1 H BILL NO. 534
2 INTRODUCED BY Board Mulk Kromself Teague
3 Mencher Kanduck Tyrch

A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE DEPARTMENT OF INSTITUTIONS: TRANSFERRING THE FUNCTIONS OF THAT DEPARTMENT TO THE DEPARTMENT ΩE SOCIAL AND REHABILITATION SERVICES: TRANSFERRING THE 7 INSTITUTIONS, BOARD OF PARDONS, AND BOARD OF EUGENICS TO THE 9 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES: AMENDING 10 SECTIONS 80-1402. 80-1407.1. 80-2709. 82A-1901.1. 95-2218. 95-3205, 95-3301, AND 95-3302-1, R-C-M- 1947; RENUMBERING 11 AND AMENDING SECTION 82A-805. R.C.M. 1947; RENUMBERING 12 SECTIONS 82A-804 AND 82A-806, R.C.M. 1947; AND REPEALING 13 SECTIONS 82A-801 AND 82A-801-1, R-C-M- 1947-* 14

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

17 Section 1. Section 80-1402, R.C.M. 1947, is amended to

read as follows:

19 **80-1402. Definition of terms. Unless the context

20 requires otherwise, in Title 80:

(1) "Department" means the department of institutions

provided—for—in—fittle:—82Av—chapter—8 social and
rehabilitation services provided for in Title 82Av chapter

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(2) "Director" means the director of institutions

social and rehabilitation services provided for in section
2 82A-881 82A-1901.

- (3) "Board" means the board of institutions provided for in section-82A-806 82A-1911.
- 5 (4) "Institution" means any of the institutions listed 6 in section 80-1403."
- 7 Section 2. Section 80-1407.1, R.C.M. 1947, is amended 8 to read as follows:
- 9 #80-1407.1. Powers and duties of board -- hearings.
- 10 (1) The board of institutions shall:

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- 11 (a) Act in an advisory capacity to the department.

 12 "Advisory capacity," as used in this subsection, means the

 13 board may furnish advice, gather information, and make

 14 recommendations,—and but does not mean administering a

 15 program or function or setting policy.
 - (b) Hear grievances of residents of institutions within the department or—employees—of—the—department, as provided for in this subsection. A resident of an institution within the department or—an—employee—of—the department who has a grievance, and has exhausted all other administrative remedies within the department, is entitled to a hearing before the board for a resolution of the grievance. *—grievance—of—an—employee—means—an—employee*s dissatisfaction—concerning—a—serious—matter—of——his employment—based—upon—work-conditionsy—supervisionsy—or—the

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result--of--an--administrative--actions A grievance of a resident means any serious matter affecting his care or treatment.

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(2) No actions by the board may infringe upon the statutory functions of the board of pardons."

6 Section 3. Section 80-2709, R.C.M. 1947, is amended to 7 read as follows:

"80-2709. Definitions. For purposes of this act:

- (1) "alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted;
- (2) "approved private treatment facility" means a private agency meeting the standards prescribed in section 69-6216 (1) and approved under section 69-6216;
- (3) "approved public treatment facility" means a treatment agency operating under the direction and control of the department or providing treatment under this act through a contract with the department and approved under section 69-6216;
- (4) "department" means the department of institutions social and rehabilitation services provided for in section 82A-881 82A-1901, R.C.M. 1947;
- (5) "incapacitated by alcohol" means that a person, as

a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of 2 3 realizing and making a rational decision with respect to his need for treatment;

- 5 (6) *incompetent person* means a person who has been 6 adjudged incompetent by the district court;
- (7) "intoxicated person" means a person whose mental 7 or physical functioning is substantially impaired as a 8 result of the use of alcohol; 9
- (8) "treatment" means the broad range of emergency. 10 outpatient, intermediate, and inpatient services and care, 11 including diagnostic evaluation, medical, psychiatric, 12 psychological, and social service care, vocational 13 rehabilitation and career counseling, which may be extended 14 to alcoholics and intoxicated persons." 15
- Section 4. Section 82A-1901.1, R.C.M. 1947, is amended 16 to read as follows: 17
- 18 #82A-1901.1. Functions of department. (1) The 19 department and its units are responsible for administering laws pertaining to public assistance, including but not 20 limited to: 21
- +1+(a) Dependent and neglected children (Title 10: 22 23 chapter 5);
- 24 (2)(5) Child adoption agenices (Title 10, chapter 7);
- (3)(c) Day care facilities for children (Title 10: 25

