfer from an out-of-state 11 institution, in which case the county in which the facility 12 is located shall-be-deemed is considered the county of financial responsibility. In all cases where a minor patient 13 14 or ward is involved, the county of financial responsibility 15 shall be is the county in which the parent or quardian 16 resides. Where If the custody of a minor is entrusted to a 17 state agency, the agency shall have the pewer to may make a reasonable declaration of the county residency of its ward 18 19 using applicable quidelines enumerated in this section. A person who reaches majority in an institution, shall upon 2 Ç 21 release and restoration to competency, have the power to say 22 determine his own county residency. Such rerson shall 23 continue to be a financial responsibility of the county which initiated the original commitment for one----(1) year 24 25 from the date of release, at which time he shall become a

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financial responsibility of his new county of residence.

2 (4) Wonresidents or interstate transients may receive 3 temporary relief from county funds in cases of extreme 4 necessity and destitution until they may be are returned at 5 state expense to their state of residence or origin. Sedical 6 expenses arising from accidental injury to interstate 7 transients shall be paid from county funds and reintursed by 8 the state upon submission of a proper claim.

9 (5) "Interstate transient", as the term is used in 10 this act, is defined as an individual who has signed a 11 declaration that he is unable to pay for his own necessities 12 or transportation to return to his state of residence or 13 origin and is an route to a point cutside of this state, 14 being unable, due to unexpected distress, to reach his 15 destination."

Section 26. Section 71-303, F.C.H. 1947, is amended to
read as follows:

18 "71-303, Eligibility for general relief -- based on 19 investigation of resources. An applicant for general relief 20 assistance, including medical care and hospitalization, shall be eligible to receive assistance only after 21 22 investigation by the county department reveals that the 23 income and resources are insufficient to provide the necessities of life---and---assistance, assistance shall be 24 25 provided to meet a minimum subsistence compatible with 1 decency and health."

2 Section 27. Section 71-305, R.C.E. 1947, is amended to
3 read as follows:

*71-305. Reveal Right of equal consideration. Fersons
eligible for and in need of general relief chall-be, whether
employable or unemployable, shall be given equal
consideration for public assistance as those persons
eligible for assistance under other parts of this act."

9. Section 28. Section 71-306, R.C.H. 1947, is amended to
10 read as follows:

11 "71-306. Bight--of--boaring Grievances concerning general relief assistance. Individuals or committees with 12 13 complaints or grievances concerning general relief assistance may present their complaints or grievances to 14 15 either the county board or the state department, and due consideration shall be given all proven facts presented by 1.6 17 the individuals or committees. The county board or the state department shall take action to relieve situations brought 18 19 to their attention under this section to the extent of funds 20 available."

21 Section 29. Section 71-307, B.C.M. 1947, is amended to 22 read as follows:

23 *71-307. Relief by check cr disbursing orders. (1) All
 24 <u>general</u> relief disbursements by county departments of public
 25 welfare shall be by warrant or check. Bowever, if the county

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welfare department finds that a recipient is in the halit of 1 2 dissipating general relief allowances instead of using them for the purposes intended, or that for any other reason it 3 is better for the recipient and his family to receive the 4 5 allowance through distursing orders, then disbursing orders shall be used instead of cash payments -- but all such 6 7 disbursing orders must be written in such form that the goods and merchandise to be provided may be furnished by any 8 regular dealer in such goods and serchandise within the 9 county. A recipient of general relief sust register for 10 exployment with the State --- Employment -- Service state 11 employment service and must accept available employment 12 within his or her capability. Befusal to accept such 13 14 earlyment will render the recipient ineligible for further general relief assistance. If the county has work available 15 which a recipient of general relief is carable of 16 17 performing, then the county department of public welfare may require the recipient to perform the work at the prevailing 18 rate of wages said by that county for similar work, to be 19 paid from the county poor fund in place of granting him 20 general relief. 21

(2) The county department of public welfare shall
 provide coverage under the *Workseets* <u>Workers</u>. Compensation
 Act for those recipients of general relief working under the
 provisions hereofy and may enter into such agreements with

the division of workers! compensation of the
 department of labor and industry as may be necessary to
 carry cut the provisions of this section.

4 (3) Any recipient of general relief who is subject to
5 the provisions of this section and who without cause refuses
6 to perform work assigned to bim as herein providedy shall
7 lose his eligibility for general relief for ene-(1) week for
8 each refusal."

9 Section 30. Section 71-308, R.C.H. 1947, is amended to
10 read as follows:

11 *71-308. Redical Coupty to provide medical aid and 12 hospitalization to indigent. (1) Hedical Except as provided 13 in other parts of this act, medical aid and hospitalization 14 for nonresidents within the county and county residents 15 unable to provide such necessities for themselves are the 16 legal and financial duty and responsibility of the board of 17 county commissioners, except-as-otherwise-provided-ia--other parts of this oct, payable from the county poor fund. The 18 board of county commissioners shall make provisions for 19 20 competent and skilled medical cr surgical services as 21 approved by the department of health and environmental sciences or the state medical association, or in the case of 22 23 csteopathic practitioners by the state csteopathic 24 association or chiropractors by the state chiropractic 25 association, or optemetrical services as approved by the

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Montana optometric association and dental services as
 approved by the dental association. "Bedical" or "medicine"
 as used in this and <u>section</u> refers to the healing art as
 practiced by licensed practitioners.

(2) The board, in arranging for medical care for those
unable to provide it for themselves, may have the care
provided by the physicians appointed by the board who shall
be known as county physicians or deputy county physicians;
and may fix a rate of compensation for the furnishing of the
medical attendence.

11 (3) The board of county commissioners shall make
12 suitable arrangements to provide respectable burial for
13 monresidents within the county and county residents for whom
14 such expenses are not otherwise available.

15 (4) The department of social and rehabilitation 16 services may promulgate rules to determine under what 17 circumstances persons in the county are unable to provide 18 medical aid and hospitalization for themselves, including 19 the power to define the term "medically needys". Previded, 20 heveres, such Such definition way not allow payment by a 21 county for general assistance-adical for persons whose 22 incose exceeds three-thundred percent (300%) of the 23 limitation for obtaining regular county general relief 24 assistance.

25 (5) In any case where the county or state pays medical

expenses or hospitalization for an individual, the county or
 state is subrogated to the claims of the physician or
 hompital to the extent of payment.*

Section 31. Section 71-311, R.C.E. 1947, is amended to read as fcllows:

-6 "71-311. Grants from state funds to counties. (1) If 7 the whole of a-sis-(6)-sill the 13.5-sill levy together-with the whole of the per capita tax authorized by said-section -8 -9 71-106- and the income to the county poor fund from all 10 other sources shall--prove is inadequate to pay for the 11 general relief in the county actually necessary and to neet 12 the county's propertionate share of public assistance and 13 its proportionate share of any other welfage public 14 assistance activity that may be carried on jointly by the 15 state and the countys and if warrants upon the county poor 16 fund can no longer lawfully be issued to meet these charges+ 17 and if the board of county commissioners is unable to 18 declare an emergency for the purpose of providing additional 19 funds or to provide additional funds from any other sources 20 and if the county has in all respects expended the county 21 poor fund only for lawful purposes, and if all cf these 22 conditions actually exist in any county of the state, then 23 the state department shall, in-no-far ipsofar as it has 24 funds available, come to the assistance of such county, in 25 the following wanner+.

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1 {2} When the county in question has submitted proof to the state department, through such reports as it may require 2 and through other evidence that may be deemed considered з necessary, that these conditions exist, then the state n 5 department may-authorize-the-state-department is authorized to issue a check to the county treasurer of the county for 6 general relief purposes, and the county department of public 7 welfare shall make the disbursements of these state funds я for general relief purposes within the county. These 9 grants-in-aid from the state department may be used for any 10 relief activity lawfully conducted by the county, including 11 medical aid, hospitalization, and institutional care; but no 12 part thereof may be used, directly or indirectly, to pay for 13 the erection or improvement of any county building or for 14 furniture, fixtures, appliances, or equipment for any such 15 16 building.

17 (3) Inmediately upon receiving notice that such 18 grant-in-aid has been made by the state department, it-chall 19 be--the--duty--of the board of county commissioners to shall 20 adopt an emergency budget in accordance with the provisions 21 of section 16-1907 but without-being are not required to publish any notice of intertion to adopt such esergency 22 budget or to hold a hearing thereon. This emergency tudget 23 24 shall appropriate the whole amount of the general relief 25 grant from the state department for the various classes of

expenditures from the poor fund for which the grant-in-aid 1 was made by the state department. The money received through 2 1 such general relief grant from the state department shall be placed in a special poor fund account kept separate and 4 distinct from the poor fund accounts arising urder the 5 original poor fund budget, and all expenditures from this б special poor fund account shall be made by a separate series 7 я of warrants or checks."

9 Section 32. Section 71-314, B.C.H. 1947, is amended to
10 read as follows:

11 "71-314. Granting-of-assistance lecunt_of_general 12 relief_assistance_to_be_determined_by_county_board. The 13 amount of general_relief assistance granted any person or 14 family shall be determined by the county board of public 15 welfare according to the rules and regulations and standards 16 of assistance established by the state decartment."

17 Section 33. Section 71-501, R.C.N. 1947, is amended to
18 read as follows:

19 "71-501. "Dependent child" defined. (1) (a) The term
20 "dependent child", for welfare public_assistance furfcses,
21 means;

22 (a) (i) a child under the age of eighteen (18); cr

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23 (b) (ii) a person under the age of twenty-one--(21) who
24 is a student under the regulations prescribed by the state
25 department.

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1 (b) Such The children child (4(a)(i) and or B (a)(ii) 2 above) must be deprived of parental support or care by 3 reason of the death, continued absence from the home, 4 continued unemployment, or physical or mental incaracity of 5 a parent, and who is living by living with his father, 6 nother. grandfather. grandmother, brother, sister, 7 stepfather, stepmother, stepbrother, stepsister, uncle, 8 aunt, nephew, niece, or first cousing in a place of residence maintained by one or more of such relatives as his 9 10 or their can home.

11 (2) Aid to dependent children may not be denied to or 12 for the care of children who would otherwise be entitled to 13 such aid under the laws of this state by the fact that the 14 child is living in the home of his en-her father, who is, in 15 the opinion of the county board of public welfare of the 16 appropriate county, either unemployable or who is honestly 17 and responsibly seeking proper employment and is unable to 18 find such employment new or by the fact that the child is 19 living in the home of a head of a household who is τ at the 20 time, receiving job training under the laws of this state; 21 nor shall may the benefits which would otherwise accrue to 22 the child for aid to dependent children under the laws of 23 the state be reduced by reason of any such cause.

24 (3) Primary factors in determining whether a father is
25 honestly and responsibly seeking employment include his

villingness to register for employment with the department of labor and industry, if that department has a representative in his county of residence, and his willingness to accept employment in which he is able to engage which will increase his ability to maintain himself and his family.

7 (4) The state department of social and rehabilitation
 8 cenvices may establish additional criteria for determining
 9 whether a father is honestly and responsibly seeking
 \$6 employment."

Section 34. Section 71-509, R.C.H. 1947, is amended to
read as follows:

13 #71-509, Periodic reconsideration and changes in amount of assistance --- appointment of guardian or payment 14 15 to another person. (1) All assistance grants made under this 16 chapter shall be reconsidered by the county department as 17 frequently as may be required by the rules of the state 18 department. After such further investigation as the county 19 department may deem consider necessary or the state 20 department may require, the amount of assistance may be 21 changed or assistance may be entirely withdrawn if the state 22 or county departments find that the child's circumstances have altered sufficiently to warrant such action, provided, 23 24 however, -- that -- if If the county department, after 25 investigation, finds that any recipient is not utilizing the

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1 grant adequately for the needs of the child or children, of is dissipating such grant, or refuses or fails to accept 2 3 employment or training, and payments made to him would not п be used in the best interests of the child or children, the county department may request the county attorney to file a 5 6 petition in the district court for the appointment of such 7 recipient as quardian of the assistance grant in behalf of the child or children. Such petition shall set forth the 8 9 facts warranting such appointment. Notice of the bearing on such petition shall be served upon the recipient and the 10 11 county department not less than five---{5} days before the date set for such hearing: such petition may be filed with 12 13 the clerk of the district court and all process issued and 14 served without cayment of costs. If upon the bearing of such 15 petition the court is satisfied that it is for the best interests of the child or children, and all parties 16 concerned, that such guardian be appointed, he shall order 17 such appointment, and may require such quardian to render to 18 19 the court a detailed itemized account of expenditures of such assistance cayments at such times as the court may-deca 20 considers advisable. 21

22 <u>(2)</u> It is the intention of this act section that the 23 guardianship herein provided for shall be a special and 24 limited guardianship solely for the purpose of safeguarding 25 the assistance grants made to dependent children. Such

1 quardianship shall terminate upon the termination of such 2 assistance grant, or sconer on order of the court, wron good 3 cause shown. In lieu of said quardianship proceedings, н payments may be made in behalf of the child or children to 5 another person found by the county department to be 6 interested in or concerned with the welfare of such needy 7 child or children in accordance with the rules and 8 regulations established by the state department. Before such 9 payments may be paid to such other person, such person shall 10 give a bond, with adequate corporate surety and in form to 11 be approved by the state department, running in favor of the 12 needy individual and the state of Hontana, conditioned upon 13 the faithful use by such other person of the funds for the 14 velfare of the needy individual. Such bond shall be in an 15 amount equal to six times the amount of the monthly payment 16 involved. 17

(3) Providing-however, when federal law or 18 regulations permit--that require, any amount in-a-sum-not 19 exceeding-one-hundred--dellare-- (\$160,60)--in--any--one---(1) calendar year received by an enrolled member of a recognized 20 21 Indian tribe as per capita payments or a share in the 22 profits and receipts from tribal lands and interests or 23 tribal enterprises chall may not be used to decrease the 24 arcunt of assistance received under this act. Befere - such 25 payments-mag-be-paid-te-such-etter-persony-such-person-thall

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8 Section 35. Section 71-710, R.C.M. 1947, is amended to
9 read as follows:

10 "71-710. Child rehabilitation. The state department
11 shall:

12 (a)(1) Beforce abforce all laws pertaining to children 13 and take the initiative in all matters involving the 14 interest of illegitimate, dependent, neglected, and 15 delinguent children where adequate provision therefor has 16 not been made by law; and to

17 (2) use funds available for cases where special
18 medical or material assistance is necessary to rehabilitate
19 subnormal or physically handicapped children and where it is
20 not otherwise provided for by law; and second secon

21 (3) cooperate for the purposes hereof with all
 22 reputable child helping child-helping and child-placing
 23 child-placing agencies, and

(b) (4) Inspect inspect, license, and supervise public
 and private infants' homes, and child-caring child-caring

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and shild-plesing child_placing institutions and agencies."
 Section 36. Section 71-901, R.C.E. 1947, is amended to
 read as follows:

*71-901. Beccipt of funds State treasurer to receive 8 funds. The treasurer of the state of Montana is hereby 6 designated as the appropriate fiscal officer of the state to 6 receive federal funds. All money for public assistance 7 purposes appropriated by the legislature for public -- welfare 2 purposes, all--- money received from the United States 9 government for-public-volfare-purperes, and-all-peney or 10 11 received from any other scorce for the perpession set forth in 12 the Public Relfare Act shall be paid into the state treasury 13 to the credit of the state department." Section 37. Section 71-1401, R.C.B. 1947, is amended 14 to read as follows: 15

16 "71-1401. Definitions. As used in this act <u>the</u>
17 <u>following definitions apply</u>:
18 (1) "Vocational rehabilitation" and "vocational

rehabilitation services* mean any services, provided
directly or through public or private instrumentalities,
found by the state department of-social-and-rehabilitation
services to be necessary to compensate a blind individual
for his employment handicapy and to enable him to engage in
a remunerative occupation includingy but not limited toy
medical and vocational diagnosis, vocational guidance,

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counseling and placement, rebabilitation training, physical
 restoration, transportation, occupational and business
 licenses, tools, equipment, initial stocks and supplies,
 including livestock, capital advances, maintenance, and
 training books and materials.

6 (2) "Rebabilitation services" means any services, 7 provided directly or through public or private 8 instrumentalities, found by the state department of-coolal 9 and robabilitation services to be necessary to compensate a 10 blind individual for his employment handicar or to enable 11 him to achieve the maximum degree of self-care and to engage 12 in productive tasks.

13 (3) "Rehabilitation training" means all necessary
14 training provided to a blind individual to compensate for
15 his employment handicap, including, but not limited to,
16 manual, preconditioning prevocational, and supplementary
17 training and training provided for the purpose of achieving
18 broader or more remunerative skills and capacities.

19 (4) "Physical restoration" means any medical, 20 surgical, or therapeutic treatment mecessary to correct or 21 substantially reduce a blind individual's employment 22 handicap within a reasonable length of time, including, but 23 not limited to, medical, psychiatric, dental, and surgical 24 treatment, nursing services, hospital care, convalescent 25 home care, drugs, medical and surgical supplies, and presthetic appliances, but excluding curative treatment for
 acute or transitory conditions.

3 (5) "Prosthetic appliance" means an artificial device
4 necessary to support or take the place of a part of the body
5 or to increase the acuity of a sense organ.

6 (6) "Occupational licenses" means a license, permit,
7 or other written authority required by any governmental unit
8 to be obtained in order to engage in an occupation.

9 (7) "Business licenses" means any license, permit, cr
10 other written authority required by any governmental unit to
11 be obtained in order to engage in a business.

12 (8) "Maintenance" means money payments not exceeding
13 the estimated cost of subsistence during the provision of
14 vocational rebabilitation and rebabilitation services.

15 (9) "Blind individual" means an individual whose 16 central visual acuity does not exceed 20/200 in the better eve with correcting lenses, or whose visual acuity is 17 18 greater than 20/200 but is accompanied by a limitation in 19 the fields of vision such that the videst diameter of the 20 visual field subtends an angle no greater than 20 degrees+ 21 or who has other eye conditions which render vision equally 22 defectives or who has an eye condition which will cause 23 blindsess."

24 Section 38. Section 71-1516, B.C.H. 1947, is amended 25 to read as follows:

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*71-1516. Eligitility requirements for-medical
 assistance. Medical assistance shall be granted in Febalf of
 all persons;

4 (1) who reside in the state of Montana, including
5 residents temporarily absent from the state; and

6 (2) who meet any of the following requirements:

7 (1) (a) Who receive all or part of their income from
8 the federally aided federally aided public assistance
9 programs: old-age assistance, aid to the blind, aid to
10 dependent children, and aid to the permanently and totally
11 disabled;

12 (2) (b) #11-percens,--who upon application, would be 13 eligible for financial assistance under any one of the 14 federally--aided federally-aided programs referred to above; 15 (3) (c) All-persons-who would be entitled to financial 16 assistance under one of the federally-sided federally-aided categories except that they do not meet the durational 17 18 residence requirements or relative responsibility 19 requirements of any of the public assistance programs above 20 enumerated:

(4)(d) Persons are in medical institutions when and if
they were no longer in such institution, would be eligible
for financial assistance under one of the above programs;

24 (5) (e) All-children are under tweaty-one who 21 years
 25 of age and meet the conditions of eligibility in the state's

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plan for aid to dependent children, other than with respect to school attendance;

3 (6) (f) 11 shidnes are under twesty-one-whe are 21
4 years of age and in foster care under the supervision of the
5 state;

6 (7) (9) All-persons where have income is less than one
7 hundred-thirty-three-and-one-third-per-cent-(133 1/3%) of
8 the amounts specified as maximum income levels for federally
9 eided federally-aided categories of assistance;

10 (8)(h) All medically meddy whildren are under
11 twenty one (21) years of age and medically medy, as defined
12 by the state department of social and rebabilitation
13 services: or

14 (9)(i) All children are under twonty one (21) years of
15 age, who were in foster care under the supervision of the
16 state, and who have been adopted as "bard-to-place"
17 children."