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1	chapter 8);	1	(c) determination and treatment of persons serious)y
2	<pre>(4)(d) Adoptions (Title 61, chapter 2);</pre>	2	mentally ill or persons suffering from mental disorders
3	(5)(e) County poor (Title 71, chapter 1);	3	(Title 38. chapter 13):
4	<pre>(6)(f) Department's functions and county departments</pre>	4	(dl identification and habilitation of persons
5	of public welfare (Title 71; chapter 2);	5	developmentally disabled (Title 38, chapter 12):
6	<pre>(7)(3) General reliaf (Title 71, chapter 3);</pre>	6	<u>lel convalescent leave of patients (litle 38: chapter</u>
7	<pre>(8)(h) Old-age assistance (Title 71, chapter 4);</pre>	7	5);
8	†9}(i) Aid to dependent children (Title 71, chapter)	8	(f) eugenical sterilizations (Title 69. chapter 64):
9	5);	9	(g) juvenile facilities (little 80: chapters 14 and
10	(10)(j) Aid to blind (Title 71, chapter 6);	10	22):
11	<pre>(tt)(k) Child welfare (Title 71, chapter 7);</pre>	11	(h) institutional industries (Title 80, chapter 15);
12	(12)(1) Disabled persons (Title 71, chapter 12);	12	(i) payments for care of patients (Title 80, chapter
13	(13)[m] Services to the blind (Title 71, chapter 14);	13	161:
14	(14)(n) Medical assistance (Title 71, chapter 15);	14	(j) Galen state hospital (Title 80. chapter 17):
15	<pre>ft5f(o) Vocational remabilitation and education (Title</pre>	15	(k) Montana veterans home [Title 80. chapter 18]:
16	71• chapter 18);	16	(1) the state prison (Title 80. chapter 19):
17	(16)(p) Veterans* welfare (Title 71, chapter 19); and	17	(m) the Montana children's center (Title 80. chapter
18	(17)(g) Proplems of aging (Title 71, chapter 20).	18	21):
19	(2) The department and its units are also responsible	19	(n) Boulder River school and hospital and Eastmont
20	for the administration of laws relating to institutions.	20	training center:
21	including but not limited to:	21	(o) mental hygiene services and mental health centers;
22	(a) district youth guidance homes (Title 10: chapter	22	(p) Montana center for the aged (litle 80, chapter
23	121:	23	251:
24	(b) Warm Springs state hospital (Title 80. chapter	24	(q) mental retardation programs:
25	241:	25	(r) probation, parole, and clemency; and

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1	(s) alcoholism and drug dependence (Title 80, chapter
2	27) H

- 3 Section 5. Section 95-2218, R.C.M. 1947, is amended to 4 read as follows:
- 5 *95-2218. Definitions. Unless the context requires 6 otherwise, in this act:
- 7 (1) "Department" means the department of institutions
 8 social and rehabilitation services provided for in section
 9 024-801.824-1901;
- 10 (2) "Board" means the board of pardons provided for in

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- (3) "State prison" means the Montana state prison at Deer Lodge and any adult correctional facility under the direction of the department;
- (4) "Prisoner" means a person sentenced by a district court to a term of confinement in the state prison;
- (5) "Supervising agency" means any federal, state, county, local or private agency, Indian tribe and reservation, or any person, group, association or organization approved by the department to undertake the supervision of prisoners participating in the furlough program;
 - (6) "Jail" means any county jail or tribal jail;
- 24 (7) "Applicant" means any prisoner who has signed an
 25 application to participate in the prisoner furlough

- l program.™
- 2 Section 6. Section 95-3205, R.C.M. 1947, is amended to
- 3 read as follows:
- 4 #95-3205. Definitions. Unless the context requires
 5 otherwise, in this chapter:
- 6 (1) "Board" means the board of pardons provided for in
 7 section-82A-894 82A-1909.
- 8 (2) *Department* means the department of institutions
 9 social and remabilitation services provided for in Title
 10 82A, chapter 8 12.
- 11 (3) "Parole" means the release to the community of a
 12 prisoner by the decision of the board prior to the
 13 expiration of his term, subject to conditions imposed by the
 14 board and subject to supervision of the department of
 15 institutions.
- 16 (4) "Executive clemency" refers to the powers of the
 17 governor as provided by section 12 of article VI of the
 18 constitution of Montana."
- 19 Section 7. Section 95-3301, R.C.M. 1947, is amended to 20 read as follows:
- 21 #95-3301. Definitions. As used in this chapter, unless
 22 the context requires otherwise: (1) "Board" means the board
 23 of pardons provided for in section-824-894 824-1939.
- (2) "Department" means the department of institutions
 social and rehabilitation services provided for in Title

82A, chapter 8 19.

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- (3) "Probation" means the release by the court without imprisonment except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department upon direction of the court.
- (4) "Parole" means the release to the community of a prisoner by the decision of the board prior to the expiration of his term, subject to conditions imposed by the board and subject to supervision of the department."
- Section 8. Section 95-3302.1, R.C.M. 1947, is amended to read as follows:
- "95-3302.1. Qualifications of probation and parole officers. Probation and parole officers shall have at least a college degree and shall have received at least some formal training in behavioral sciences. Exceptions to this rule must be approved by the department. Related work experience in the areas listed in section—024-894(2) 824-1909(2) may be substituted for educational requirements at the rate of one (1) year of experience for nine (9) months formal education, if approved by the department. All present employees will be exempt from this requirement but are encouraged to further their education at the earliest opportunity."

- 1 Section 9. Section 82A-805, R.C.M. 1947, is
- 2 renumbered 82A-1910 and is amended to read as follows:
- 3 #824-805 82A-1910. Board of eugenics -- composition --
- 4 qualifications -- allocation -- designation. (1) There is a
- 5 board of eugenics.
- 5 (2) The board consists of seven (7) members, and one
- 7 (1) ex officio member. The members are:
- 8 (a) Two (2) physicians licensed to practice medicine
- 9 and surgery in this state to be appointed after considering
- 10 the recommendation of the Montana medical association;
- (b) One (1) lawyer licensed to practice law in this
- 12 state to be appointed after considering the recommendation
- 13 of the Montana bar association;
- 14 (c) Three (3) lay members;
- 15 (d) One (1) psychologist;
- 16 (e) The director of institutions social and
- 17 rehabilitation services, who is an ex officio member of the
- 18 board.
- 19 (3) The board is allocated to the department for
- 20 administrative purposes only as prescribed in section
- 21 82A-108.
- 22 (4) The board is designated as a quasi-judicial board
- 23 for purposes of section 82A-112."
- 24 Section 10. There is a new R.C.M. section that reads
- 25 as follows:

1 Terminology change. All references in the Revised Codes 2 of Montana, 1947, to "the department of institutions" are 3 changed to read "the department of social and rehabilitation services. The code commissioner shall have these changes 5 made. 6 Section 11. Renumber. Section 82A-804, R.C.M. 1947, is renumbered 82A-1909. 7 Section 12. Renumber. Section 82A-836, R.C.N. 1947, 9 is renumbered 82A-1911. 10 Section 13. Repealer. Sections 82A-801 and 82A-801.1. R.C.M. 1947, are repealed. 11

-End-

STATE OF MONTANA

REQUEST NO. ____267-77

FISCAL NOTE

Form BD-15

In compliance with a written request received <u>January 31</u> , 19 <u>77</u> , there for <u>House Bill 534</u> pursuant to Chapter 53, Laws of Montana, 1965 - Th Background information used in developing this Fiscal Note is available from the Office of Budge of the Legislature upon request.	irty-Ninth Legislative Assembly.
DESCRIPTION OF PROPOSED LEGISLATION:	
House Bill 534 is an act to abolish the Department of Institutions and transfer their fur Social and Rehabilitation Services.	nctions to the Department of
ASSUMPTIONS:	
1. The operations level for both Departments will be as requested in the Executive Bu 2. Consolidation may result in some cost savings; however, this will require adequate	_
FISCAL IMPACT:	