18 Section 39. Section 71-1903, R.C.B. 1947, is amended
19 to read as follows:

20 *71-1903. Application for protective services ---21 contents-department--as guardian-or trastee--decision as to
22 cligibility. (1) Protective services may be provided on a
23 voluntary basis for any developmentally disabled person who
24 requests them for himself or at the request of any
25 interested person, when the department determines that such

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person is a developmentally disabled person who would 1 benefit from services provided in this act- and that the 2 department is currently able to supply services to such 3 cerson. A carent may name the department as quardian of the 4 5 mentally developmentally disabled person in his will. A parent may also name the department as quardian or trustee 6 7 of the **sentally** developmentally disabled persony to assume such duties during the parents parents lifetise. Voluntary 8 9 services may be discontinued upon the written request of the ward or any personal representative of the ward. 10

(2) Application for protective services under this act 11 shall be made to the designated field staff of the 12 department or other designated state agency in the county in 13 which the applicant resides, and the application shall be 14 transmitted promptly to the department. Such application 15 shall be in writing or reduced to writing in the wanner and 16 17 upon the form prescribed by the department and shall contain the name, age, and residence of the applicant and such other 18 information as may be required by the rules and-requisions 19 of the department. The rules and -regulations of the 20 21 department shall simplify the application process in order that protective services way be furnished as soon as 22 possible. Adequate safeguards shall be established by the 23 department to insure that only eligible persons receive 24 25 protective services under this act. The department shall

1 notify the applicant and the designated field staff of the 2 department or other designated state agency in writing of ٦ its decision concerning eligibility for protective services." н 5 Section 40. Section 71-2304, B.C.M. 1947, is amended 6 to read as follows: 7 "71-2304. Definitions. As used in this act the 8 following definitions apply: 9 (1) "Department" means the department of social and 10 rehabilitation services. 11 (2) "Adult foster family care homes" means private 12 homes owned by one or more persons over the age of eighteen 13 -(18) wears of age or clder which offer light personal care 14 or custodial care to aged persons or disabled adults who are 15 not related to the cwner by blocd or marriage. 16 (3) "Aged person" means a person defined by the 17 department as aged. 18 (4) "Disabled adult" seans a person over-the-age-of 19 eighteen----(18) years of age or clder defined by the 20 department as disabled. 21 (5) "light personal care" means assisting the aged 22 person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, hair growing, and 23 24 supervision of prescriptive medicine administration but not

administration of prescriptive medications.

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(6) "Custodial care" means providing a sheltered
 family-type family-type setting for an aged person or
 disabled adult so as to provide for their his basic needs of
 foody and shelter and having a specific person available to
 help them his meet their his basic needs.

6 (7) "Skilled nursing care" means twenty-four (24) hour
7 <u>24-hour</u> care supervised by a registered nurse or a licensed
8 practical nurse under orders of an attending physician."

9 Section 41. Section 71-2404, B.C.E. 1947, is amended
10 to read as follows:

11 #71-2404. Bulca-and regulations Department to adopt 12 rules. The department shall control developmental 13 disabilities programs which receive any state assistance by 14 adopting rules, for providing developmental disabilities 15 facilities and services. It shall set minimum standards for 16 programs, and establish appropriate gualifications, and 17 compensation scales, and personnel policies for persons 18 employed in such programs. All developmental disabilities 19 facilities and services shall comply with existing federal 20 guidelines and with requirements which will enable the 21 services and facilities to qualify for available aid funds. 22 However, nothing herein shall--imply--the--necessity--for 23 requires facilities serving the developmentally disabled to 24 meet the same or equal standards as licensed medical 25 facilities, unless the developmental disabilities facility 1 is providing professional or skilled medical care."

2 Section 42. Section 71-2405, R.C.M. 1947, is amended
3 to read as follows:

"71-2405. Community services. (1) The department may a establish and administer community comprehensive services, 5 6 programs, clinics, or other facilities throughout the state 7 for the purpose of aiding in the prevention, diagnosis, amelicration, or treatment of developmental disabilities. 8 9 Programs, clinics, or other services may be provided directly by state agencies; os indirectly through contract 10 or co-operative cooperative arrangements with other agencies 11 12 of government, regional or local, private or public 13 agencies, or private professional persons; or in accredited 14 health or long-ters long-term care facilities.

15 (2) Comprehensive services, programs, clinics, or
16 other facilities established or provided by the department
17 under this chapter shall conform, as nearly as possible, to
18 the plans of the advisory council created under 71-2406, and
19 the regional councils provided for in 71-2407."

20 Section 43. Section 80-1405, R.C.H. 1947, is amended 21 to read as follows:

22 **80-1405. Powers and duties of department. The
23 department shall:

24 (1) Adept adopt rules for the admission, custody,
 25 transfer, and release of residents of institutions except as

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otherwise provided by law-; Bowever however, nc such rules
 shall may amend or alter the statutory powers and duties of
 the state board of pardons-;

4 (2) Subject subject to the functions of the department 5 of administration, lease or purchase lands for use by 6 institutions- and classify those lands to determine which 7 are of such character as to be most profitably used for 8 agricultural purposes, taking into consideration the needs 9 of all institutions for the food products that can be grown or produced on the lands, and the relative value of 10 11 agricultural programs in the treatment or rebabilitation of 12 the persons confined in the institutions.

13 (3) Utilize utilize the staff and services of other
14 state agencies and units of the university of Montana
15 university_system, within their respective statutory
16 functions, to carry out the purposes of this act, its
17 functions under this title;

(4) Propose programs to the legislative
assembly legislature to meet the projected long-range meeds
of institutions, including programs and facilities for the
diagnosis, treatment, care, and aftercare of persons placed
in institutions-: and

(5) Encourage encourage the establishment of programs
at the local level for the prevention and rebabilitation of
physical and mental disability."

Section 44. Section 80-1410, B.C.B. 1947, is amended
 to read as follows:

"80-1410. Establishment of juvenile correctional 3 facilities. The department, within the annual or biannual 4 5 biennial budgetary appropriation, say establish, maintain, ۴ and operate facilities to properly diagnose, care for. 7 train, educate, and rehabilitate children in need of these services. The childrer must be ten-(10) years of age or 8 9 older and under twenty-one-{21} years of age. The facilities include but are not limited to the Ecuntain View school, the 10 11 Pine Hills school, and the youth forest cast."

Section 45. Section 80-1413, B.C.H. 1947, is amended
to read as follows:

14 #80-1413. Participation by totersist----boarde institutions in research programs. The department may direct 15 16 a penaly and corrective, or overtedial institution of the 17 state to participate in and so-operate cooperate with 18 programs of research and development being conducted and 19 carried on by any units of the Montana university system, by 20 any of the other educational institutions of the state of 21 Nontana, or by any foundation or agency thereofy in the 22 fields of science, health, education, and natural resources. 23 These programs may include the voluntary participation of 24 the inmates of the institution in testing and experimental 25 work conducted as a part thereof. Any funds received from

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1 the authorized programs may be shared with the participating 2 inmates or otherwise held and used for the welfare and 3 rehabilitation thereofy and the state of the regular budgeted operation of the institution."

5 Section 46. Section 80-1603, R.C.H. 1947, is amended 6 to read as follows:

"80-1603. Henthly----ascesserst---ef---sharqes--anneal 7 6 9 state-review-deposit-of-rescipts Computation of per diem rate, monthly assessment, and disposition of receipts. 10 11 (1) The department shall assess southly against each 12 resident or responsible person, the full per dien charge, a proportionate share of the per dies charge, or no per dies 13 14 charge, plus full ancillary charge, a propertismate share of 15 the ancillary charge, or no ancillary charge, based upon financial information given to the department during its 16 17 investigation. The per diem shall be computed on July 1 of 18 each year by the department.

19 (2) An assessment made by the department under this 20 section shall be based on the resident's or responsible 21 person's ability to pay. The department shall may not make 22 an assessment which would place an undue financial furden on 23 the resident or the responsible person.

24 (3) For the purpose of these investigations, every
25 agency of the state is required to render all reasonable

assistance to the department in obtaining all information 1 necessary for the proper implementation of the purposes of 2 this investigation. A representative of the department, duly 3 authorized by the director, say administer oaths, take £1 testimony, and subpoend and compel the attendance of 5 witnesses and the production of books, papers, records, and б. documents in connection with the duty of securing payments 7 for support as provided by this act. A person who fails to R 9 obey the subcoent, upon petition of the department, to any indee of the district court of the state, may be ordered by 10 11 the judge to appear and show cause for his disobedience of the subpoena. The judge, after the hearing, may order that 12 the subpoena be obeyed, or, if it is made to appear to the 13 indge that the subpoena was for any reason inappropriately 14 issued, may dismiss the petition. A person who fails to obey 15 the subreena when ordered to do so by the judge may be 16 punished for contempt of court on application of the 17 18 district court by the department.

19 (4) The state has a claim against the estate of a 20 patient and against the estate of a responsible persony for 21 an amount due to the state at the date of death of the 22 resident or the responsible person. The claim against the 23 estate of a responsible person does not have priority 24 against the estate for the amount necessary to rear and 25 educate surviving children of the responsible person.

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1 (5) The attorney general shall collect any claim which 2 the state may have against such estate. This claim may not 3 be enforced against any real estate while it is occupied as 4 a home by the surviving spouse or <u>cf</u> the resident or 5 responsible person.

(6) If a resident or responsible person disagrees with 6 the determination of the department as to the ability of the 7 8 resident or responsible person to pay any part of the per diem or ancillary charge, an appeal may be filed within 9 thirty-4304 days of the determination with the board of 10 11 institutions. If the resident disagrees with the determination of the appeal by the board ef-institutions, an 12 13 appeal may be filed in any court of record in Montana having 14 jurisdiction of the resident or responsible person liable for the payment. 15

16 (7) The department may, at any time, review and change 17 a determination for per diem or ancillary charge payments. 18 In any case, however, a resident of an institution may not 19 be released by reason of the nonpayment of the per diem or 20 the ancillary charge, if, in the judgment of the 21 superintendent of the institution at which he is a resident, 22 this release is medically inadvisable.

23 (8) A per diem payment received by the department
24 shall be deposited in the state treasury to the credit of
25 the general fund."

Section 47. Section 80-1912, R.C.M. 1947, is amended
 to read as follows:

3 *80-1912. Expense of trial for escape offenses 4 committed_ in_prises. Whenever a trial takes place of any 5 person under any of the provisions of section $94-7-306_{\pi}$ and 6 whenever a prisoner in the state prison shall-be is tried 7 for any crime committed therein, the county clerk of the 8 county where such trial is had beld shall make cut a 9 statement of all the costs incurred by the county for the 10 trial of such case, and of guarding and keeping such 11 prisoner, properly certified by a district judge of said 12 county, which statement shall be sent to the board-of-state 13 prison-commissionors department of institutions for their 14 its approval, and after such approval, said-beard the 15 department must cause the amount of such costs to be paid 16 out of the money appropriated for the support of the state 17 priscs to the county treasurer of the county where such 18 trial was had beld."

19 Section 48. Section 80-2412, B.C.E. 1947, is amended
20 to read as follows:

21 #80-2412. Interstate compact on mental health enacted
 22 --- text. The interstate-compact on-mental-health <u>Interstate</u>
 23 <u>Compact on Mental_Bealth</u> as contained herein is hereby
 24 enacted into law and entered into by this state with all
 25 other jurisdiction legally joining therein in the form

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1 substantially as follows:

2 The contracting states solemnly agree, that:

3

<u>Article I</u>

ŧ. Article-I. The party states find that the proper and 5 expeditious treatment of the mentally ill and mentally deficient can be facilitated by co-operative cccrerative 6 7 action, to the benefit of the patients, their families, and 8 society as a whole. Further, the party states find that the 9 necessity of and desirability for furnishing such care and 10 treatment bears no primary relation to the residence or 11 citizenship of the patient but that, on the contrary, the 12 controlling factors of community safety and humanitarianism 13 require that facilities and services be made available for 14 all who are in need of them. Consequently, it is the purpose 15 of this compact and of the party states to provide the 16 necessary legal basis for the institutionalization or other 17 appropriate care and treatment of the mentally ill and 18 sentally deficient under a system that recognizes the 19 paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such 20 21 velfare.

22

<u>Article II</u>

23 Article-II. As used in this compact:

24 (a) (1) "Sonding sending state" shall mean means a
 25 party state from which a patient is transported pursuant to

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the provisions of the compact or from which it is
 contemplated that a patient may be so senty;

3 (b) (2) "Beceiving receiving state" shall-sear means a
4 party state to which a patient is transported pursuant to
5 the provisions of the compact or to which it is contemplated
6 that a patient may be so sent;

7 (0) (3) "Institution institution" shall mean means any
8 hospital or other facility maintained by a party state or
9 political subdivision thereof for the care and treatment of
10 mental illness or mental deficiency.

11 (d) (4) "Patient patient" shall-neen means any person
12 subject to or eligible, as determined by the laws of the
13 sending state, for institutionalization or other care,
14 treatment, or supervision pursuant to the provisions of this
15 compact-;

16 (c) (5) "Aftercare aftercare" shall—mean means care,
17 treatment, and services provided a patient, as defined
18 herein, on convalescent status or conditional release+;

19 (f) (6) "Hontal mental illness" shall means means mental
20 disease to such extent that a person so afflicted requires
21 care and treatment for his own welfare, or the welfare of
22 others, or of the community;

23 (9)(7) "Mental megtal deficiency" shall-acan means
24 mental deficiency as defined by appropriate clinical
25 authorities to such extent that a person so afflicted is

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incapable of managing himself and his affairsy but shall not
 include mental illness as defined hereiny; and

3 (b) (8) "State state" shall—sean peans any state,
4 territory_ or possession of the United States, the District
5 of Columbia, and the Commonwealth of Puerto Rico.

Article_III

6

7 Article--THL--(a)(1) Whenever a person physically 8 present in any party state shall be in need of 9 institutionalization by reason of mental illness or <u>mental</u> 10 <u>deficiency, he shall be eligitle for care and</u> treatment in 11 an institution in that state irrespective of his residence, 12 settlement, or citizenship qualifications.

13 (b) (2) The provisions of paragraph (a) subsection (1) 14 of this article to the contrary notwithstanding, any ratient may be transferred to an institution in another state 15 are factors based upon clinical 16 whenever there 17 determinations indicating that the care and treatment of 18 said ratient would be facilitated or improved thereby. Any 19 such institutionalization may be for the entire period of 20 care and treatment or for any portion or portions thereof. 21 The factors referred to in this paragraph subsection shall 22 include the patient's full record with due regard for the 23 location of the patient's family, character of the illness 24 and probable duration thereof, and such other factors as 25 shall be considered appropriate.

4e+(3) No state shall be obliged to receive any 1 patient pursuant to the provisions of paragraph---{b} 2 3 subsection (2) of this article unless the sending state have gives gives advance notice of its intention to send the b. 5 patient, furnished furnishes all available medical and 6 other pertinent records concerning the patient, gives 7 the qualified medical cr other appropriate clinical authorities of the receiving state an opportunity to examine 8 9 the patient if said authorities so wishe, and unless the 10 receiving state shall-agree agrees to accept the patient.

11 (4)(4) In the event that the laws of the receiving 12 state establish a system of priorities for the admission of 13 patients, an interstate patient under this compact shall 14 receive the same priority as a local patient and shall te 15 taken in the same order and at the same time that be would 16 be taken if he were a local ratient.

17 (e)(5) Pursuant to this compact, the determination as
18 to the suitable place of institutionalization for a patient
19 may be reviewed at any time and such further transfer of the
20 patient may be made as seems likely to be in the best
21 interest of the patient.

Article_IV

23 Article—IV.--(a)(1) Whenever, pursuant to the laws of 24 the state in which a patient is physically present, it shall 25 be determined that the patient should receive aftercare or

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1 supervision, such care or supervision nav be provided in a 2 receiving state. If the medical or other appropriate 3 clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have 4 5 reason to believe that aftercare in another state would be 6 in the best interest of the patient and would not icorardize 7 the public safety, they shall request the appropriate 8 authorities in the receiving state to investigate the 9 desirability of affording the patient such aftercare in said receiving state, and such investigation shall be made with 10 all reasonable speed. The request for investigation shall 11 be accompanied by complete information concerning the 12 patient's intended place of residence and the identity of 13 14 the person in whose charge it is proposed to place the patient, the complete medical bistory of the patient, and 15 16 such other documents as may be pertiment.

17 (b) (2) If the medical or other appropriate clinical authorities having responsibility for the care and treatment 18 19 of the patient in the sending state and the appropriate 20 authorities in the receiving state find that the best 21 interest of the patient would be served thereby, and if the 22 public safety would not be jeopardized thereby, the patient 23 may receive aftercare or supervision in the receiving state. 24 (3) In supervising, treating, or caring for a 25 patient on aftercare pursuant to the terms of this article.

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a receiving state shall employ the same standards of
 visitation, examination, care, and treatment that it
 employes for similar local patients.

Article V

5 dangerous ratient escapes from an institution in any party 6 7 state, that state shall promptly notify all appropriate 8 authorities within and without the jurisdiction of the escapee in a manner reasonably calculated to facilitate the 9 speedy apprehension of the escapee. Immediately upon the 10 apprehension and identification of any such dangerous or 11 potentially dangerous patient, he shall be detained in the 12 13 state where found pending disposition in accordance with 14 law.

<u>Article_VI</u>

16 Inticle VI. The duly accredited officers of any state 17 party to this compact, upon the establishment of their 18 authority and the identity of the patient, shall be 19 permitted to transport any patient being moved pursuant to 20 this compact through any and all states party to this 21 compact, without interference.

Article VII

Article-VII.--(a) [1] No person shall be deemed a patient
of more than one -(4) institution at any given time.
Completion of transfer of any patient to an institution in a

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receiving state shall have the effect of making the person a
 patient of the institution in the receiving state.

3 (b) [2] The sending state shall pay all costs of and 4 incidental to the transportation of any patient pursuant to 5 this compact, but any two (2) or more party states may, by 6 making a specific arrangement for that purpose, arrange for 7 a different allocation of costs as among themselves.

8 (e)(3) No provision of this compact shall be construed 9 to alter or affect any internal relationships among the 10 departments, agencies, and officers of and in the government 11 of a party state, or between a party state and its 12 subdivisions, as to the payment of costs, or 13 responsibilities therefor.

14 (d) (4) (4) Nothing in this compact shall be construed to 15 prevent any party state or subdivision thereof from 16 asserting any right against any person, agency, or other 17 entity in regard to costs for which such party state or 18 subdivision thereof may be responsible pursuant to any 19 provision of this compact.

20 (e) (5) Nothing in this compact shall be construed to 21 invalidate any reciprocal agreement between a party stat: 22 and a nonparty state relating to institutionalization, care, 23 or treatment of the mentally ill or mentally deficient, or 24 any statutory authority pursuant to which such agreements 25 may be made. <u>Article VIII</u>

2 Article-VIII---{a}(1) Nothing it this compact shall be 3 construed to abridge, diminish, or in any way impair the 4 rights, duties, and responsibilities of any ratient's 5 guardian on his own tehalf or in respect of any patient for 6 whom he may serve, except that, where the transfer of any 7 patient to another jurisdiction makes advisable the g appointment of a supplemental or substitute quardian, any 9 court of competent jurisdiction in the receiving state may 10 make such supplemental or substitute appointment and the 11 court which appointed the previous quardian shall, urcn 12 being duly advised of the new appointment, and upon the 13 satisfactory completion of such accounting and other acts as 14 such court may by law require, relieve the previous quardian 15 of power and responsibility to whatever extent shall be 16 appropriate in the circumstancest. provided, however, that 17 in In the case of any patient having settlement in the 18 sending state, the court of competent jurisdiction in the 19 sending state shall have the sole discretion to relieve a 20 quardian appointed by it or continue his power and 21 responsibility, whichever it shall deem advisable. The court 22 in the receiving state may, in its discretica, confirm or 23 reappoint the person or persons previously serving as guardian in the serding state in lieu of making a 24 25 supplemental or substitute appointment.

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1 (b) [2] The term "guardian" as used in paragraph...(a)
2 <u>subsection [1]</u> of this article shall include any guardian,
3 trustee, legal committee, conservator, or other person or
4 agency however denominated who is charged by law with power
5 to act for or responsibility for the person or property of a
6 patient.

Article_II

8 Article-II. (a) (1) No provisions of this compact except 9 Article V shall apply to any person institutionalized while 10 under sentence in a penal or correctional institution or 11 while subject to trial on a criminal charger or whose 12 institutionalization is due to the consission of an offense 13 for which, in the absence cf mental illness or mental 14 deficiency, said person would be subject to incarceration in 15 a penal or correctional institution.

16 (b) (2) To every extent possible, it shall be the 17 policy of states party to this compact that no patient shall 18 be placed or detained in any prison, jail, or lockup, but 19 such patient shall, with all expedition, be taken to a 20 suitable institutional facility for mental illness or mental 21 deficiency.

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22

<u>Article I</u>

23 Article-X. (a) (1) Pach party state shall appoint a
 24 #compact administrator# whc, cn behalf of his state, shall
 25 act as general co-ordinator coordinator of activities under

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1 the compact in his state and who shall receive cories of all reports, correspondence, and other documents relating to any 2 patient processed under the compact by his state either in 3 H the capacity of a sending or receiving state. The compact administrator or his duly designated representative shall be 5 6 the official with whom other party states shall deal in any matter relating to the compact or any patient processed 7 8 thereunder.

9 (b) (2) The compact administrators of the respective
 10 party states shall have power to promulgate reasonable rules
 11 and regulations to carry out more effectively the terms and
 12 provisions of this compact.

Article XI

13

14 Article-II. The duly constituted administrative 15 authorities of any two (2) or more party states may enter 16 into supplementary agreements for the provision of any 17 service or facility or for the maintenance of any 18 institution on a joint or co-operative cooperative basis 19 whenewer the states concerned shall find that such will improve services, facilities, or 20 agreements 21 institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary 22 agreement shall be construed so as to relieve any party 23 state of any obligation which it otherwise would have under 24 25 other provisions of this compact.

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Article III

2 Article XII. This compact shall enter into full force 3 and effect as to any state when enacted by it into law, and 4 such state shall thereafter be a party thereto with any and 5 all states legally joining therein.

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<u>Article XIII</u>

7 Article -XIII. - (a) (1) A state party to this compact may 8 withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one-(1) year after notice 9 thereof has been communicated officially and in writing to 10 the governors and compact administrators of all other party 11 states. Rowever, the withdrawal of any state shall not 12 change the status of any patient who has been sent to said 13 state or sent out of said state pursuant to the provisions 14 15 of the compact.

16 (b) (2) Withdrawal from any agreement permitted by
17 Article VII (b) (2) as to costs or from any supplementary
18 agreement made pursuant to Article XI shall be in accordance
19 with the terms of such agreement.

Article IIV

 21
 Article--XIV. (1) This compact shall be liberally

 22
 construed so as to effectuate the purposes thereof. The

 23
 provisions of this compact shall be severable and if any

 24
 phrase, clause, sentence, or provision of this compact is

 25
 declared to be contrary to the constitution of any party

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state or of the United States or the applicability thereof 1 2 to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and 3 the applicability thereof to any government, agency, person, ā. cr circumstance shall not be affected thereby. If this 5 compact shall be held contrary to the constitution of any 6 7 party thereto, the compact shall remain in full force and 8 effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. 9 10 (2) The director of the department of institutions.

11 hereafter called "the director,", shall be the compact 12 administrator and shall have the power to make any rules and 13 regulations necessary for the administratice of this article. The director shall so-operate cooperate with all 14 departments, agencies, and officers of the state and any 15 16 political subdivision thereof to facilitate the proper 17 administration of the interstate-cospact -- sental--health 18 Interstate Compact on Mental Health or of any supplementary 19 agreement or agreements entered into by this state 20 thereunder.

21 (3) The director may enter into supplementary
22 agreements with appropriate officials of other states
23 pursuant to Articles VII and XI of the compact.

<u>(4)</u> The department of institutions in its annual
 budget shall include such accurts necessary to discharge the

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financial obligations incurred by it to carry cut the
 purposes of the interstate compact on montal bealth
 Interstate Compact on Mental Health, and the general
 assembly shall appropriate such sums necessary therefor.

5 (5) The compact administrator is bereby directed to 6 consult with the immediate family of any proposed transferee 7 and, in the case of a proposed transferee frcm an 8 institution in this state to an institution in another party 9 state, to make no transfer out of the state without approval 10 of the district or probate court. Before granting such approval the court shall hold such hearings as it deems 11 12 considers appropriate. In addition, the court shall designate some appropriate person to deliver written notice 13 14 of the proposed transferee's right to a hearing to the 15 proposed transferee and his quardian ad lites. The person 16 serving such notices shall make a written return to the 17 court that such has been done. At the conclusion of such 18 hearing, if any, the court may approve the proposed 19 transfer, order the release of the proposed transferee, or 20 enter any other suitable order.

21 <u>(6)</u> Duly authenticated copies of the article shall, 22 upon its approval, be transmitted by the secretary cf state 23 to the governor of each state, the attcrney general, and the 24 secretary of state of the United States, and the Council cf 25 State Governments." Section 49. Section 80-2701, R.C.H. 1947, is amended
 to read as follows:

3 Legislative purpose. It is the purpose of this act and the 4 5 policy of this state to recognize alcohol alcoholise and drug dependence as problems affecting the health, safety, 6 morals, economy, and general welfare of this state; to 7 8 recognize algohol alcoholism and drug dependence as problems 9 subject to treatment: and to recognize the sufferer cf alcohol alcoholism, drug dependence, or bothy as worthy of 10 11 treatment and rehabilitation. It is the intent of this act 12 to establish means whereby the appropriate resources of this state may be focused fully and effectively upon the problems 13 14 of alcoholigm and drug dependence and utilized in 15 implementing programs for the control and treatment of these 16 problems."

17 Section 50. Section 80-2702, B.C.H. 1947, is amended
18 to read as follows:

19 *80-2702. Duties of department -- department
20 authorized to accept gifts -- enter into contracts -21 acquire and dispose of property. (1) The department of
22 institutions, hereafter referred to as department in this
23 chapter, shall:

24 (a) Plan plan, promote, and assist in the suffort of
 alcohol alcoholism and drug dependence prevention,

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1 treatment, and control programs;

(b) Conduct conduct, sponsor, and support research, 2 3 investigations, and studies, including evaluation, of all phases of alcohol alcoholism and drug dependence; щ

5 (c) Assist assist the development of educational and 6 training programs relative to alcohol alcoholism and drug 7 dependence, and carry on programs to assist the public, and 8 technical and professional groups, in becoming fully 9 informed about alsohol alcoholism and drug dependence;

10 (d) Presete promote, develop, and assist, financially 11 and otherwise, alsohol alcoholism and drug dependence 12 programs administered by other state agencies, local 13 government agencies, and private nonprofit organizations and 14 agencies; and

(e) Bacourage encourage and promote effective use of 15 facilities, resources, and funds in the planning and conduct 16 of programs and activities for prevention, treatment, and 17 control of alcohol alcoholise and drug dependence and, in 18 this respect, cooperate with and utilize to the maximum 19 possible extent the rescurces and services of federal, 20 21 state, and local agencies.

22 (2) To carry out this act, the department may:

(a) Accept accept gifts, grants, and donations of 23 24 money and property from public and private sources;

25 (b) fater enter into contracts; and

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1 (c) Acquire acquire and dispose of property." 2 Section 51. Section 80-2717. R.C.H. 1947. is amended to read as follows: 3

"80-2717. Emergency commitment of intoxicated persons. (1) An intoxicated person who (a) has threatened, attempted, 5 or inflicted physical bars on another and is likely to б 7 inflict physical harm on another unless committed, or -{b}who is incapacitated by alcoholy may be committed to an A 9 approved public treatment facility for emergency treatment. 10 A refusal to undergo treatment does not constitute evidence 11 of lack of judgment as to the need for treatment.

12 (2) The certifying physician, spouse, quardian, or 13 relative of the person to be committed, or any other 14 responsible persony may make a written application for 15 commitment under this section, directed to the administrator 16 of the approved public treatment facility. The application 17 shall state facts to support the need for emergency treatment and be accompanied by a physician's certificate 18 19 stating that he has enamined the person sought to be committed within two-(2) days before the certificate's date 20 21 and facts supporting the need for emergency treatment. A 22 physician employed by the admitting facility or the 23 department is not eligitle to be the certifying physician.

24 (3) Upon approval of the application by the 25 administrator of the approved public treatment facility, the

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person shall be brought to the facility by a peace officer, bealth officer, the applicant for commitment, the patient's spouse, the patient's quardian, or any other interested person. The person shall be retained detained at the facility to which he was admittedy or transferred to another appropriate public or private treatment facility, until discharged under subsection (5).

8 (4) The administrator cf an approved public treatment
9 facility shall refuse an application if in his cpinion the
10 application and certificate fail to sustain the grounds for
11 commitment.

12 (5) When on the advice of the medical staff the 13 administrator determines that the grounds for commitment no 14 longer exist, he shall discharge a person committed under 15 this section. Bo person committed under this section may be 16 detained in any treatment facility for more than fire---(5) 17 days. If a petition for involuntary commitment under cection 18 69-6221 has been filed within the five-45+ days and the 19 administrator in charge of an approved public treatment 20 facility finds that grounds for emergency commitment still 21 exist, he may detain the person until the petiticn has been 22 heard and determined, but no longer than +ea-(10) days after 23 filing the petition.

24 (6) A copy of the written application for combitment 25 and of the physician's certificate_T and a written explanation of the person's right to counsely shall be given
 to the person within twenty four (24) hours after commitment
 by the departmenty for the department shall provide a
 reasonable opportunity for the person to consult counsel."
 Section 52. Section 80-2802. R.C.H. 1947. is amended

5 Section 52. Section 80-2802, F.C.H. 1947, is amended
6 to read as follows:

7 *80-2802. Duties of department. The department shall:
8 (1) take cognizance of matters affecting the mental
9 health of the citizens of the state:

10 (2) initiate preventive mental health activities of 11 the statewide mental health programs, including, but not limited to- the implementation of mental health care and 12 13 treatment, prevention, and research as can best be 14 accomplished by community--centered community-centered services. Such means shall be utilized to initiate and 15 operate these services in cooperation with local agencies as 16 17 established under this act+.

18 (3) make scientific and medical research
19 investigations relative to the incidence, cause, prevention,
20 treatment, and care of the mentally ill;

21 (4) collect and disseminate information relating to22 mental health;

(5) prepare and maintain a comprehensive plan for the
development of public mental health services in the state.
The public mental health services shall includer but not be

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limited tc, community comprehensive mental health centers,
 mental health clinics, traveling service units, <u>and</u>
 consultative and educational services;

4 (6) provide by regulations for the examination of
5 persons, who apply for examination or who are admitted
6 either as inpatients or outpatients into Warm Springs state
7 hospital cr other public mental health facilities;

8 (7) receive from agencies of the United States and
9 other state agencies, persons or groups of persons,
10 associations, firms, or corporations, grants of money,
11 receipts from fees, gifts, supplies, materials, and
12 contributions, for the development of mental health services
13 within the state;

14 (8) establish standards for public mental health
15 facilities; and

16 (9) evaluate performance of public mental health
17 facilities in compliance with federal and state standards."
18 Section 53. Repealer. Sections <u>38-210</u>, 71-101, 71-107,
19 71-118, and 71-233.5, R.C.B. 1947, are repealed.

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BOUSE BILL NC. 30

INTRODUCED BY BARDANGEVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND h CLARIPY THE LAWS RELATING TO VOCATIONAL REPARTITATION, 5 PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY 6 7 DISABLED. AND THE MENTALLY IIL: AMENDING SECTIONS 38-110, 38-120, 38-240, 38-506, 38-1202, 38-1205, 38-1206, 38-1208, 8 9 38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211, 10 71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226, 11 71-230, 71-233, 1, 71-233, 3, 71-302, 2, 71-303, 71-305, 12 71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509, 13 71-710, 71-901, 71-1401, 71-1516, 71-1903, 71-2304, 71-2404, 14 71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912, 80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, B.C.M. 15 1947; AND REPEALING SECTIONS 38-210, 71-101, 71-107, 71-118, 16 AND 71-233.5, H.C.H. 1947." 17

18

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

20 Section 1. Section 38-110, R.C.K. 1947, is amended to 21 read as follows:

*38-110. Maintemance of indigent persens ratients on
discharge. Prior to the discharge of a patient from a mental
health facility, the professional person in charge of the
facility shall notify the welfare department of the county

There are no changes in $\underline{HB.3D}$, and due to length will not be rerun. Please refer to yellow copy for complete text.

1 from which the patient was committed. The county welfare 2 department shall at once ascertain whether the discharged Э patient is in financial need. If the patient is found to be in financial need, the county welfare decartment shall 蛊 5 properly care for and maintain the discharged patient under 6 the laws of this state relating to public welfare assistance 7 until the patient is able to care for hinselfy or until 8 another provision has been made for care of the patient."

9 Section 2. Section 38-120, R.C.H. 1947, is amended to
10 read as follows:

11 *38-120. Receipt of nonresident income person who is <u>seriously mentally ill</u> pending return to home state. In income <u>h</u> person, who is <u>seriously mentally ill and</u> not a 14 resident of this state, may be received into the state 15 hospital for a period not to exceed thirty-(30) days pending 16 return to the state of his residence."

17 Section-3,--Section-28-210,-B.C.E.-1947,-is-asended-to

18 **read-as-follows**

 19
 #38-210... Honeys Disposed_sf_persons of ob_person_viso_is

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 <u>sepisycly_person_is__estally_ill</u> instanc-person_disposed_of..._When_a

 21
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5	the bespitaly, the <u>The offices</u> such filethe -resciptwith
6	the clock of the district court of the county in thick the
7	proceedings-vere-bold,-If-theascunterseedsenebundred
8	dollars- (\$100),-the-eross-sust-be-applied-to-the-payment-of
9	the-expenses-oftheperson-thile-in-the-hespitelIf-the
10	anount-in-one-hundred-dollars- (\$100)-orlessy itsustba
11	<u>kept-and-delivered-to-the-person-when-discharged-or-released</u>
12	frenthe-hospital-or-applied-in-payment-of-funeral-espences
13	if the person dies vhile in the sharpitalyIf
14	zezaizstothecredit-of-e-person-persolady-dischergody-or
15	zoloased, or after paysent of the funeral - expenses - of the
16	persen
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18	discharge,release,osdeathy-fifty-per-cent-(508)-of-the
19	azouzty-but-zot-iz-azy-szezt-ozseedizg-fifty-dellars-+{\$50}_z
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24	hespitziy-1-balance-phichrowainetothecreditcfthe
25	person, shall-be-transmitted to the sounty-transmics of the

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 county-from-chick-the person was-souty-and-if-a-sum-stepains

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 to-the-orodit-of-the general-fund.⁴

5 Section 3. Section 38-506, B.C.H. 1947, is amended to
6 read as follows:

7 "36-506. Support of patient conditionally released. 8 When a mental health facility conditionally releases a patient committed to its care, it is not liable for his 9 support while conditionally released. Liability devolves 10 upon the legal guardian, parent, or person under whose care 11 the patient is placed when conditionally released, or upon 12 13 any other person legally liable for his support. The public 14 welfare officials of the county where the patient resides or is found, are responsible for providing relief and care for 15 a conditionally released patient who is unable to maintain 16 17 himself, or who is unable to secure support from the person under whose care he was placed on convalescent leave, like 18 19 any other person in need of relief and care, under the 20 public welfare assistance laws."