No fiscal impact is anticipated initially. Cost estimates are based upon the transferring of the Institutions' budget in

total to S.R.S.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____ = -2 - 77

Approved by Committee on State Administration

INTRODUCED BY Bosod Mulk Kommenly Teague

Mencher Kanduck Tyrch

A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE DEPARTMENT OF INSTITUTIONS: TRANSFERRING THE FUNCTIONS OF 5 THAT DEPARTMENT TO THE DEPARTMENT OF SOCIAL 6 REHABILITATION SERVICES: TRANSFERRING THE BOARD OF 7 8 INSTITUTIONS, BOARD OF PARDONS, AND BOARD OF EUGENICS TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING 9 SECTIONS 80-1402. 80-1407.1. 80-2709. 82A-1901.1. 95-2218. 10 11 95-3205, 95-3301, AND 95-3302.1, R.C.M. 1947; RENUMBERING AND AMENDING SECTION 82A-805, R.C.M. 1947; RENUMBERING 12 SECTIONS 82A-804 AND 82A-806. R.C.M. 1947; AND REPEALING 13 SECTIONS 82A-801 AND 82A-801.1, R.C.M. 1947." 14

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

17 Section 1. Section 80-1402, R.C.M. 1947, is amended to read as follows:

*80-1402. Definition of terms. Unless the context requires otherwise, in Title 80:

(1) "Department" means the department of institutions

provided --for--in--Title:--82Av--chapter--8 social and

rehabilitation services provided for in Title 82Av chapter

19.

(2) "Director" means the director of institutions

Social and remabilitation services provided for in section

824-801 824-1901.

- 3 (3) "Board" means the board of institutions provided
 4 for in section-824-806 824-1911.
- 5 (4) "Institution" means any of the institutions listed 6 in section 60-1403."
- 7 Section 2. Section 80-1407.1, R.C.M. 1947. is amended 8 to read as follows:
- 9 #80-1407.l. Powers and duties of board -- hearings.
 10 (1) The board of institutions shall:
- 11 (a) Act in an advisory capacity to the department.

 12 "Advisory capacity," as used in this subsection, means the

 13 board may furnish advice, gather information, and make

 14 recommendations,—and but does not mean administering a

 15 program or function or setting policy.

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(b) Hear grievances of residents of institutions within the department or—employees—of—the—department, as provided for in this subsection. A resident of an institution within the department or—an—amployee—of—the department who has a grievance, and has exhausted all other administrative remedies within the department, is entitled to a hearing before the board for a resolution of the grievance. A—grievance—of—an—employee—means—an—employee—s dissatisfaction—concerning—a—serious—matter—of—his employment—based—upon—work—conditionsy—supervisiony—or—the

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- result -- of -- an -- administrative -- action A grievance of a resident means any serious matter affecting his care or treatment.
- (2) No actions by the board may infringe upon the statutory functions of the board of pardons.**
- Section 3. Section 80-2709, R.C.M. 1947, is amended to 7 read as follows:
- 8 **80-2709. Definitions. For purposes of this act:

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- (1) "alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted;
- (2) *approved private treatment facility* means a private agency meeting the standards prescribed in section 69-6216 (1) and approved under section 69-6216;
- (3) "approved public treatment facility" means a treatment agency operating under the direction and control of the department or providing treatment under this act through a contract with the department and approved under section 69-6216:
- 23 social and rehabilitation services provided for in section
 24 82A-881 82A-1901, R.C..M. 1947;
 - (5) "incapacitated by alcohol" means that a person, as

- 1 a result of the use of alcohol, is unconscious or has his
- 2 judgment otherwise so impaired that he is incapable of
- 3 realizing and making a rational decision with respect to his
- 4 need for treatment;