21 Section 4. Section 38-1202, R.C.H. 1947, is amended to
 22 read as follows:

23 *38-1202. Definitions. As used in this act the
24 following definitions apply:

25 (1) "Poard" means the mental disabilities board of

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1	HOUSE BILL NO. 30	1	from which the patient was committed. The county welfare
2	INTRODUCED BY BARDANOUVE	2	department shall at once ascertain whether the discharged
Э		£	patient is in financial need. If the patient is found to be
4	A BILL FOR AN ACT ENTITLED: MAN ACT TO GENERALLY REVISE AND	4	in financial need, the county welfare department shall
5	CLARIFY THE LAWS RELATING TO VOCATIONAL REHABILITATION.	5	properly care for and maintain the discharged patient under
6	PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY	6.	the laws of this state relating to public welfare assistance
7	DISABLED, AND THE MEMTALLY ILL; AMENDING SECTIONS 38-110,	7	until the patient is able to care for himselfy or until
ы	38-120, 38-210, 38-506, 38-1202, 38-1205, 38-1206, 38-1208,	ង	another provision has been made for care of the patient."
9	38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211,	9	Section 2. Section 38-120, R.C.M. 1947, is amended to
10	71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226,	10	read as follows:
11	71-230, 71-233.1, 71-233.3, 71-302.2, 71-303, 71-305,	11	"38-120. Receipt of nonresident insame <u>person who is</u>
12	71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509,	12	seriously mentally ill pending return to home state. An
13	71-710, 71-901, 71-1401, 71-1516, 71-1903, 71-2304, 71-2404,	13	insens A persony who is seriously mentally ill and not a
14	71-24j5, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912,	14	resident of this state v may be received into the state
15	80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, R.C.M.	15	hospital for a period not to exceed thirty-(30) days pending
16	1947; AND REPEALING SECTIONS <u>38-210+</u> 71-101, 71-107, 71-118,	16	return to the state of his residence."
17	AND 71-233.5, R.C.M. 1947.**	17	Section-3wSection38-210w-R*EwHw-1947w-is-amended-to
18		18	read-as-foffows+
19	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	19	*38-210*Moneys <u>Disposal-of-moneys</u> of <u>on-person-who-is</u>
23	section 1. Section 38-110, R.C.M. 1947, is amended to	2ປ	<u>seriously-mentally-ill</u> insone-persondisposal-ofWheno
21	read as follows:	21	personisadjudged-insane <u>to-be-seriously_mentally-ill</u> -ad-
22	#38-110. Haintenance of indigent persons patients on	22	ordered-committed-to-the-state-hospitaly-or-isadjudgedto
23	discharge. Prior to the discharge of a patient from a mental	23	beinsuch-a-condition-of-mind-that-he-should-be-placed-in
24	healtn facility, the professional person in charge of the	24	the-state-hospital-for-observationy-the-money-foundonhim
25	facility shall notify the welfare department of the county	25	at-the-time-he-is-taken-into-custody-must-be-certified-to-by

REFERENCE BILL

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the--judgey-mand-sent-with-the-person-to-the-state-hospital# 1 The-money-must-be-delvered--to--the--superintendent--of--the 2 3 state--hospitaly--whose-receipt-for-the-money-shall-be-taken 4 by-the-officer-or-other-person-delivering-him-the-patient to 5 the-hospitalys who <u>The-officer</u> must-file--the--receipt--with 6 the--cierk--of-the-district-court-of-the-county-in-which-the 7 proceedings-were-neidy-if-the--amount--exceeds--one--hundred 8 dollars-{\$100}y-the-excess-must-be-applied-to-the-payment-of 9 the--expenses--of--the--person-while-in-the-hospitala-If-the 10 amount-is-one-hundred-dollars-(\$100)-ou--lessy it--must--be 11 kept-and-delivered-to-the-person-when-discharged-or-released 12 from--the-hospital-or-spplied-in-payment-of- ineral-expenses 13 if-the-person-dies-while--in--the--nospitaly--If -an--amount 14 remains--to--the--credit-of-a-person-paroledy-dischargedy-or 15 releasedy-or-ofter-payment-of-the-funeral--expenses--of--the person--who--dies--while--in--the--hospitaly--and-the-cmount 16 17 remains--unclaimed--for--one--(1)--year--after--the--paroley 10 dischargey--releasey--or--deathy-fitty-per-cent-(50%)-of-the amounty-but-not-in-any-event-exceeding-fifty-dollars--(\$50)x 19 20 shall-be-withdrawn-from-the-account-and-placed-in-the-agency 21 fund--in--tne--state--treasuryy--to-be-expended-for-indigent 22 patients-at-the--times--and--in--the--manner--and--for--such 23 purposes--as--may-be-prescribed-by-the-superintendent-of-the 24 hospital -- A-balance-waich--remains--to--the--credit--of--the 25 persony--shall-be-transmitted-to-the-county-treasurer-of-the

1	county-from-which-the-person-was-senty-and-if-a-sumremains
2	after-paying-the-costs of-hearingy-and-transportation-to-the
3	hospicalythe-balance-shall-be-poid-into-the-state-treasury
4	to-the-credit-of-the-general-fund+"
2	Section 3. Section 38-506, R.C.M. 1947, is amended to
5	read as follows:
7	"33-506. Support of patient conditionally released.
8	when a mental health facility conditionally releases a
9	patient committed to its care, it is not liable for his
10	support while conditionally released. Liability devolves
11	upon the legal guardian, parent, or person under whose care
12	the patient is placed when conditionally released, or upon
13	any other person legally liable for his support. The public
14	welfare officials of the county where the patient resides or
15	is foundy are responsible for providing relief and care for
16	a conditionally released patient who is unable to maintain
17	himselfy or who is unable to secure support from the person
18	under whose care he was placed on convalescent leave, like
19	any other person in need of relief and care, under the
20	public wetfare assistance laws."
21	Section 4. Section 38-1202, R.C.M. 1947, is amended to
22	read ∋s follows:
23	≌38-1202• Definitions• As used in this act <u>the</u>
24	following_definitions_apply:
25	(1) "Board" means the mental disabilities board of

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1 visitors created by this act.

(2) "Community-based facilities" or "community-based 2 services" includes those services and facilities ف 4 which are available for the evaluation, treatments and habilitation of the developmentally disabled in a community 5 setting, including but not limited toy outpatient 6 7 facilities, special education services, group homes, foster homes, day-core day-care facilities, sheltered workshops, ĥ and other community-based services and facilities. 9

10 (3) "Court" means the <u>a</u> district court of the state of 11 Montana.

(4) "Developmentally disabled" means suffering from 12 disabilities attributable to mental retardation, cerebral 13 palsy, epilepsy, autism, or any other neurologically 14 handicapping condition closely related to mental retardation 15 and requiring treatment similar to that required by mentally 16 17 retarded individuals+, which condition has continued or can 18 be expected to continue indefinitely and constitutes a substantial handicap of such individuals. 19

(5) "Habilitation" means the process by which a person
who is developmentally disabled is assisted to acquire and
maintain those life skills which enable him to cope more
effectively with the demands of his own person and
environment and to raise the level of his physical, mental,
and social efficiency. Habilitation includes but is not

- 1 limited to formal, structured education and treatment.
- 2 (6) "Next of kin" includes but need not be limited to
- the spouse, parents, adult children, and adult brothers and
- 4 sisters of a person.
- 5 (7) "Professional person" means:
- 6 (a) a medical doctory; or

7 (b) a person trained in the field of developmental
a disabilities and certified by the department of institutions
9 or the department of social and rehabilitation services in
10 accordance with standards of professional licensing boards,
11 federal regulations, and the joint commissions on
12 accreditation of hospitals.

13 (8) "Resident" means a person admitted to a
14 residential facility for a course of evaluation, treatment.
15 or habilitation.

(9) "Residential facility" or "facility" means any 16 residential hospital or hospital and school which exists for 17 18 the surpose of evaluating, treating, and habilitating the 19 developmentally disabled on an inpatient basis, including 2 U the boulder River School school and Hospital hospital and the Eastmont fraining-Center training center. The term does 21 not include a group home, or foster home, or a halfway 22 house. A correctional facility or a facility for the 23 24 treatment of the mentally ill shall not be a "residential facility" within the meaning of this act. 25

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(10) "Respondent" means a person alleged in a petition
 filed pursuant to this act to be developmentally disabled
 and in need of developmental disabilities disability
 services.

(11) "Responsible person" means any person willing and 5 able to assume responsibility for a person who is 6 7 developmentally disabled or alleged to be developmentally Whenevery in any proceeding under this acty the 9 disabled. 9 court believes that a conflict of interest may exist between 19 a person who is developmentally disabled or alleged to be developmentally disabled and his parents or guardiany or 11 that the parents or guardian are unable .p protect the 12 interests of such persony or whenever there is no parent or 13 14 guardian, the court shall appoint a responsible person to 15 protect the interests of the person who is developmentally disabled or alleged to be developmentally disabled. Only 15 17 one person shall at any one time be the responsible person 18 within the meaning of this act. In appointing a responsible 19 person, the court shall consider the preference of the respondent or patient. The court may at any time, for good 20 21 cause shown, change its designation of who is the 22 responsible person.

(12) "Seriously developmentally disabled" means
developmentally disabled due to developmental or physical
disability or a combination of both rendering a person

unable to function in a community-based setting."
 Section 5. Section 38-1205, R.C.N. 1947, is amended to
 read as follows:
 #38-1205. Procedure-for--reporting--developmentally

disabled Petition for involuntary treatment. (1) Any person 5 who believes that there is a person who is developmentally ò 7 disabled and in need of developmental disability services may report the situation to a professional person. If the 8 professional person believes from the facts given to him 9 that the person may be developmentally disabled and in need 10 11 of developmental disability services, he shall contact the parents or quardian of the person alleged to be 12 13 developmentally disabled or the person himself. If any of 14 the persons so contacted refuse to cooperate with the professional person and if the professional person believes 15 from all the circumstances of the case that the person may 16 17 be developmentally disabled and in need of developmental 15 aisabilities <u>disability</u> services, he shall request the 19 county attorney to file a petition alleging that there is a 20 person in the county who is developmentally disabled and in need of developmental disabilities disability services. 21

22 (2) The petition shall contain the name and address
23 of:

24 (a) the name and address of the professional person 25 and any other person requesting the petitiony and their

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1 interest in the case; 2 (b) the name and address of the respondent; 3 (c) the name and address of the parents or guardian of 4 the respondenty and of any other person believed to be 5 legally responsible for the care, support_ and maintenance 6 of the respondent;

7 (d) the name and address of the respondent's next of
8 kin, to the extent known;

9 (e) the name and address of any person whom the county 10 attorney believes might be willing and able to be appointed 11 responsible person; and

12 (f) a statement of the rights of the respondent and 13 his parents or guardian which shall be in conspicuous print 14 and identified by a suitable heading.

(3) Upon presentation to the court by the county 15 attorney, the court shall immediately consider the petition 16 with or without a hearing to determine if there is probable 17 cause to believe that the respondent is developmentally 13 disabled and in need of evaluation and treatment. If the 19 court finds no such probable cause, it shall dismiss the 20 21 petition. If the court finds that probable cause does exist, it shall direct a professional person to examine the 22 respondent and to make an inquiry concerning the 23 circumstances of the case. Such examination shall not 24 exceed four-f4t hours in length. If probable cause is 25

ł founds the court may appoint a responsible person other than 2 the respondent's parents or guardian to protect the interests of the respondent. The responsible person shall 3 be notified as soon as possible that a petition has been 4 filed. Notice of the petition and the finding of probable 5 cause shall be mailed or delivered to the respondent and to 6. 7 all other persons named in the petition and to any person who would have been named in the petition had his name. 8 9 address, and relationship to the respondent been known at 10 the time.

(4) When the professional person first contacts the 11 12 respondent, before he begins any examination, he shall give the respondent a copy of the petition and explain to the 13 14 respondent the nature of the proceeding and his rights as 15 set forth in the petition. If the respondent is incapable 16 of understanding the explanation and proceeding, the 17 professional person shall give the petition and make the 13 explanation to the parents or quardian of the respondent. 19 Before making any inquiry of the parents or quardian of the 20 respondent, the professional person shall give them a copy 21 of the petitiony and explain the nature of the proceeding 22 and their rights as set forth in the petition.* 23 Section 6. Section 38-1206, R.C.M. 1947, is amended to read as follows: 24

25 "38-1206. Petition-dismissal----hearing----counsel----

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treatment Action on petition. (1) (f the professiona) 1 2 person, based on his examination and inquiry, determines that the respondent is not developmentally disabled or is 3 not in need of developmental disability services, he shall 4 5 report this finding in writing to the court and the petition 6 shall be dismissed. If the professional person concludes 7 that the respondent is developmentally disabled and in need ß of developmental disability services, he shall report this 9 conclusion to the court in writing together with his 10 recommendations for evaluation and treatment. The report 11 shall include an explanation of the basis on which the 12 professional person has reached his conclusion and shall 13 include a description of any tests or evaluation devices he has employed. If the professional person's recommendation 14 15 is for further evaluation and treatment, notice of this 16 recommendation shall be sent to the respondent, his parents 17 or guardian, the next of kin, the responsible person 18 appointed by the court, if any, and any attorney 19 representing the respondent or his parents or guardian. If 20 no responsible person has yet been appointed, the court may 21 appoint one at this time.

22 (2) If the respondent, his parents or guardian, the 23 responsible person, if any, or counsel for any party 24 requests a hearing on the recommendation, the court shall 25 set a time and place for hearing. The hearing shall be 1 before the court without a jury. The rules of civil 2 procedure shall apply.

4 (3) Prior to any hearing held pursuant to this section, the court shall appoint counsel to represent the 4 5 respondenty if the respondent has not retained independent 6 counsel. The parents (or quardian) shall be informed of 7 their right to counsel, and if they are indigent, the court ĥ shally on their requesty appoint counsel for them. In no 9 case shall may the same attorney represent the respondent 10 and his parents or quardian.

(4) If the hearing is waived or if the court finds, 11 after hearing, that the respondent is developmentally 12 13 disabled and in need of further evaluation and treatment, the court shall order that the respondent undergo such 14 evaluation and treatment. Evaluation and treatment ordered 15 pursuant to this subsection shall may not be for no more 16 17 than thirty-f30+ days. It shall take place in the least restrictive environment in which the necessary evaluation 18 and treatment can be accomplished. Evaluation and treatment 19 20 in a residential facility snall may be ordered only if the necessary evaluation and treatment cannot be accomplished 21 through the use of community-based facilities." 22

23 Section 7. Section 38-1208, R.C.M. 1947, is amended to
24 read as follows:

25 *38-1208. Recommendation to residential facility. (1)

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If as a result of the evaluation and treatment_ either 1 agreed to by the parents, guardian, or the person himself ź pursuant to section 38-1204 or ordered by the court, the 3 professional person in charge of the case concludes that the 4 person evaluated is seriously developmentally disabled and 5 recommends that treatment and habilitation be had in a 6 residential facility on an extended basis, the professional 1 person shall file his written recommendation and report ĸ with the court and request that the court order the 9 The report shall include the factual basis for 10 admission. 11 the recommendation, and shall describe any tests or 12 evaluation devices which have been employed in evaluating 13 the patient. If no responsible person has yet been 14 appointed, the court may appoint one at this time. If there 15 is no parent or quardian, the court shall appoint a responsible person. At the request of the respondent, his 16 17 parents or quardiang or the responsible person, the court shall appoint counsel for the respondent. If the parents 18 19 [or guardian] are indigent and if they request it, the court 20 shall appoint counsel for the parents or guardian. Notice 21 of the recommendation shall be mailed or delivered to the respondent, his parents or guardian, the responsible person, 22 next of kin, if known, and the attorney for the respondent, 23 if any, and for the parents or guardian, if any. 24 25 (2) The respondent, his parents or quardian, the 1 responsible person, or the attorney for any party may 2 request that a hearing be had on the recommendation. If a 3 hearing is requested, the court shall mail or deliver notice 4 of the date, time, and place of the hearing to each of the 5 parties listed at the beginning of this subsection. The 6 hearing shall be to the court without jury. The rules of 7 civil procedure shall apply.

8 (3) If the court finds that the respondent is 9 seriously developmentally disabled and that available 10 community-based services are not adequate, it shall order 11 the respondent admitted to a residential facility for an 12 extended course of treatment and habilitation. If the court 13 finds that the respondent is developmentally disabled, end 14 in need of developmental disabilities disability servicess but and that available community-based services are 15 16 adequate, it shall order the respondent to undertake a 17 community-based course of treatment and habilitation. If 18 the court finds that the respondent is not developmentally disabled or is not in need of developmental disability 19 20 services, it shall dismiss the request.

21 (4) If none of the parties notified of the 22 recommendation request a hearing, the court may issue an 23 order authorizing the person to be admitted to the 24 residential facility for an extended period of treatment and 25 habilitationy or the court may initiate its own inquiry as

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to whether the order should be granted. The court may
 refuse to authorize admission of a person to a residential
 facility for an extended period of treatment and
 habilitation if such admission is not in the best interests
 of the person.

(5) If any person is admitted to a residential 6 7 facility for an extended course of habilitation without a 8 hearingy and if subsequent to such admission one of the 9 parties who could have requested a hearing learns that an 10 alternative course of treatment is available which is more 11 suitable to the needs of the resident, the party may request 12 the professional person in charge of the res 'ent to release 13 the resident to the alternative, if it is a compunity-based 14 alternative, or transfer the resident to the alternative, if 15 it is a residential alternative. Any such transfer or release shall comply with the requirements of section 16 17 38-1209. If the professional person in charge of the resident refuses to authorize the release or transfer, then 18 19 the party may petition the court for a hearing to determine 20 whether the present residential alternative should be 21 continued. The hearing shall comply with the procedures set forth in subsection (2) of this section." 22

23 Section 8. Section 38-1222, R.C.M. 1947, is amended to
 24 read as follows:

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25 #38-1222. Bther-rights-while-in-a-residential-facility

Right to nabilitation. (1) Persons admitted to residential 1 facilities shall have a right to habilitation, including 2 medical treatment, education, and care, suited to their 3 needs, regardless of age, degree of retardation, or 4 handicapping condition. Each resident has a right to a 5 habilitation program which will maximize his human abilities 0 7 and enhance his ability to cope with his environment. Every residential facility shall recognize that each resident, à regardless of ability or status, is entitled to develop and 9 realize his fullest potential. The facility shall implement 10 the principle of normalization so that each resident may 11 live as normally as possible. 12 (2) Residents shall have a right to the least 13 restrictive conditions necessary to achieve the purposes of 14 habilitation. To this end, the facility shall make every 15 16 attempt to move residents from: 17 (a) more to less structured living; (b) larger to smaller facilities; 18 (c) larger to smaller living units; 19 group to individual residence; 20 (d) (e) segregated from the community to integrated into 21 the community living; 22 (f) dependent to independent living. 23 (3) Within thirty--{30} days of his admission to a 24 residential facility, each resident shall have an evaluation 25

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by appropriate specialists for programming purposes. 1 (4) Each resident shall have an individualized 2 habilitation plan formulated by the facility. This plan 3 shall be developed by appropriate professional persons and 4 implemented as soon as possible but no later than fourteen Э f14+ days after the resident's admission to the facility. 6 An interim program of habilitation, based on the 7 preadmission evaluation conducted pursuant to this act, 8 shall commence promptly upon the resident's admission. Each ч individualized habilitation plan shall contain: 10

(a) a statement of the nature of the specific
 limitations and specific needs of the resident;

(b) a description of intermediate and long-range
habilitation goals with a projected timetable for their
attainment;

16 (c) a statement of \mathbf{v} and an explanation for \mathbf{v} the plan 17 of nabilitation for achieving these intermediate and 18 long-range goals;

19 (d) a statement of the least restrictive setting for
20 habilitation necessary to achieve the habilitation goals of
21 the resident;

(e) a specification of the professional persons and
other staff members who are responsible for the particular
resident's attaining these habilitation goals;

25 (f) criteria for release to less restrictive settings

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for - nabilitation, including criteria for discharge and a
 projected date for discharge.

3 (5) As part of his habilitation plan, each resident 4 shall have an individualized post-institutionalization 5 postinstitutionalization plan. This plan shall be developed by a professional person who shall begin preparation of such 6. 7 plan upon the resident's admission to the institution and 8 shall complete such plan as soon as practicable. The 9 parents or quardian or next of kin of the resident, the responsible person appointed by the court, if any, and the 10 11 resident, if able to give informed consent, shall be 12 consulted in the development of such plan and shall be 13 informed of the content of such plan.

14 (6) In the interests of continuity of care, one 15 professional person shall whenever possible be responsible 16 for supervising the implementation of the habilitation plan, 17 integrating the various aspects of the habilitation 18 program, and recording the resident's progress as measured 19 by objective indicators. This professional person shall 20 also be responsible for ensuring that the resident is 21 released when appropriate to a less restrictive habilitation 22 setting.

(7) The habilitation plan shall be continuously
reviewed by the professional person responsible for
supervising the implementation of the plan and shall be

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modified if necessary. In addition, six-(6) months after 1 admission and at least annually thereafter, each resident 2 shall receive a comprehensive psychological, social, 3 educationals and medical diagnosis and evaluations and his 4 nabilitation plan shall be reviewed by an interdisciplinary 5 team of no less than two (2) professional persons and such 6 7 resident care workers as are directly involved in his н habilitation and care. A habilitation plan shall be 9 reviewed monthly.

10 (8) Each resident discharged to the community shall 11 have a program of transitional habilitation assistance.

12 (9) The professional person in c. rge of the 13 residential facility shall report in writing to the parents 14 or quardian of the residenty or the responsible persony at 15 least every six--f6; months on the resident's educational, 16 vocationals and living skills progress and medical 17 condition. Such report shall also state any appropriate 18 habilitation program which has not been afforded to the resident because of inadequate habilitation resources. 19

20 (10) The parents or guardian of each resident, or the 21 responsible person appointed by the courty shall promptly 22 upon the resident's admission receive a written copy of all 23 the above standards for adequate habilitation. Each 24 resident, if the resident is able to comprehend, shall 25 promptly upon his admission be orally informed in clear language of the above standards and, where appropriate, be provided with a writte. copy." Section 9. Section 38-1302, R.C.N. 1947, is amended to read as follows: #38-1302. Definitions. As used in this act the following_definitions_apply: (1) "Board" means the mental disabilities board of visitors created by this act. (2) "Court" means the a district court of the state of Montana. (3) "Department" means the department of institutions provided for in Title 82A. chapter 10. (4) "Emergency situation" means a situation in which any person is in imminent danger of death or serious bodily harm from the activity of a person who appears to be

seriously mentally ill. 16 (5) "Hental disorder" means any organic, mental, or 17 emotional impairment which has substantial adverse effects 18 on an individual's cognitive or volitional functions.

(6) "Mental health facility" or "facility" means a 20 public hospital or a licensed private hospital or a 21 community mental health centery or any mental health clinic 22 or treatment center approved by the department. No 23 correctional institution or facility or jaily is a mental 24 health facility within the meaning of this act. 25

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1 (7) "Next of kin" shall includey but need not be 2 limited toy the spouse, parents, adult children, and adult 3 brothers and sisters of a person.

4 (8) "Patient" means a person committed by the court to
 5 a seventy-two--(72)-hour <u>72-hour</u> evaluation or treatment or
 5 for a longer period.

7 (9) "Peace officer" means any sheriff, deputy sheriff,
8 marshal, policeman, or other peace officer.

9 (10) "Professional person" means:

10 (a) a medical doctory; or

11 (b) a person trained in the field of mental health and 12 certified by the department of--institutions in accordance 13 with standards of professional licensing boards, federal 14 regulations, and the joint commission on accreditation of 15 hospitals.

16 (11) "Respondent" means a person alleged in a petition1/ filed pursuant to this act to be seriously mentally ill.

(12) "Responsible person" means any person willing and 15 able to assume responsibility for a seriously mentally ill 19 persony or person alleged to be seriously mentally ill, 20 including next of kin; the person's conservator or legal 21 quardian, if any; representatives of a charitable or 22 23 religious organization i or any other person appointed by the court to perform the functions of a "responsible person" 24 set out in this act. Only one person shall at any one time 25

be the "responsible person" within the meaning of this act. In appointing a responsible person, the court shall consider the preference of the respondent. The court may, at any time for good cause shown, change its designation of the "responsible person".

(13) "Seriously mentally ill" means suffering from a 6 7 mental disorder which has resulted in self-inflicted injury 8 or injury to othersy or the imminent threat thereoft or which has deprived the person afflicted of the ability to 9 protect his life or health. No person may be involuntarily 10 11 committed to a mental health facility nor or detained for evaluation and treatment because he is an epileptic, 12 mentally deficient, mentally retarded, seniles or suffering 13 14 from a mental disorder unless the condition causes the 15 person to be seriously mentally ill within the meaning of this act." 16

17 Section 10. Section 41-817, R.C.M. 1947, is amended to 18 read as follows:

19 #41-817. Definitions. (1) "Severely handicapped 20 person" means any individual:

(a) who has a physical or mental impairment which
requires multiple services over an extended period of time
and results from amputation, blindness, cancer, cerebral
palsy, cystic fibrosis, deafness, heart disease, hemiplegia,
respiratory or pulmonary dysfunction, mental retardation,

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mental illness, multiple sclerosis, muscular dystrophy,
neurological disorders (including stroke and epilepsy),
paraplegia, quadriplegia, and other spinal cord conditions,
renal failure, and any other disability, specified by the
department in regulations it shall prescribe; and/or

6 (b) who, because of lack of social competence,
7 mobility, experience, skills, training, or other successful
8 characteristics, is in need of sheltered employment or work
9 activity services in a protective setting.

(2) "Physical or mental disability" means a physical 10 11 or mental condition which materially limits, contributes to 12 limiting or if not corrected will provibly result in limiting an individual's activities or functioning. The term 13 includes behavioral disorders characterized by deviant 14 social behavior or impaired ability to carry out normal 15 relationships with family and community which may result 16 from vocational, 17 educational, cultural, social, environmental t or other factors. 18

19 (3) "Vocational rehabilitation services" means goods 20 or services provided handicapped persons to enable such 21 persons to be fit for gainful occupation or to attain or 22 maintain a maximum degree of self-support or self-care and 23 includes every type of goods and services for which federal 24 funds are available for vocational rehabilitation purposes, 25 includingy but not limited toy the establishment, construction, development, operation, and maintenance of
 workshops and rehabilitation facilities.

3 (4) "Self-care" means a reasonable degree of 4 restoration from dependency upon others for personal needs 5 and care and includes but is not limited to ability to live 6 in own homey rather than requiring nursing home care and 7 care for self rather than requiring attendant care.

s (5) "Department" means the department of social and
 rehabilitation services.

(6) "Sheltered workshop" charitable 10 means а organization or institution conducted not for profity but 11 for the purpose of carrying out a recognized program of 12 rehabilitation for handicapped workersy--and/or providing 13 such individuals with remunerative employment or other 14 occupational rehabilitating activity of an educational or 15 16 therapeutic nature.

(7) "work activity center" means a physically 17 separated department of a workshop having an identifiable 10 program, separate supervision and records, and which is 19 planned and designed exclusively to provide therapeutic 20 activities for handicapped workers whose physical or mental 21 impairment is so severe as to make their productive capacity 22 inconsequential. Therapeutic activities include custodial 23 activities (such as activites where the focus is on teaching 24 the basic skills or of living), and any purposeful activity 25

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so long as work or production is not the main purpose."
 Section 11. Section 71-113, R.C.N. 1947, is amended to
 read as follows:

#71-113. Bond of contractor -- duty of physician to 4 examine and notify contractor. Any A person with whom any a Э such contract for the maintenance or medical attendance of 6 the poor or indigent sick is made must execute a bond to the 7 state in a sum not less than one-thousand \$1.000 nor or more d 9 than five--thousand--dollars \$5,000, with two or more 10 sureties, conditioned for the faithful performance of his contractta said The bond is to be approved by and filed with 11 12 the chairman of the board. It--is--the--duty--of--the The physician with whom the a contract for medical attendance is 13 made to-exomine shall each week examine any person who is a 14 charge upon the county, and ify after such the examinationy 15 he is satisfied that such the person is able to support and 16 maintain himself, he must so notify the contractor having 11 the person in charge+ by leaving with the contractor a 18 notice of the fact that such the person requires no further 19 20 medical attendanceve and <u>He shall</u> file a duplicate thereof notice with the clerk of the board. After the serving--of 21 said physician serves the notice and filing files the 22 duplicate thereof with the clerk, the person mentioned 23 therein ceases to be a charge upon the county." 24

25 Section 12. Section 71-207, R.C.M. 1947, is amended to

read as follows: 1 *71-207. tegst--services Attorney general to act as 2 legal adviser to department. The attorney general of the 3 4 state shall act as legal adviser to the state department: and shall perform such legal services as may be required. 5 and ne--is--hereby--empowered--to may employ such other and 6. 7 additional counsel as may be necessary for this purpose and 8 may fix the compensation therefory_ providedy-howevery--that 9 the The total yearly sum per-annum for the service shall may not exceed twenty-four--hundred-(\$2,400+00)-dollars, which 10 11 compensation shall be paid out of state public welfare 12 assistance funds.* Section 13. Section 71-210, R.C.M. 1947, is amended to 13 14 read as follows: 15 "71-210. Authority Powers and activities duties of the 16 state department. (1) The--state-department-has-authority 17 over-and-administration-of-supervision-of-all--the--purposes 18 and--operations--as--set--forth--under--fitle--flw The state department shall: 19 20 (a) Administer administer or supervise all forms of 21 public assistance, child protections and child welfare, 22 including the provision of medical care payments in behalf 23 of recipients of public assistance;

(b) Administer administer or supervise all child
 welfare activities, including importation and exportation of

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1 children; licensing and supervising of private and local 2 child-caring agencies; the care of dependent, neglected, and 3 delinquent children in foster family homes, especially 4 children placed for adoption or those of illegitimate birth; 5 {c} 6ive <u>give</u> consultant service to private 6 institutions providing care for the needy, indigent, 7 handicapped, or dependent adults;

d (d) Bevelop-and cooperate with other state agencies
and develop provisions for services to the blind, including
the prevention of blindness, the location of blind persons,
medical services for eye conditions, and vocational guidance
and training of the blind;

13 (e) Provide provide services in respect to 14 organization and supervise county departments of public 15 welfare and county boards of public welfare in the 16 administration of public welfare assistance functions, and 17 for efficiency and economy;

(f) Assist assist and cooperate with other state and
 federal departments, bureaus, agencies, and institutions,
 when so requested, by performing services in conformity with
 the-purposes-of-this-pert, public assistance purposes; and

(g) Administer administer and supervise all federal
funds allocated to this state and all state funds
appropriated to this the state department for the activities
set--rorth--in--Title--71 public assistance activities. The

state department shall do all things necessary, 1 in conformity with fede a) and state law, for the proper 2 rulfillment of the-purposes-set-forth--in--fitte--ft public 3 assistance purposes. 4 5 (∠) The state department may: (a) Purchase purchase, exchange, condemn, or receive ĥ 7 by gift, either real or personal property which is necessary 8 to carry out its <u>public assistance</u> functions under-Title-71. 9 Title to property obtained under this subsection shall be 10 taken in the name of the state of Montanay for the use and 11 benefit of the state department. (b) Contract contract with the federal government to 12 13 carry out its public assistance functions under-fitle-fl. 14 The state department may do all things necessary in order to avail itself of federal aid and assistance." 15 Section 14. Section 71-211, R.C.M. 1947, is amended to 16 read as follows: 17 18 "71-211. State department to act as agency of federal 19 government -- assistance to ward Indians. (1) The state department shall act as the agent of the federal government 20 21 in public welfare assistance matters of mutual concern in conformity with this act and the Federal federal Social 22

24 granted to the state to aid in the purposes and functions of

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Security Acty and in the administration of any federal funds

25 the state department.

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(2) The counties shall not be required to reimburse 1 the state department for any portion of old-age assistance, 2 medical assistance, aid to needy dependent children, or aid 3 to needy blind, or aid to the totally disabled paid to ward 4 Indians or for any payment on behalf of any person in a ъ state-operated medical institutiony, further--provided--that 6 the line federal government may reimburse the state of 7 Montana in behalf of counties, providing general relief to đ ward Indiansy a sum in lieu of taxes which the counties 9 would collect if the lands of such ward indians were not in 10 trust status. A "ward Indian" is hereby defined as an Indian 11 who is living on an Indian reservation set aside for tribal 12 user or is a member of a tribe or nation accorded certain 13 rights and privileges by treaty or by federal statutes. If 14 and when the Federal federal Social Security Act is amended 15 to define a "ward Indiany", such definition shall supersede 16 17 the foregoing definition."

Section 15. Section 71-212, R.C.M. 1947, is amended to 10 read as follows: 19

20 "71-212. State Power of state department in administering state grants-in-aid. In administering or 21 supervising any state or federal funds appropriated or made 22 available to the state department for public welfare 23 assistance purposes, the state department shall have the 24 25 authority to:

1 (a)(1) Require require as a condition for receiving 2 grants-in-aid that the county shall bear the proportion of the total of local public assistance as is fixed by law 3 relating to such assistancew: 4

(b)(2) Make make use of all legal processes to enforce 5 the minimum standards prescribed by the state department ъ 7 under laws providing for grants-in-aid, provided that such standards shall not exceed in cost the amount derived from 8 9 levies established by state law+: and 10 te;[3] Require require that each part of this-act the

11 public assistance laws shall be in effect in all counties of 12 the state."

13 Section 16. Section 71-213, R.C.M. 1947, is amended to 14 read as follows:

15 "71-213. County departments to be established. There shall be established in each county of the state a county 16 17 department of public welfare which shall consist of a county 16 board of public welfare and such staff personnel as may be 19 necessary for the efficient performance of the public 20 welfare assistance activities of the county. Providedy howevery--if If conditions warrant and if two or more county 21 boards enter into an agreement, two or more counties may 22 23 combine into one administrative unit and use the same staff 24 personnel throughout the administrative unit." 25

section 17. Section 71-214, R.C.M. 1947, is amended to

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2 #71-214. County commissioners ex officio county 3 welfare board -- compensation. The board of county commissioners, ex officio, shall be the county welfare board 4 5 and is wereby authorized to devote such additional time for 6 public weifere assistance matters as may be found necessary. 7 The members of the county we)fare board shall receive the 8 same compensation for their services and the same mileage when acting as the county board of public welfare as they 9 10 receive when acting as the board of county commissioners and 11 shall be limited as to meetings as now provided by law, and the compensation and mileage of the measurs of the board 12 13 shall be paid from county funds. They may transmit business 14 as a board of county commissioners and as a county welfare 15 board on the same day, and in such cases they shall be paid 16 as a board of county commissionersy but shall-in-no-case may not receive compensation for more than one 1 day's work for 17 all services performed on the same calendar day." 18

19 Section 18. Section 71-216, R.C.M. 1947, is amended to 20 read as follows:

21 "71-216. Powers and duties of the county board. The 22 county board of public welfare shall-be is responsible for 23 establishing local policies and such rules and-regulations 24 as are necessary to govern the county department and local 25 administration of public welfare assistance activities

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except that all such policies and rules and requilations must 1 be in conformity with general policies and rules and 2 regulations established by the state department. The county 4 board of public welfare shall review the determinations of 4 eligibility and amount of payment to or on benalf of 5 individuals made by the staff of the county department for Ð conformity with the aforesaid rules and---regulations. 7 Determinations not in conformity will be referred to the R 9 staff by the county welfare board for appropriate action as 10 authorized by said the board."

11 Section 19. Section 71-217, R.C.M. 1947, is amended to 12 read as follows:

13 "71-217. Staff personnel -- how selected, paids and controlled -- dismissal. (1) Each county board shall select 14 and appoint from a list of qualified persons furnished by 15 the state department such staff personnel as are necessary. 16 The staff personnel in each county shall consist of at least 17 one qualified staff worker (or investigator) and such clerks 18 19 and stenographers as may be decided necessary. If conditions warrant, the county board, with the approval of the state 20 department, may appoint some fully qualified person listed 21 by the state department as supervisor of its staff 22 personnel. The staff personnel of each county department are 23 directly responsible to the county board, but the state 24 department shall--have--the-authority-to may supervise such 25

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county employees in respect to the efficient and proper 1 performance of their duties. The county board of public 2 welfare snoll may not dismiss any member of the staff 3 personnel without the approval of the state department; but 4 the state department shall-have-the-authority-to may request 5 the county board to dismiss any member of the staff 6 personnel for inefficiency, incompetence, or similar cause. 7 (2) Public assistance staff personnel attached to the 8 county board shall be paid from state public welfare 9 assistance fundsy both their salaries and their travel 10 expenses, as provided for in sections 59-538, 59-539, and 11 59-801, when away from the county seat in the performance of 12 their dutiest but the county board of public welfare shall 13 reimburse the state departmenty from county poor fundsy 14 one-half of the payments so made to its public assistance 15 staff personnel, except that, under circumstances prescribed 16 17 by the state department, the reimbursement by the county board of public welfare may be less than one-half. All other 16 administrative costs of the county department shall also be 19 paid from county poor funds. 20

21 (3) On or before the 20th day of the month following 22 the month for which the payments to the public assistance 23 staff personnel of the county were made, the state 24 department shall present to the county department of public 25 welfare a claim for the required reimbursements. The county board shall make such reimbursements within twenty-(20) days
 after the presentation of the claims and the state
 department shall credit (add) all such reimbursements to its
 account for administrative costs.^m
 Section 20. Section 71-222, R.C.M. 1947, is amended to

read as follows:

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7 "71-222. Hillage----taxes----to----be-----be-----levied---8 expenditures--budgets County to levy taxes, budget, and make 9 expenditures for public assistance activities. (1) The board 10 of county commissioners in each county shall levy seventeen (17) 13.5 mills for the county poor fund as provided by lawy 11 12 or so much thereof as may be necessary. The board shall 13 budget and expend so much of the funds in the county poor 14 fund for all <u>public_assistance</u> purposes of-this-act as will 15 enable the county welfare department to pay the general 16 relief activities of the county and to reimburse the state department for the county's proportionate share of the 17 18 administrative costs of the county welfare department and of 19 all public assistance and its proportionate share of any 20 other welfere public assistance activity that may be carried 21 on jointly by the state and the county.

22 {2} The amounts set up in the budget for the 23 reimbursements to the state department shall be sufficient 24 to make all of these reimbursements in full. The budget 25 shall make separate provision for each one of these public

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assistance activities, and proper accounts shall be established for the funds for all such activities.

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(3) As soon as the preliminary budget provided for in з 4 section 16-1903 has been agreed upon, a copy thereof shall without delay be mailed to the state department, and at any 5 time before the final adoption of the budget, the department 6 shall make such recommendations with regard to changes in 7 8 any part of the budget relating to the county poor fund as 9 considered necessary in order to enable the county to discharge its obligations under the Public--Welfore--Act 10 11 public assistance laws.

12 (4) The state department shall prove the examine the preliminary budget in order to ascertain if the amounts 13 provided for reimbursements to the state department are 14 15 likely to be sufficienty and shall notify the county clerk of his its findings. The board shall make such changes in 16 17 the emounts provided for reimbursements, if any are required, in order that the county will be able to make the 18 19 reimbursements in full.

20 (5) The board of county commissioners may not make any 21 transfer from the amounts budgeted for reimbursing the state 22 department without having first obtained a statement in 23 writing from the state department to the effect that the 24 amount to be transferred will not be required during the 25 fiscal year for the purposes for which the amounts were

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provided in the budget.