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- (6) "incompetent person" means a person who has been
 adjudged incompetent by the district court;
- 7 (7) "intoxicated person" means a person whose mental 8 or physical functioning is substantially impaired as a 9 result of the use of alcohol;
- (8) "treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons."
- Section 4. Section 82A-1901.1, R.C.M. 1947, is amended to read as follows:
- 18 **B2A-1901.1. Functions of department. (11 The

 19 department and its units are responsible for administering

 20 laws pertaining to public assistance, including but not

 21 limited to:
- 22 (1)(a) Dependent and neglected children (Title 10.
- 24 (2)(b) Child adoption agenices (Title 10, chapter 7); 25 (3)(c) Day care facilities for children (Title 10,

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1	chapter 8);	1
2	<pre>(4)(d) Adoptions (Title 61, chapter 2);</pre>	Z
3	<pre>(5)(e) County poor (Title 71, chapter 1);</pre>	3
4	<pre>tel(f) Department's functions and county departments</pre>	4
5	of public welfare (Title 71, chapter 2);	5
6	(7)(3) General relief (Title 71, chapter 3);	6
7	<pre>(8)(h) Old-age assistance (Title 71, chapter 4);</pre>	7
8	(9)(ii) Aid to dependent children (Title 71, chapter	8
9	5);	9
10	(10)(j) Aid to blind (Title 71, chapter 6);	10
11	(11)(k) Child welfare (Title 71, chapter 7);	11
12	(12)(1) Disabled persons (Title 71, chapter 12);	12
13	(13)(m) Services to the blind (Title 71, chapter 14);	13
14	(14)(n) Medical assistance (Title 71, chapter 15);	14
15	(15)(0) Vocational rehabilitation and education (Title	15
16	71. chapter 18);	16
17	(+6)(p) Veterans welfare (Title 71, chapter 19); and	17
18	(17)(q) Proplems of aging (Title 71, chapter 20).	18
19	(2) The department and its units are also responsible	19
20	for the administration of laws relating to institutions:	20
21	including but not limited to:	21
22	(a) district youth guidance homes [[ifle 10: Chapter	22
23	121:	23
24	(b) Warm Springs state hospital (Title 80. chapter	24
25	241:	25

ŀ	(c) determination and treatment of persons seriously
Z	mentally ill or persons suffering from mental disorders
3	(Title 38: chapter 13):
4	141 Identification and habilitation of persons
5	developmentally disabled (Title 38, chapter 12):
6	(e) convalescent leave of patients (little 38. chapter
7	5):
8	<pre>[f] eugenical sterilizations (Title:69, chapter 64);</pre>
9	(g) juvenile facilities (Title 80. chapters 14 and
10	22):
11	(h) institutional industries (Title 80, chapter 15);
12	(i) payments for care of patients (litle 80. chapter
13	16):
14	(j) Galen state hospital flitte 80. chapter 17):
15	(k) Montana veterans* home (Title 80* chapter 18):
16	(1) the state prison (Title 80. chapter 19):
17	(m) the Montana children's center (Title 80: chapter
18	211:
19	(n) Boulder River school and hospital and Eastmont
20	training center:
21	(o) mental hygiene services and mental health centers;
22	(p) Montana center for the aged (Title 30: chapter
23	251:
24	(q) mental retardation programs:

(r) probation, parole, and clemency; and

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1	(s) alcoholism and drug dependence (Title 80, chapter
,	271*

- 3 Section 5. Section 95-2218, R.C.M. 1947, is amended to 4 read as follows:
- 5 #95-2218. Definitions. Unless the context requires 6 otherwise. in this act:
- 7 (1) **Department** means the department of **institutions
 8 social and rehabilitation services provided for in section
 9 **B2A-891.82A-1901;
- 10 (2) "Board" means the board of pardons provided for in 11 section-824-864 824-1909.
- 12 (3) "State prison" means the Montana state prison at
 13 Deer Lodge and any adult correctional facility under the
 14 direction of the department;
- 15 (4) "Prisoner" means a person sentenced by a district16 court to a term of confinement in the state prison;
- 17 (5) "Supervising agency" means any federal, state,
 18 county, local or private agency, Indian tribe and
 19 reservation, or any person, group, association or
 20 organization approved by the department to undertake the
 21 supervision of prisoners participating in the furlough
 22 program;
 - (6) "Jail" means any county jail or tribal jail;