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(6) No part of the county poor fund, irrespective of 2 З. the source of any part thereof, may be used directly or indirectly for the erection or improvement of any county 4 building so long as the fund is needed for general relief -5 expenditures by the county or is needed for paying the 6 county's proportionate share of public assistance, or its 7 proportionate share of any other welfare public assistance d activity that may be carried on jointly by the state and the 9 county. Expenditures for improvement of any county buildings 10 used directly for care of the poor may be made out of any 11 12 moneys in the county poor fund, whether such moneys are produced by the seventeen-(17)-mill 13.5-mill levy provided 13 for in paragraph-one subsection (1) of this section or from 14 any additional levy authorized or to be authorized by law. 15 Such expenditure shall be authorized only when any county 16 building used for the care of the poor must be improved in 17 order to meet legal standards required for such buildings by 18 the department of health and environmental sciencesy andy 19 when such expenditure has been approved by the state 20 21 department." Section 21. Section 71-226, R.C.M. 1947, is amended to 22

23 read as follows:

24 M71-226. Fraudulent-acts Fraudulent_obtainment_of
 25 <u>public assistance a misdemeanor</u>. Whoever knowingly obtainsy

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or attempts to obtainy or aidsy or abets any person to ı obtaint by means of a willfully false statement or 2 representation or by impersonationy or other fraudulent - 1 device, public assistance to which he is not entitled, or 4 assistance greater than that to which he is justly 5 entitled+. or whoever aids or abets in buying or in any way Þ disposing of the property, either personal or real, of a 1 recipient of assistance without the consent of the county 8 9 department and with the intent to defeat the purposes of this acty shall-be is guilty of a misdemeanor. In assessing 10 the penalty_ the court shall take into consideration; among 11 other factors, the amount of money fraudulently received." 12 13 Section 22. Section 71-230, R.C.M. 1947, is amended to read as follows: 14

"71-230. Method of issuing assistance grants --15 16 reimbursement. fat(1) Checks in payment of public assistance, as--provided-for-in-each-part-of-this-acty with 17 18 the exception of general relief, shall be issued by the state department upon approved certificates of award and 19 reports of changes of such eligible grantees as are 20 21 forwarded by the county department to the state department. 22 and all such checks will be mailed to the individual 23 recipient or the appropriate vendor. The checks in payment 24 of public assistance shall be issued in the full approved 25 amount for each eligible approved grantees and the original

monthly payment shall be from the state public welfare
 <u>assistance</u> accounts. All public assistance checks shall
 represent cash on demand at full par value to the recipient
 and vendor.

5 (b)(2) Whenever the state department, acting pursuant 6 to standards established by said the department, shall 7 determine determines that any otherwise eligible recipient 8 of old-age old-age assistance, aid to the needy blind, or 9 aid to the permanently and totally disabledy has, by reason 10 of any physical or mental condition, such inability to 11 manage funds that making payments to him would be contrary 12 to his welfare, the department mays under standards 13 established under the state plan, make the public assistance 14 payment on behalf of such recipient to another person found 15 by the department to be interested in or concerned with the 16 welfare of such needy individual. Before such payments may 17 be paid to such other person, such person shall give a bond, 18 with adequate corporate surety and in form to be approved by 19 the state department, running in favor of the needy 20 individual and the state of Montana, conditioned upon the 21 faithrul use by such other person of the funds for the welfare of the said needy individual. Such bond shall be in 22 23 an amount equal to six (6) times the amount of the monthly 24 payment involved.

25 (c)(3) Un or before the twentieth 20th of each month

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1 the state department will shall present a claim for 2 reindursement to each county department for ite 3 proportionate share of public assistance granted in the 4 county to recipients during the month and for yendor medical payments made on behalf of recipients in the previous month. 5 The county department must shall make such the reimbursement ъ 7 to the state department within twenty-{20} days after such the claim is presented." в

9 Section 23. Section 71-233.1, R.C.M. 1947, is amended
10 to read as follows:

11 *71-233-1. Investigations and enforcement actions by 12 department of revenue --enforcement-actions. When requested 13 by the department of social and rehabilitation services, the 14 department of revenue shall have the power-and duty to:

15 (a)(1) investigate matters relating to public welfare 16 assistance and vendor payments, including but not limited to 17 the claim for an acceptance of welfare public assistance 18 benefits by welfare public assistance recipients, and the 19 receipt and disbursal of welfare public assistance funds by 20 state, county, or other governmental agencies;

21 (b)(2) institute civil or criminal actions in the
 22 appropriate courts to enforce the welfare public assistance
 23 laws and violations thereof."

Section 24. Section 71-233.3, R.C.M. 1947, is amended
to read as follows:

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*71-233.3. Information made available to department of 1 2 revenue. (1) The depar ment of social and rehabilitation a, services and its local units shall make available to the department of revenue information contained in the welfore 4 public assistance files pertinent to the investigations and 5 ъ judicial actions described in section-1-f71-233.13. 7 (2) Every other state, county, or other governmental agency shall make available to the agents or attorneys of 8 9 the department of revenue+ all records, files, memoranda, formsi or other papers relating to public welfare assistance 10 11 matters: including income tax returns filed with the department of revenue." 12 13 Section 25. Section 71-302.2. R.C.M. 1947. is amended 14 to read as follows: 15 *71-302.2. Residency requirements. (1) Any person otherwise qualified who makes his home in the--state-of 16 17 Hontana with the intent to become a resident shall be 18 eligible for general relief. Upon the filing of his 19 application in the county of residence, his a qualified applicant's general relief assistance shall be paid entirely 24 21 from state funds until ne has resided for one-fl; continuous year in the-state-of Montana, at which time he shall become 22 a financial responsibility of the county in which he resides 23 at the expiration of the one--(1)-year l-year period. A 24 person who leaves the-state-of Montana with the intent to 25

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reside in another state, and later returns to reside in the 1 state-of Montanay--shall--be--deemed is considered a new 1 resident for the purposes of this act. If a recipient moves 3 from his original county of residence to reside in another 4 county, he shall continue to be a financial responsibility 5 of the original county of residence for one-(1) year from ć, the date of his change of residence. If during this one-{1} 7 year 1-year periody the individual resides in several 'n counties, he shall become a financial responsibility of the 9 10 year 1-year period. County medical assistance under section 11 71-308 shall not be entitled to be paid from state funds. 12

13 (2) If a person is absent from the state voluntarily, he shall-be is ineligible for general relief in the-state-of Montana. Aliens found to be illegally within the United States shall are not be eligible for relief from state 17 tunds.

13 (3) Recipients of public assistance who become wards or patients in a licensed nursing home or hospital, foster 19 home, or a private charitable institution shall have the 21 county share of financial participation paid entirely from 21 22 entrustment or the original date of state residency, 23 whichever is earlier. At the expiration of such period, the 24 appropriate county, as defined by the following quidelines, 25

1 shall become financially responsible to the extent of its 2 legally required share of participation. The county in which commitment of an adult is initiated shall--be--deemed is 3 4 considered the county of financial responsibility except 5 where court decree declares the residency to be otherwise. 6 Where When an adult is transferred from a facility or 7 institution to one of the above-enumerated facilities, the 8 county which initiated the original commitment shall-be 9 deemed is considered the county of financial responsibility 10 except in the case of an adult transfer from an out-of-state 11 institution, in which case the county in which the facility 12 is located shall-be--decard is considered the county of 13 financial responsibility. In all cases where a minor patient 14 or ward is involved, the county of financial responsibility 15 shall-be is the county in which the parent or guardian 16 resides. Where If the custody of a minor is entrusted to a 17 state agency, the agency shall-have-the-power-to may make a reasonable declaration of the county residency of its ward 18 using applicable guidelines enumerated in this section. A 19 20 person who reaches majority in an institution, shall upon 21 release and restoration to competency, have-the-power-to may 22 determine his own county residency. Such person shall continue to be a financial responsibility of the county 23 24 from the date of release, at which time he shall become a 25

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financial responsibility of his new county of residence. 1 2 [4] Nonresidents or interstate transients may receive 3 temporary relief from county funds in cases of extreme necessity and destitution until they may-be are returned at 4 5 state expense to their state of residence or origin. Medical 6 expenses arising from accidental injury to interstate 7 transients shall be paid from county funds and reimbursed by 8 the state upon submission of a proper claim.

9 (5) "Interstate transient", as the term is used in 10 this act, is defined as an individual who has signed a 11 declaration that he is unable to pay for his own necessities 12 or transportation to return to his state u' residence or 13 origin and is en route to a point outside or this state, 14 being unable, due to unexpected distress, to reach his 15 destination."

Section 26. Section 71-303, R.C.M. 1947, is amended to read as follows:

"71-303. Eligibility for general relief -- based on 18 investigation of resources. An applicant for general relief 19 20 assistance, including medical care and hospitalization, shall be eligible to receive assistance only after 21 22 investigation by the county department reveals that the 23 income and resources are insufficient to provide the necessities of life--and--assistance. Assistance shall be 24 25 provided to meet a minimum subsistence compatible with

1 decency and health." Section 27. Section 71-305; R.C.M. 1947; is amended to 2 3 read as follows: 4 *71-305. Equal Right of equal consideration. Persons eligible for and in need of <u>general</u> relief shall-be, whether 5 6 employable or unemployable, <u>shall__be</u>__given__equal consideration for public assistance as those persons 7 eligible for assistance under other parts of this act." 8 9 Section 28. Section 71-306, R.C.N. 1947, is amended to read as follows: 10 "71-306. Right--of---hearing Grievances concerning 11 general relief assistance. Individuals or committees with 12 complaints or grievances concerning general relief 13 assistance may present their complaints or grievances to 14 either the county board or the state departments and due 15 consideration shall be given all proven facts presented by 16 17 the individuals or committees. The county board or the state department shall take action to relieve situations brought 18 to their attention under this section to the extent of funds 19 20 available." Section 29. Section 71-307, R.C.N. 1947, is amended to 21 read as follows: 22

23 #71-307. Relief by check or disbursing orders. (1) All
 24 general relief disbursements by county departments of public
 25 welfare shall be by warrant or check. However, if the county

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welfare department finds that a recipient is in the habit of 1 dissipating general relief allowances instead of using them 2 for the purposes intended, or that for any other reason it - 1 is better for the recipient and his family to receive the 4 allowance through disbursing orders, then disbursing orders 5 shall be used instead of cash payments;-but-all_ such 6 disbursing orders must be written in such form that the 7 goods and merchandise to be provided may be furnished by any в regular dealer in such goods and merchandise within the 4 county. A recipient of general relief must register for 10 employment with the State---Employment--Service state 11 employment service and must accept available employment 12 within his or her capability. Refusal to accept such 13 employment will render the recipient ineligible for further 14 general relief assistance. If the county has work available 15 which a recipient of general relief is capable of 16 performing, then the county department of public welfare may 17 require the recipient to perform the work at the prevailing 18 19 rate of wages paid by that county for similar works to be paid from the county poor fund in place of granting him 20 21 general relief.

(2) The county department of public welfare shall
provide coverage under the Workment's Workers! Compensation
Act for those recipients of general relief working under the
provisions hereofy and may enter into such agreements with

the division of workmen*s workers* compensation of the
 department of labor and industry as may be necessary to
 carry out the provisions of this section.

4 (3) Any recipient of general relief who is subject to
5 the provisions of this section and who without cause refuses
6 to perform work assigned to him as herein provided shall
7 lose his eligibility for general relief for one-tly week for
8 each refusal."

9 Section 30. Section 71-308, R.C.M. 1947, is amended to
10 read as follows:

11 "71-308. Hedical County to provide medical aid and 12 hospitalization to indigent. (1) Medical Except as provided 13 in other parts of this act. medical aid and hospitalization 14 for nonresidents within the county and county residents 15 unable to provide such necessities for themselves are the 16 legal and financial duty and responsibility of the board of 17 county commissioners, except-as-otherwise-provided-in--other 18 parts--of--this--acty payable from the county poor fund. The 19 board of county commissioners shall make provisions for 20 competent and skilled medical or surgical services as 21 approved by the department of health and environmental sciences or the state medical associationy or in the case of 22 23 osteopathic practitioners by the state osteopathic association or chiropractors by the state chiropractic 24 25 associationy or optometrical services as approved by the

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Montana optometric association and dental services as
 approved by the dental association. "Hedical" or "medicine"
 as used in this ect section refers to the healing art as
 practiced by licensed practitioners.

5 (2) The board, in arranging for medical care for those 6 unable to provide it for themselves, may have the care 7 provided by the physicians appointed by the board who shall 8 be known as county physicians or deputy county physicians, 9 and may fix a rate of compensation for the furnishing of the 10 medical attendance.

11 (3) The board of county commissioners shall make 12 suitable arrangements to provide respectable burial for 13 nonresidents within the county and county residents for whom 14 such expenses are not otherwise available.

(4) The department of social and rehabilitation 15 services may promulgate rules to determine under what 16 17 circumstances persons in the county are unable to provide medical aid and hospitalization for themselves, including 18 the power to define the term "medically needys", Providedy 19 20 howevery--such Such definition may not allow payment by a 21 county for general assistance-medical for persons whose income exceeds three---hundred--percent--{300%} of the 22 23 limitation for obtaining regular county general relief assistance. 24

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(5) In any case where the county or state pays medical

1 expenses or hospitalization for an individual, the county or 2 state is subrogated to the claims of the physician or 3 hospital to the extent of payment."

Section 31. Section 71-311, R.C.M. 1947, is amended to
read as follows:

"71-311. Grants from state funds to counties. (1) If 6 1 the whole of a-six-(6)-mill the 13.5-mill levy together-with 8 the--whole--of-the-per-capita-tax authorized by said-section 71-106y and the income to the county poor fund from all 9 10 other sources shall--prove is inadequate to pay for the general relief in the county actually necessary and to meet 11 12 the county's proportionate share of public assistance and 13 its proportionate share of any other welfare public assistance activity that may be carried on jointly by the 14 state and the county+ and if warrants upon the county poor 15 fund can no longer lawfully be issued to meet these chargest 16 17 and if the board of county commissioners is unable to declare an emergency for the purpose of providing additional 10 funds or to provide additional funds from any other sources 19 and if the county has in all respects expended the county 20 poor fund only for lawful purposest and if all of these 21 conditions actually exist in any county of the state, then 22 the state department shall, in-so--for insofar as it has 23 funds available, come to the assistance of such county, in 24 the following manner+_ 25

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(2) When the county in question has submitted proof to Ł the state department: through such reports as it may require 2 3 and through other evidence that may be deemed considered 4 necessary, that these conditions exist, then the state department may-authorize-the-state-department is authorized 5 6 to issue a check to the county treasurer of the county for general relief purposes, and the county department of public 7 welfare shall make the disbursements of these state funds 8 9 for general relief purposes within the county. These grants-in-aid from the state department may be used for any 10 11 relief activity lawfully conducted by the county, including medical aid, hospitalization, and institutional care; but no 12 part thereof may be used, directly or indirectly, to pay for 13 the erection or improvement of any county building or for 14 furniture, fixtures, appliances, or equipment for any such 15 building. 16

(3) Immediately upon receiving notice that such 11 grant-in-aid has been made by the state department, it-shall 18 be--the--duty--of the board of county commissioners to shall 19 adopt an emergency budget in accordance with the provisions 20 21 of section 16-1907 but without-being are not required to publish any notice of intention to adopt such emergency 22 budget or to hold a hearing thereon. This emergency budget 23 shall appropriate the whole amount of the general relief 24 grant from the state department for the various classes of 25

6 original poor fund budget, and all expenditures from this 7 special poor fund account shall be made by a separate series of warrants or checks." à 9 Section 32. Section 71-314, R.C.M. 1947, is amended to 10 read as follows: 11 "71-314. Granting--of--assistance Amount. of _ general 12 relief assistance to be determined by county board. The 13 amount of general relief assistance granted any person or 14 family shall be determined by the county board of public 15 welfare according to the rules and requiations and standards 16 of assistance established by the state department.* 17 Section 33. Section 71-501, R.C.M. 1947, is amended to read as follows: 18 19 *71-501. *Dependent child* defined. (1) (a) The term Zυ "dependent child", for welfare public assistance purposes, 21 means: 22 tat(i) a child under the age of eighteen-fl8tr: or 23 (b)(ii) a person under the age of twenty-one--(21) who 24 is a student under the regulations prescribed by the state

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expenditures from the poor fund for which the grant-in-aid

was made by the state department. The money received through

such general relief grant from the state department shall be

placed in a special poor fund account kept separate and

distinct from the poor fund accounts arising under the

25 department.

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Ł (b) Such The children child (A(a)(i) and or B (a)(ii) above) must be deprived of parental support or care by ۷ 3 reason of the death, continued absence from the home, continued unemployment, or physical or mental incapacity of 4 5 a parenty and who-is-living be living with his father, 6 mother. grandfather. grandmother, brother, sister, 7 stepfather, stepmother, stepbrother, stepsister, uncle, 8 aunt, nephew, niece, or first cousiny in a place of 9 residence maintained by one or more of such relatives as his 10 or their own home.

11 (2) Aid to dependent children may not be denied to or 12 for the care of children who would otherwise be entitled to 13 such aid under the laws of this state by the fact that the 14 child is living in the home of his or-her father, who is, in 15 the opinion of the county board of public welfare of the 16 appropriate county, either unemployable or who is honestly 17 and responsibly seeking proper employment and is unable to 18 find such employment nor or by the fact that the child is 19 living in the home of a head of a household who is at the 20 time, receiving job training under the laws of this state; 21 nor shall may the benefits which would otherwise accrue to 22 the child for aid to dependent children under the laws of 23 the state be reduced by reason of any such cause.

24 (3) Primary factors in determining whether a father is25 honestly and responsibly seeking employment include his

1 willingness to register for employment with the department 2 of labor and industry₁ if that department has a 3 representative in his county of residence, and his 4 willingness to accept employment in which he is able to 5 engage which will increase his ability to maintain himself 6 and his family.

7 (4) The state department of-social-and-rehabilitation
 8 services may establish additional criteria for determining
 9 whether a father is honestly and responsibly seeking
 10 employment."

Section 34. Section 71-509, R.C.N. 1947, is amended to read as follows:

13 #71-509. Periodic reconsideration and changes in 14 amount of assistance -- appointment of guardian or payment 15 to another person. (1) All assistance grants made under this chapter shall be reconsidered by the county department as 16 17 frequently as may be required by the rules of the state 18 department. After such further investigation as the county 19 department may deem consider necessary or the state 20 department may require, the amount of assistance may be 21 changed or assistance may be entirely withdrawn if the state 22 or county departments find that the child's circumstances have altered sufficiently to warrant such actions, providedy 23 after howevery--that--if If the county department, 24 investigation, finds that any recipient is not utilizing the 25

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grant adequately for the needs of the child or children, or 1 is dissipating such granty or refuses or fails to accept 2 employment or trainings and payments made to him would not 3 be used in the best interests of the child or childrent the 4 county department may request the county attorney to file a 5 petition in the district court for the appointment of such 6 recipient as guardian of the assistance grant in behalf of 7 the child or children. Such petition shall set forth the B. facts warranting such appointment. Notice of the hearing on 9 such petition shall be served upon the recipient and the 10 county department not less than five-- (5) days before the 11 date set for such hearing; such petition may be filed with 12 the clerk of the district court and all process issued and 13 served without payment of costs. If upon the hearing of such 14 petition the court is satisfied that it is for the best 15 interests of the child or childreny and all parties 1ó 17 concernedy that such quardian be appointed, he shall order such appointmenty and may require such guardian to render to 18 the court a detailed itemized account of expenditures of 19 20 such assistance payments at such times as the court may-deem 21 considers advisable.