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24 (7) "Applicant" means any prisoner who has signed an 25 application to participate in the prisoner furlough l program.™

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Section 6. Section 95-3205, R.C.M. 1947, is amended to read as follows:

- 6 (1) "Board" means the board of pardons provided for in
 7 section-824-894 82A-1909.
- 8 (2) "Department" means the department of institutions
 9 <u>social and rehabilitation services</u> provided for in Title
 10 82A, chapter 6 19.
- 11 (3) "Parole" means the release to the community of a 12 prisoner by the decision of the board prior to the 13 expiration of his term, subject to conditions imposed by the 14 board and subject to supervision of the department of 15 institutions.
- 16 (4) "Executive clemency" refers to the powers of the 17 governor as provided by section 12 of article VI of the 18 constitution of Montana."
- 19 Section 7. Section 95-3301, R.C.M. 1947, is amended to 20 read as follows:
- 21 #95-3301. Definitions. As used in this chapter, unless
 22 the context requires otherwise: (1) *Board* means the board
 23 of pardons provided for in section-824-824-1939.
 - (2) "Department" means the department of institutions

 social and rehabilitation services provided for in Title

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82A, chapter 8 <u>19</u>.

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- (3) "Probation" means the release by the court without imprisonment except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department upon direction of the court.
- (4) "Parole" means the release to the community of a prisoner by the decision of the board prior to the expiration of his term, subject to conditions imposed by the board and subject to supervision of the department."
- Section 8. Section 95-3302.1, R.C.M. 1947, is amended to read as follows:
- #95-3302.1. Qualifications of probation and parole officers. Probation and parole officers shall have at least a college degree and shall have received at least some formal training in behavioral sciences. Exceptions to this rule must be approved by the department. Related work experience in the areas listed in section—924-894(2) 824-1909(2) may be substituted for educational requirements at the rate of one (1) year of experience for nine (9) months formal education. If approved by the department. All present employees will be exempt from this requirement but are encouraged to further their education at the earliest opportunity.*

- 1 Section 9. Section 82A-805, R.C.M. 1947, is
- 2 renumbered 82A-1910 and is amended to read as follows:
- 3 "82A-895 <u>82A-1910</u>. Board of eugenics -- composition -4 qualifications -- allocation -- designation. (1) There is a
 5 board of eugenics.
- 6 (2) The board consists of seven (7) members, and one
 7 (1) ex officio member. The members are:
- 8 (a) Two (2) physicians licensed to practice medicine 9 and surgery in this state to be appointed after considering 10 the recommendation of the Montana medical association:
- 11 (b) One (1) lawyer licensed to practice law in this 12 state to be appointed after considering the recommendation 13 of the Montana bar association;
- 14 (c) Three (3) lay members;
- 15 (d) One (1) psychologist:
- 16 (e) The director of institutions social and
 17 rehabilitation services, who is an ex officio member of the
 18 board.
- 19 (3) The board is allocated to the department for 20 administrative purposes only as prescribed in section
- 21 82A-108.
- 22 (4) The board is designated as a quasi-judicial board
- 23 for purposes of section 82A-112.**
- 24 Section 10. There is a new R.C.M. section that reads
- 25 as follows:

1 Terminology change. All references in the Revised Codes of Montana, 1947, to "the department of institutions" are 2 changed to read "the department of social and rehabilitation 3 services". The code commissioner shall have these changes 5 made. Section 11. Renumber. Section 82A-804, R.C.M. 1947, 6 is renumbered 82A-1909. Section 12. Renumber. Section 82A-836, R.C.N. 1947, 8 is renumbered 82A-1911. 9 Section 13. Repealer. Sections 82A-801 and 82A-801.1, 10 11 R.C.M. 1947, are repealed.