22 <u>(2)</u> It is the intention of this <u>eet section</u> that the 23 guardianship herein provided for shall be a special and 24 limited guardianship solely for the purpose of safeguarding 25 the assistance grants made to dependent children. Such

quardianship shall terminate upon the termination of such 1 2 assistance granty or sooner on order of the court, upon good 3 cause shown. In lieu of said guardianship proceedings, payments may be made in behalf of the child or children to 4 5 another person found by the county department to be interested in or concerned with the welfare of such needy 7 child or children in accordance with the rules and 8 requiretions established by the state department. Before such 9 payments may be paid to such other persons such person shall 10 give a bond, with adequate corporate surety and in form to 11 be approved by the state department, running in favor of the 12 needy individual and the state of Montana: conditioned upon 13 the faithful use by such other person of the funds for the 14 welfare of the needy individual. Such bond shall be in an 15 amount equal to six times the amount of the monthly payment 16 involved. 17 (3) Providing--howevery--when When federal law or

18 regulations permit--that requires any amount in-a-sum-not 19 exceeding-one-hundred--dollars--(\$100+00)--in--anv--one--(1) 20 catendar-year received by an enrolled member of a recognized 21 Indian tribe as per capita payments or a share in the 22 profits and receipts from tribal lands and interests or 23 tribal enterprises shall may not be used to decrease the 24 amount of assistance received under this act. Before--such 25 payments-may-be-paid-to-such-other-persony-such-person-shall

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give--a--bondy-with-adequate-corporate-surety-and-in-form-to 1 2 be-approved-by-the-state-departmenty-running-in-favor-of-the 3 needy-individual-and-the-state-of-Montanav-conditioned--upon the--faithful--use-by-such-other-person-of-the-funds-for-the 4 5 welfare-of-the-said-needy-individualy-Such-bond-shall-be--in an--anount--equal-to-six-(6)-times-the-amount-of-the-monthly 6 7 payment-involved." Section 35. Section 71-710. R.C.N. 1947. is amended to 8 9 read as follows: 10 *71-710. Child rehabilitation. The state department shall: 11

12 (o)(1) Enforce enforce all laws pertaining to children 13 and take the initiative in all matters in olving the 14 interest of illegitimate, dependent, neglected, and 15 delinquent children where adequate provision therefor has 16 not been made by law; ond-to

17 (2) use funds available for cases where special
18 medical or material assistance is necessary to rehabilitate
19 subnormal or physically handicapped children and where it is
20 not otherwise provided for by law; and-co-operate

21 (3) cooperate for the purposes hereof with all
 22 reputable child--helping child-helping and child-placing
 23 child-placing agencies*: and

24 (b)(4) Inspect inspect, license, and supervise public
 25 and private infants' homes, and child-caring child-caring

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and child-placing child-placing institutions and agencies." 1 Section 36. Section 71-901, R.C.M. 1947, is amended to 2 3 read as follows: "71-901. Receipt--of--funds State treasurer to receive 4 funds. The treasurer of the state of Montana is hereby 5 designated as the appropriate fiscal officer of the state to 6 receive federal funds. All money for public assistance 7 purposes appropriated by the legislature for-public--welfare я 9 purposes. all---money received from the United States government for-public-welfare-purposes, and--all--money or 10 received from any other source for-the-purposes-set-forth-in 11 the-Public-Welfare-Act shall be paid into the state treasury 12 to the credit of the state department." 13 Section 37. Section 71-1401, R.C.M. 1947, is amended 14 15 to read as follows: 16 *71-1401. Definitions. As used in this act the following definitions apply: 17 rehabilitation" and "vocational 18 (1) "Vocational rehabilitation services mean any services, provided 19 directly or through public or private instrumentalities, 20 found by the state department of-social--and--rehabilitation 21 services to be necessary to compensate a blind individual 22 for his employment handicapy and to enable him to engage in 23 a remunerative occupation includingy but not limited toy 24 medical and vocational diagnosis, vocational guidance, 25

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counseling and placement, rehabilitation training, physical
 restoration, transportation, occupational and business
 licenses, tools, equipment, initial stocks and supplies,
 including livestock, capital advances, maintenance, and
 training books and materials.

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(2) "Rehabilitation services" means any services, 6 provided directly or through public or private 1 instrumentalities, found by the state department of-social я and-rehabilitation-services to be necessary to compensate a 9 blind individual for his employment handicap or to enable 10 him to achieve the maximum degree of self-care and to engage 11 in productive tasks. 12

13 (3) "Rehabilitation training" means all necessary 14 training provided to a blind individual to compensate for 15 his employment handicap₁ including₁ but not limited tow 16 manual, preconditioning prevocational, and supplementary 17 training and training provided for the purpose of achieving 18 broader or more remunerative skills and capacities.

1y (4) "Physical restoration" means any medical, 20 surgical_ or therapeutic treatment necessary to correct or 21 substantially reduce a blind individual's employment 22 handicap within a reasonable length of time_ including, but 23 not limited to, medical, psychiatric, dental_ and surgical 24 treatment, nursing services, nospital care, convalescent 25 home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions.

(5) "Prosthetic appliance" means an artificial device
 necessary to support or take the place of a part of the body
 or to increase the acuity of a sense organ.

6 (6) "Occupational licenses" means a license, permit,
7 or other written authority required by any governmental unit
8 to be obtained in order to engage in an occupation.

9 (7) "Business licenses" means any license, permit, or
10 other written authority required by any governmental unit to
11 be obtained in order to engage in a business.

12 (8) "Maintenance" means money payments not exceeding
13 the estimated cost of subsistence during the provision of
14 vocational rehabilitation and rehabilitation services.

(9) "Blind individual" means an individual whose 15 central visual acuity does not exceed 20/200 in the better 16 17 eye with correcting lensesy or whose visual acuity is 18 greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the 19 20 visual field subtends an angle no greater than 20 degrees; 21 or who has other eye conditions which render vision equally 22 defectivet or who has an eye condition which will cause 23 blindness."

24 Section 38. Section 71-1516, R.C.N. 1947, is amended 25 to read as follows:

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"71-1516. Eligibility requirements for---medical
 assistance. Medical assistance shall be granted in behalf of
 all persons:

4 (1) who reside in the state of Montana, including
b residents temporarily absent from the state; and

6 (2) who meet any of the following requirements:

(t)(a) Who receive all or part of their income from
the federally--sided federally-aided public assistance
programs: old-age assistance, aid to the blind, aid to
dependent children, and aid to the permanently and totally
disabled;

12 (2)(b) All-personsy-who upon application, would be eligible for financial assistance under any one of the 13 14 federally-aided federally-aided programs referred to above; 15 f3f(c) All-persons-who would be entitled to financial 16 assistance under one of the federally-aided federally-aided 17 categories except that they do not meet the durational 18 residence requirements or relative responsibility 19 requirements of any of the public assistance programs above enumerated; 20

21 (4)(d) Persons are in medical institutions whoy and if 22 they were no longer in such institutiony would be eligible 23 for financial assistance under one of the above programs;

24 (5)(e) All-children are under twenty-one-who 21 years
 25 or age and meet the conditions of eligibility in the state's

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10 (6)(h) All---medically---needy---children are under 11 twenty-one-(2); years of age and medically needy: as defined 12 by the state department of social and rehabilitation 13 services; or 14 (9)(i) All-children are under twenty-one (2); years of

aided federally_aided categories of assistance;

14 ()))) which in the intervalue of the supervision of the 15 age, who were in foster care under the supervision of the 16 state, and who have been adopted as "hard-to-place" 17 children."

18 Section 39. Section 71-1903, R.C.N. 1947, is amended 19 to read as follows:

20 "71-1903. Application for protective services -21 contents--department--as-guardian-or-trustee--decision-as-to
22 eligibility. (1) Protective services may be provided on a
23 voluntary basis for any developmentally disabled person who
24 requests them for himself or at the request of any
25 interested persony when the department determines that such

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person is a developmentally disabled person who would 1 benefit from services provided in this acty and that the 2 department is currently able to supply services to such 3 person. A parent may name the department as guardian of the - 4 mentally developmentally disabled person in his will. A 5 parent may also name the department as guardian or trustee 6 of the mentally developmentally disabled persony to assume 7 such duties during the parents parents! lifetime. Voluntary 8 services may be discontinued upon the written request of the 9 ward or any personal representative of the ward. 10

(2) Application for protective services under this act 11 shall be made to the designated field staff of the 12 department or other designated state agency in the county in 13 which the applicant resides, and the application shall be 14 transmitted promptly to the department. Such application 15 shall be in writing or reduced to writing in the manner and 16 upon the form prescribed by the department and shall contain 17 the name, age, and residence of the applicant and such other 18 information as may be required by the rules and regulations 19 20 of the department. The rules and--regulations of the department shall simplify the application process in order 21 that protective services may be furnished as soon as 22 possible. Adequate safeguards shall be established by the 23 24 department to insure that only eligible persons receive protective services under this act. The department shall 25

notify the applicant and the designated field staff of the 1 2 department or other designated state agency in writing of 3 its decision concerning eligibility for protective services." 4 5 Section 40. Section 71-2304, R.C.M. 1947, is amended to read as follows: #71-2304. Definitions. As used in this act the 7 8 following definitions apply: 9 (1) "Department" means the department of social and rehabilitation services. 10 11 (2) "Adult foster family care homes" means private 12 homes owned by one or more persons over-the-age-of-eighteen 13 1187 years of age or older which offer light personal care 14 or custodial care to aged persons or disabled adults who are 15 not related to the owner by blood or marriage. (3) "Aged person" means a person defined by the 16 17 department as aged. (4) "Disabled adult" means a person over-the--age-of 18 19 20 department as disabled.

(5) "Light personal care" means assisting the aged
person or disabled adult in accomplishing such personal
hygiene tasks as bathing, dressing, hair grooming, and
supervision of prescriptive medicine administration but not
administration of prescriptive medications.

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1 (6) "Custodial care" means providing a sheltered 2 family--type family-type setting for an aged person or 3 disabled adult so as to provide for their his basic needs of 4 foody and shelter and having a specific person available to 5 help them hig meet their his basic needs.

6 (7) "Skilled nursing care" means twenty-four-(24)-hour
7 <u>24-hour</u> care supervised by a registered nurse or a licensed
b practical nurse under orders of an attending physician."

9 Section 41. Section 71-2404, R.C.M. 1947, is amended 10 to read as follows:

11 "71-2404. Rules--ond--regulations Department to adopt 12 department shall control <u>rules</u>. The developmental 13 disabilities programs which receive any state assistance by adopting rules, for providing developmental disabilities 14 facilities and services. It shall set minimum standards for 15 programsy and establish appropriate gualifications, end 16 17 compensation scales, and personnel policies for persons employed in such programs. All developmental disabilities 18 facilities and services shall comply with existing federal 19 20 guidelines and with requirements which will enable the 21 services and facilities to qualify for available aid funds. 22 However, nothing herein shall---imply--the--necessity--for 23 requires facilities serving the developmentally disabled to meet the same or equal standards as licensed medical 24 facilities, unless the developmental disabilities facility 25

is providing professional or skilled medical care." 2 Section 42. Sect. n 71-2405, R.C.M. 1947, is amended

3 to read as follows:

*71-2405. Community services. (1) The department may 4 establish and administer community comprehensive services, 5 programs, clinics, or other facilities throughout the state ó for the purpose of aiding in the prevention, diagnosis, 7 amelioration. or treatment of developmental disabilities. 8 9 Programs, clinics, or other services may be provided directly by state agencies; or indirectly through contract 10 11 or co-operative cooperative arrangements with other agencies of government, regional or local, private or public 12 agencies, or private professional persons; or in accredited 13 14 health or long-term long-term care facilities. (2) Comprehensive services, programs, clinics, or 15 16 other facilities established or provided by the department under this chapter shall conformy as nearly as possibley to 17 the plans of the advisory council created under 71-2406y and 18 the regional councils provided for in 71-2407." 19 Section 43. Section 80-1405, R.C.M. 1947, is amended 20 to read as follows: 21 #80-1405. Powers and duties of department. The 22

23 department shall:

24 (1) Adopt adopt rules for the admission, custody,
 25 transter, and release of residents of institutions excent as

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otherwise provided by laws: However however, no such rules
 shall may amend or alter the statutory powers and duties of
 the state board of pardonssi

. ...

(2) Subject subject to the functions of the department 4 of administration, lease or purchase lands for use by 5 institutions, and classify those lands to determine which 6 are of such character as to be most profitably used for 7 agricultural purposes, taking into consideration the needs я of all institutions for the food products that can be grown 9 or produced on the lands, and the relative value of 10 agricultural programs in the treatment or rehabilitation of 11 the persons confined in the institutionswi 12

1d (4) Propose programs to the legislative ossembly legislature to meet the projected long-range needs of institutions, including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in institutions; and

(5) Encourage encourage the establishment of programs
 at the local level for the prevention and rehabilitation of
 physical and mental disability."

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Section 44. Section 80-1410, R.C.M. 1947, is amended
 to read as follows:

3 #80-1410. Establishment of juvenile correctional 4 facilities. The department, within the annual or biannual 5 biennial budgetary appropriation, may establish, maintain, and operate facilities to properly diagnose, care for, 6. 7 train, educate, and rehabilitate children in need of these services. The children must be ten-(10) years of age or 8 older and under twenty-one-(21) years of age. The facilities 9 include but are not limited to the Mountain View School, the 10 11 Pine Hills school, and the youth forest camp."

12 Section 45. Section 80-1413, R.C.M. 1947, is amended 13 to read as follows:

14 #80-1413. Participation by. governing----boards 15 institutions in research programs. The department may direct 16 a penaly and correctivey-or--custodial institution of the 17 state to participate in and co-operate cooperate with 18 programs of research and development being conducted and 19 carried on by any units of the Montana university system, by 20 any of the other educational institutions of the state of 21 Montana, or by any foundation or agency thereofy in the 22 fields of science, health, education, and natural resources. 23 These programs may include the voluntary participation of 24 the inmates of the institution in testing and experimental 25 work conducted as a part thereof. Any funds received from

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1 the authorized programs may be shared with the participating 2 inmates or otherwise held and used for the welfare and 3 rehabilitation thereofy and shall may not become a part of 4 the regular budgeted operation of the institution."

5 Section 46. Section 80-1603, R.C.M. 1947, is amended 6 to read as follows:

7 "a0-1603. Honthly----assessment---of---charges--annual 8 computation-----of-----rate---investigation---elaim-----of 9 state--review--deposit--of--receipts Computation of per dies 10 rate, monthly assessment, and dispusition of receipts. 11 (1) The department shall assess monthly against each 12 resident or responsible persony the full per diem charge, a proportionate share of the per diem charge, or no per diem 13 14 charge, plus full ancillary charge, a proportionate share of 15 the ancillary charge, or no ancillary charge, based upon 16 financial information given to the department during its 17 investigation. The per diem shall be computed on July 1 of 18 each year by the department.

19 (2) An assessment made by the department under this 20 section shall be based on the resident's or responsible 21 person's ability to pay. The department shall may not make 22 an assessment which would place an undue financial burden on 23 the resident or the responsible person.

24 (3) For the purpose of these investigations, every25 agency of the state is required to render all reasonable

assistance to the department in obtaining all information 1 necessary for the proper implementation of the purposes of 2 3 this investigation. A representative of the department, duly authorized by the director, may administer oaths, take 4 testimony, and subpoena and compel the attendance of - 5 witnesses and the production of books, papers, records, and 6 7 documents in connection with the duty of securing payments for support as provided by this act. A person who fails to н obey the subpoena, upon petition of the departmenty to any 9 judge of the district court of the state, may be ordered by 10 the judge to appear and show cause for his disobedience of 11 the subpoena. The judge, after the hearing, may order that 12 the subpoena be obeyedy or if it is made to appear to the 13 judge that the subpoena was for any reason inappropriately 14 15 issued, may dismiss the petition. A person who fails to obey 16 the subpoena when ordered to do so by the judge may be 17 punished for contempt of court on application of the 18 district court by the department.

19 (4) The state has a claim against the estate of a 20 patient and against the estate of a responsible persony for 21 an amount due to the state at the date of death of the 22 resident or the responsible person. The claim against the 23 estate of a responsible person does not have priority 24 against the estate for the amount necessary to rear and 25 educate surviving children of the responsible person.

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1 (5) The attorney general shall collect any claim which 2 the state may have against such estate. This claim may not 3 ue enforced against any real estate while it is occupied as 4 a nome by the surviving spouse or of the resident or 5 responsible person.

(6) If a resident or responsible person disagrees with 6 the determination of the department as to the ability of the 7 resident or responsible person to pay any part of the per 8 9 diem or ancillary charge, an appeal may be filed within thirty-(30) days of the determination with the board of 10 institutions. If the resident disagrees with the 11 determination of the appeal by the board of-institutions, an 12 appeal may be filed in any court of record in Montana having 13 jurisdiction of the resident or responsible person liable 14 15 for the payment.

16 (7) The department mayw at any timew review and change 17 a determination for per diem or ancillary charge payments. 18 In any case, however, a resident of an institution may not 19 be released by reason of the nonpayment of the per diem or 20 the ancillary chargew if in the judgment of the 21 superintendent of the institution at which he is a resident, 22 this release is medically inadvisable.

23 (8) A per diem payment received by the department
24 shall be deposited in the state treasury to the credit of
25 the general fund."

Section 47. Section 80-1912, R.C.M. 1947, is amended to read as follows:

3 #80-1912. Expense of trial for escope offenses 4 committed in prison. Whenever a trial takes place of any 5 person under any of the provisions of section 94-7-306+ and ь. whenever a prisoner in the state prison shall-be is tried 7 for any crime committed therein, the county clerk of the county where such trial is had held shall make out a 8 9 statement of all the costs incurred by the county for the 10 trial of such case, and of guarding and keeping such 11 prisoner, properly certified by a district judge of said 12 county, which statement shall be sent to the board-of-state 13 prison-commissioners department of institutions for their its approval; and after such approval; said--board the 14 15 department must cause the amount of such costs to be paid 16 out of the money appropriated for the support of the state 17 prison to the county treasurer of the county where such trial was had held." 18 19 Section 48. Section 80-2412, R.C.M. 1947, is amended 20 to read as follows: "80-2412. Interstate compact on mental health enacted 21 -- text. The interstate-compact-on-mental-health Interstate 22

24 enacted into law and entered into by this state with all 25 other jurisdiction legally joining therein in the form

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<u>Compact on Mental Health</u> as contained herein is hereby

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1	substantially as follows:	1	the provisions of the compact or from which it is
2	The contracting states solemnly agree, that:	2	contemplated that a palient may be so sent e :
3	Article_I	ذ	{b} <u>{2}</u> "Receiving receiving state" shall-mean means a
4	ArticleIv The party states find that the proper and	4	party state to which a patient is transported pursuant to
5	expeditious treatment of the mentally ill and mentally	5	the provisions of the compact or to which it is contemplated
6	deficient can be facilitated by co-operative <u>cooperative</u>	6	that a patient may be so sent ui
7	action, to the benefit of the patients, their families, and	7	<pre>(e)(3) "Institution institution" shall-mean means any</pre>
8	society as a whole. Further, the party states find that the	8	hospital or other facility maintained by a party state or
Y	necessity of and desirability for furnishing such care and	9	political subdivision thereof for the care and treatment of
10	treatment bears no primary relation to the residence or	10	mental illness or mental deficiency s;
11	citizenship of the patient but that, on the contrary, the	11	(d)[4] "Patient patient" shall-meen means any person
12	controlling factors of community safety and humanitarianism	12	subject to or eligibles as determined by the laws of the
13	require that facilities and services be made available for	13	sending state, for institutionalization or other care,
14	all who are in need of them. Consequently, it is the purpose	14	treatment, or supervision pursuant to the provisions of this
15	of this compact and of the party states to provide the	15	compact#i
16	necessary legal basis for the institutionalization or other	16	(e)[5] "Aftercare <u>aftercare</u> " shall-mean <u>means</u> care,
17	appropriate care and treatment of the mentally ill and	17	treatments and services provided a patient, as defined
18	mentally deficient under a system that recognizes the	18	herein, on convalescent status or conditional releasem:
19	paramount importance of patient welfare and to establish the	19	<u>(f)(6)</u> "M ental mental illness" shall-mean means mental
20	responsibilities of the party states in terms of such	20	disease to such extent that a person so afflicted requires
21	welfare.	21	care and treatment for his own welfare, or the welfare of
22	Article.11	22	others, or of the community <u>;</u>
23	Article-II+ As used in this compact:	23	(g)[]] "Mental <u>mental</u> deficiency" shallmean <u>means</u>
24	(a)[1] "Sending <u>sending</u> state" shallmean <u>means</u> a	24	mental deficiency as defined by appropriate clinical
25	party state from which a patient is transported pursuant to	25	autnorities to such extent that a person so afflicted is
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incapable of managing himself and his affairsy but shall not
 include mental illness as defined hereiny: and

3 (n)[8] "State state" shall--mean means any state,
 4 territory, or possession of the United States, the District
 5 of Columbia, and the Commonwealth of Puerto Rico.

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<u>Article_III</u>

7 Article--III---(+)(1) Whenever a person physically 8 present in any party state shall be in need of 9 institutionalization by reason of mental illness or mental 10 deficiencys he shall be eligible for care and treatment in 11 an institution in that state irrespective of his residence, 12 settlement, or citizenship qualifications.

(+++)(2) The provisions of personnant-(+) subsection (1) 13 of this article to the contrary notwithstanding, any patient 14 15 may be transferred to an institution in another state there are factors based upon clinical 16 whenever 17 determinations indicating that the care and treatment of 18 said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of 19 care and treatment or for any portion or portions thereof. 20 21 The factors referred to in this paragraph subsection shall include the patient's full record with due regard for the 22 23 location of the patient's family, character of the illness and probable duration thereof, and such other factors as 24 shall be considered appropriate. 25

1 - tet(3) No state shall be obliged to receive any patient pursuant to the provisions of paragraph--{b} 2 3 subsection (2) of this article unless the sending state has given gives advance notice of its intention to send the 4 5 patient; furnished furnishes all available medical and 6 other pertinent records concerning the patient; given gives 7 the qualified medical or other appropriate clinical 8 authorities of the receiving state an opportunity to examine 9 the patient if said authorities so wishis and unless the 10 receiving state shall-agree agrees to accept the patient. 11 (d)(4) In the event that the laws of the receiving 12 state establish a system of priorities for the admission of 13 patients, an interstate patient under this compact shall 14 receive the same priority as a local patient and shall be 15 taken in the same order and at the same time that he would be taken if he were a local oatient. 16 17 (e)[5] Pursuant to this compact, the determination as 18 to the suitable place of institutionalization for a patient 19 may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best 20

Article IV

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interest of the patient.

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Article--iV--(a)(1) Whenever, pursuant to the laws of
the state in which a patient is physically present, it shall
be determined that the patient should receive aftercare or

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supervision, such care or supervision may be provided in a 1 2 receiving state. If the medical or other appropriate 3 clinical authorities having responsibility for the care and 4 treatment of the patient in the sending state shall have reason to believe that aftercare in another state would be 5 6 in the best interest of the patient and would not jeopardize 7 the public safety, they shall request the appropriate 8 authorities in the receiving state to investigate the 9 desirability of affording the patient such aftercare in said 10 receiving state, and such investigation shall be made with 11 all reasonable speed. The request for investigation shall 12 be accompanied by complete information concerning the 13 patient's intended place of residence and the identity of 14 the person in whose charge it is proposed to place the 15 ratient, the complete medical history of the patient, and such other documents as may be pertinent. 16

17 (b)(2) If the medical or other appropriate clinical authorities having responsibility for the care and treatment 18 of the patient in the sending state and the appropriate 19 20 authorities in the receiving state find that the best interest of the patient would be served thereby, and if the 21 public safety would not be jeopardized thereby, the patient 22 23 may receive aftercare or supervision in the receiving state. 24 tet[3] In supervising, treating, or caring for a patient on aftercare pursuant to the terms of this article, 25

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a receiving state shall employ the same standards of
 visitation, examination, care, and treatment that it
 employes for similar local patients.

<u>Article V</u>

ъ #rticle---V# Whenever a dangerous or potentially 6 dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate 7 authorities within and without the jurisdiction of the в escapee in a manner reasonably calculated to facilitate the 9 speedy apprehension of the escapee. Immediately upon the 10 apprenension and identification of any such dangerous or 11 12 potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with 13 14 law.

<u>Article VI</u>

16 Article-Via The duly accredited officers of any state 17 party to this compact, upon the establishment of their 18 authority and the identity of the patient, shall be 19 permitted to transport any patient being moved pursuant to 20 this compact through any and all states party to this 21 compact, without interference.

<u>Article VII</u>

Article-VIII-(a)(1) No person shall be deemed a patient
 of more than one (1) institution at any given time.
 Completion of transfer of any patient to an institution in a

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receiving state shall have the effect of making the person a
 patient of the institution in the receiving state.

3 (b)[2] The sending state shall pay all costs of and 4 incidental to the transportation of any patient pursuant to 5 this compact, but any two (2) or more party states may, by 6 making a specific arrangement for that purpose, arrange for 7 a different allocation of costs as among themselves.

tet[3] No provision of this compact shall be construed ъ to alter or affect any internal relationships among the 9 departments, agencies, and officers of and in the government 10 of a party statey or between a party state and its 11 the payment of 12 subdivisionsv as to costs or responsibilities therefor. 13

14 (3)(4) Nothing in this compact shall be construed to 1> prevent any party state or subdivision thereof from 15 asserting any right against any person, agency, or other 17 entity in regard to costs for which such party state or 18 subdivision thereof may be responsible pursuant to any 19 provision of this compact.

20 (e)(5) Nothing in this compact shall be construed to 21 invalidate any reciprocal agreement between a party state 22 and a nonparty state relating to institutionalization, care, 23 or treatment of the mentally ill or mentally deficient, or 24 any statutory authority pursuant to which such agreements 25 may be made.

<u>Article_VIII</u>

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2 **ticle-Villy-fat(1) Nothing in this compact shall be з construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's 4 5 quardian on his own behalf or in respect of any patient for whom he may serve, except that, where the transfer of any 6. 7 patient to another jurisdiction makes advisable the 8 appointment of a supplemental or substitute guardian, any 9 court of competent jurisdiction in the receiving state may 10 make such supplemental or substitute appointment and the 11 court which appointed the previous quardian shalls upon being duly advised of the new appointmenty and upon the 12 satisfactory completion of such accounting and other acts as 13 14 such court may by law require, relieve the previous quardian 15 of power and responsibility to whatever extent shall be 15 appropriate in the circumstancests providedy--howevery--that 17 in In the case of any patient having settlement in the sending state, the court of competent jurisdiction in the 18 sending state shall have the sole discretion to relieve a 19 20 quardian appointed by it or continue his power and 21 responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or 22 23 reappoint the person or persons previously serving as quardian in the sending state in lieu of making a 24 supplemental or substitute appointment. 25

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1 (b)[2] The term "guardian" as used in paragraph--(a) 2 <u>subsection (1)</u> of this article shall include any guardian, 3 trustee, legal committee, conservator, or other person or 4 agency however denominated who is charged by law with power > to act for or responsibility for the person or property of a 6 patient.

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Article IX

8 Article-IX-(a)(1) No provisions of this compact except 9 Article V shall apply to any person institutionalized while 10 under sentence in a penal or correctional institution or while subject to trial on a criminal charger or whose 11 12 institutionalization is due to the commissing of an offense 13 for which, in the absence of mental illness or mental 14 deficiency, said person would be subject to incarceration in 15 a penal or correctional institution.

16 (b)(2) To every extent possibler it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jails or lockup, but 19 such patient shally with all expeditiony be taken to a suitable institutional facility for mental illness or mental 21 deficiency.

<u>Article X</u>

Article-Xw (a)(1) Each party state shall appoint a
 compact administrator who, on behalf of his state, shall
 act as general co-ordinator coordinator of activities under

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the compact in his state and who shall receive copies of all 1 2 reports, correspondence, and other documents relating to any patient processed under the compact by his state either in 3 the capacity of a sending or receiving state. The compact 4 administrator or his duly designated representative shall be 5 the official with whom other party states shall deal in any 6 matter relating to the compact or any patient processed 7 thereunder. я

9 (b)(2) The compact administrators of the respective
 10 party states shall have power to promulgate reasonable rules
 11 and-regulations to carry out more effectively the terms and
 12 provisions of this compact.

<u>Article XI</u>

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Article---XIe The duly constituted administrative 14 15 authorities of any two (2) or more party states may enter into supplementary agreements for the provision of any 16 service or facility or for the maintenance of any 17 institution on a joint or es-operative cooperative basis 18 whenever the states concerned shall find that such 19 improve services, facilities, or 20 agreements will institutional care and treatment in the fields of mental 21 illness or mental deficiency. No such supplementary 22 agreement shall be construed so as to relieve any party 23 state of any obligation which it otherwise would have under 24 25 other provisions of this compact.

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Article XII

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Article-XIIv This compact shall enter into full force 2 and effect as to any state when enacted by it into laws and 3 such state shall thereafter be a party thereto with any and 4 all states legally joining therein. 5

Article XIII

Article--XIII--(1) A state party to this compact may 7 withdraw therefrom by enacting a statute repealing the same. 8 Such withdrawal shall take effect one-{1} year after notice 9 thereof has been communicated officially and in writing to 10 the governors and compact administrators of all other party 11 states. However, the withdrawal of any state shall not 12 change the status of any patient who has been sent to said 13 state or sent out of said state pursuant to the provisions 14 15 of the compact.

(5)(2) Withdrawal from any agreement permitted by 16 Article VII (b)(2) as to costs or from any supplementary 17 agreement made pursuant to Article XI shall be in accordance 18 with the terms of such agreement. 19

Article_XIY

#rticle--XiV# (1) This compact shall be liberally 21 construed so as to effectuate the purposes thereof. The 22 provisions of this compact shall be severable and if any 23 phrase, clause, sentence, or provision of this compact is 24 declared to be contrary to the constitution of any party 25 -81-

state or of the United States or the applicability thereof 1 2 to any government, agency, person, or circumstance is held invalid. the validity of the remainder of this compact and 3 the applicability thereof to any government, agency, person; 4 or circumstance shall not be affected thereby. If this 5 compact shall be held contrary to the constitution of any 6 7 party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and я 9 effect as to the state affected as to all severable matters. 10 (2) The director of the department of institutions, 11 hereafter called "the directory", shall be the compact 12 administrator and shall have the power to make any rules and 13 requiretions necessary for the administration of this 14 article. The director shall co-operate cooperate with all 15 departments, agencies, and officers of the state and any 16 political subdivision thereof to facilitate the proper 17 administration of the interstate-compact--on--mental--health 18 Interstate <u>Compact on Mental Health</u> or of any supplementary 19 agreement or agreements entered into by this state 20 thereunder. 21 [3] The director may enter into supplementary

22 agreements with appropriate officials of other states 23 pursuant to Articles VII and XI of the compact. 24 (4) The department of institutions in its annual

25 budget shall include such amounts necessary to discharge the

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1 financial obligations incurred by it to carry out the Z purposes of the interstate--compact--on--mental--health 3 Interstate Compact on Mental Health, and the general assembly shall appropriate such sums necessary therefor. 4 5 (5) The compact administrator is hereby directed to 6 consult with the immediate family of any proposed transferee 7 and, in the case of a proposed transferee from an 8 institution in this state to an institution in another party 9 state, to make no transfer out of the state without approval of the district or probate court. Before granting such 10 11 approval the court shall hold such hearings as it deems considers appropriate. 12 In addition, t.e court shall designate some appropriate person to deliver written notice 13 14 of the proposed transferee's right to a hearing to the 15 proposed transferee and his guardian ad litem. The person serving such notices shall make a written return to the 16 17 court that such has been done. At the conclusion of such hearing, if any, the court may approve the proposed 18 transfer, order the release of the proposed transferee, or 19 20 enter any other suitable order.

21 (6) Duly authenticated copies of the article shall_
22 upon its approval, be transmitted by the secretary of state
23 to the governor of each state, the attorney general, and the
24 secretary of state of the United States, and the Council of
25 State Governments.[#]

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Section 49. Section 80-2701, R.C.M. 1947, is amended
 to read as follows:

*80-2701. Purpose-and-intent-of-act----policy-of-state 4 Legislative purpose. It is the purpose of this act and the 4 policy of this state to recognize alcohol alcoholism and 5 drug dependence as problems affecting the health, safety, ь 7 morals, economy, and general welfare of this state; to recognize atcohot alcoholism and drug dependence as problems 8 subject to treatment; and to recognize the sufferer of 9 10 alcohol alcoholism, drug dependence, or both, as worthy of treatment and rehabilitation. It is the intent of this act 11 to establish means whereby the appropriate resources of this 12 state may be focused fully and effectively upon the problems 13 of alconol alcoholism and drug dependence and utilized in 14 implementing programs for the control and treatment of these 15 problems." 16 Section 50. Section 80-2702. R.C.M. 1947, is amended 17

18 to read as follows:

19 **B0-2702. Duties of department -- department 20 authorized to accept gifts -- enter into contracts --21 acquire and dispose of property. (1) The department of 22 institutions, hereafter referred to as department in this 23 chapter, shall:

(a) Plan plan, promote, and assist in the support of
 alcoholism and drug dependence prevention,

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treatment, and control programs;
 (u) Conduct conduct, sponsor, and support research,
 investigations, and studies, including evaluation, of all
 phases of elechol alcoholism and drug dependence;
 (c) Assist assist the development of educational and

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b training programs relative to alcoholism and drug
 7 dependencey and carry on programs to assist the publicy and
 8 technical and professional groupsy in becoming fully
 9 informed about alcoholism and drug dependence;

10 (a) Promote promote, develop, and assist, financially
11 and otherwise, atcohol alcoholism and drug dependence
12 programs administered by other state agencies, local
13 government agencies, and private nonprofit organizations and
14 agencies; and

(e) Encourage encourage and promote effective use of facilities, resources, and funds in the planning and conduct of programs and activities for prevention, treatment, and control of elechol alcoholism and drug dependence and, in this respect, cooperate with and utilize to the maximum possible extent the resources and services of federal, state, and local agencies.

22 (2) To carry out this act, the department may:

(a) Accept accept gifts, grants, and donations of
 money and property from public and private sources;

25 (b) Enter enter into contracts; and

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1	(c) Acquire acquire and dispose of property."
2	section 51. Section 80-2717, R.C.M. 1947, is amended
3	to read as follows:
4	#80-2717. Emergency commitment of intoxicated persons.
5	 An intoxicated person who to the threatened, attempted,
6	or inflicted physical harm on another and is likely to
7	inflict physical harm on another unless committed or (b)
8	<u>who</u> is incapacitated by alcoholy may be committed to an
9	approved public treatment facility for emergency treatment.
10	A refusal to undergo treatment does not constitute evidence
11	of lack of judgment as to the need for treatment.
12	(2) The certifying physician, spouse, guardian, or
13	relative of the person to be committed, or any other
14	responsible person v may make a written application for
15	commitment under this sectiony directed to the administrator
16	of the approved public treatment facility. The application
17	shall state facts to support the need for emergency
18	treatment and be accompanied by a physician's certificate
19	stating that he has examined the person sought to be
20	committed within two-(2) days before the certificate's date
21	and facts supporting the need for emergency treatment. A
22	physician employed by the admitting facility or the
23	department is not eligible to be the certifying physician.
24	(3) Upon approval of the application by the
25	administrator of the approved public treatment facility, the

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person shall be brought to the facility by a peace officer, health officer, the applicant for commitment, the patient's spouse, the patient's guardian, or any other interested person. The person shall be retained detained at the facility to which he was admitted, or transferred to another appropriate public or private treatment facility, until discharged under subsection (5).

8 (4) The administrator of an approved public treatment 9 facility shall refuse an application if in his opinion the 10 application and certificate fail to sustain the grounds for 11 commitment.

(5) When on the advice of the medical staff the 12 administrator determines that the grounds for commitment no 13 longer exist, he shall discharge a person committed under 14 this section. No person committed under this section may be 15 detained in any treatment facility for more than five--- 15+ 16 days. If a petition for involuntary commitment under section 17 69-6221 has been filed within the five-(5) days and the 18 administrator in charge of an approved public treatment 19 facility finds that grounds for emergency commitment still 20 exist, he may detain the person until the petition has been 21 heard and determinedy but no longer than ten-(10) days after 22 23 filing the petition.

24 (6) A copy of the written application for commitment
 25 and of the physician's certificatey and a written

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explanation of the person's right to counsely shall be given 1 to the person within t. anty-four-t24t hours after commitment 2 by the departmenty--who. The department shall provide a -5 reasonable opportunity for the person to consult counsel." 4 Section 52. Section 80-2802, R.C.M. 1947, is amended 5 to read as follows: 6 #80-2802. Duties of department. The department shall: 7 (1) take cognizance of matters affecting the mental я health of the citizens of the state; 9 (2) initiate preventive mental health activities of 10 the statewide mental health programs, including, but not 11 limited tow the implementation of mental health care and 12 treatment, prevention, and research as can best be 13 accomplished by community---centered community-centered 14 services. Such means shall be utilized to initiate and 15 operate these services in cooperation with local agencies as 16 established under this acts 17 research scientific and medical 18 (3) make investigations relative to the incidence, cause, prevention, 19 treatment, and care of the mentally ill; 20 (4) collect and disseminate information relating to 21 mental health; 22 (5) prepare and maintain a comprehensive plan for the 23 development of public mental health services in the state. 24

25 The public mental health services shall includer but not be

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limited toy community comprehensive mental health centers,
 mental health clinics, traveling service units, and
 consultative and educational servicesta

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(6) provide by regulations for the examination of
personsy who apply for examination or who are admitted
either as inpatients or outpatients into Warm Springs state
hospital or other public mental health facilities;

d (7) receive from agencies of the United States and
9 other state agencies, persons or groups of persons,
10 associations, firms, or corporations, grants of money,
11 receipts from fees, gifts, supplies, materials, and
12 contributions, for the development of mental health services
13 within the state;

14 (8) establish standards for public mental health15 facilities; and

15 (9) evaluate performance of public mental health
17 facilities in compliance with federal and state standards."
18 Section 53. Repealer. Sections <u>38-2101</u> 71-101, 71-107,
19 71-118, and 71-233.5, R.C.M. 1947, are repealed.

-End-

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