-End-

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1 H BILL NO. 534
2 INTRODUCED BY Brand Mulak Kunney Teague
3 Manahar Kanduck Typek

A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE DEPARTMENT OF INSTITUTIONS; TRANSFERRING THE FUNCTIONS OF THAT DEPARTMENT TO THE DEPARTMENT ΩF SOCIAL REHABILITATION SERVICES: TRANSFERRING THE BOARD INSTITUTIONS. BOARD OF PARDONS. AND BOARD OF EUGENICS TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING 10 SECTIONS 80-1402. 80-1407.1. 80-2709. 82A-1901.1. 95-2218. 95-3205, 95-3301, AND 95-3302.1, R.C.M. 1947; RENUMBERING 11 12 AND AMENDING SECTION 82A-805. R.C.M. 1947; RENUMBERING SECTIONS 82A-804 AND 82A-806, R.C.M. 1947; AND REPEALING 13

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

SECTIONS 82A-801 AND 82A-801-1- R-C-M- 1947-*

17 Section 1. Section 80-1402, R.C.M. 1947, is amended to 18 read as follows:

"80-1402. Definition of terms. Unless the context requires otherwise. in Title 80:

(1) "Department" means the department of institutions

provided --for--in--Title:--82Av --chapter--8 social and

rehabilitation services provided for in Title 82Av --chapter

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(2) "Director" means the director of institutions

1	social and rehabilitation services provided for	in	section
2	82A-881 82A-1901.		

- 3 (3) "Board" means the board of institutions provided
 4 for in section-824-806 824-1911.
- 5 (4) "Institution" means any of the institutions listed 6 in section 20-1403."
- 7 Section 2. Section 80-1407.1, R.C.M. 1947. is amended 8 to read as follows:
- 9 #80-1407.l. Powers and duties of board -- hearings.

(1) The board of institutions shall:

- 11 (a) Act in an advisory capacity to the department.

 12 "Advisory capacity," as used in this subsection, means the

 13 board may furnish advice, gather information, and make

 14 recommendations,—and but does not mean administering a

 15 program or function or setting policy.
- (b) Hear grievances of residents of institutions 16 17 within the department or--employees-of-the-department, as 18 provided for in this subsection. A resident of an 19 institution within the department or--an-employee-of-the department who has a grievance, and has exhausted all other 20 21 administrative remedies within the department, is entitled 22 to a hearing before the board for a resolution of the 23 grievance. A--grievance--of-an-employee-means-an-employee-s 24 dissetisfaction-concerning--a--serious---metter---of---his 25 employment--based--upon-work-conditionsy-supervisiony-or-the

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- 1 resultr-of--an--administrative--actionv A grievance of a
 2 resident means any serious matter affecting his care or
 3 treatment*
- (2) No actions by the board may infringe upon the statutory functions of the board of pardons.**
- 6 Section 3. Section 80-2709, R.C.N. 1947, is amended to 7 read as follows:
- 8 #80-2709. Definitions. For purposes of this act:

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- 9 (1) "alcoholic" means a person who habitually lacks
 10 self-control as to the use of alcoholic beverages, or uses
 11 alcoholic beverages to the extent that his health is
 12 substantially impaired or endangered or his social or
 13 economic function is substantially disrupted;
 - (2) *approved private treatment facility* means a private agency meeting the standards prescribed in section 69-6216 (1) and approved under section 69-6216;
 - (3) "approved public treatment facility" means a treatment agency operating under the direction and control of the department or providing treatment under this act through a contract with the department and approved under section 69-6216;
- 22 (4) "department" means the department of institutions
 23 social and rehabilitation services provided for in section
 24 82A-881 82A-1991, R.C.-M. 1947;
 - (5) "incapacitated by alcohol" means that a person, as

- a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his
- 5 (6) "incompetent person" means a person who has been adjudged incompetent by the district court;

need for treatment:

- 7 (7) "intoxicated person" means a person whose mental
 8 or physical functioning is substantially impaired as a
 9 result of the use of alcohol;
- 10 (8) "treatment" means the broad range of emergency,
 11 outpatient, intermediate, and inpatient services and care,
 12 including diagnostic evaluation, medical, psychiatric,
 13 psychological, and social service care, vocational
 14 rehabilitation and career counseling, which may be extended
 15 to alcoholics and intoxicated persons."
- Section 4. Section 82A-1901.1, R.C.M. 1947, is amended to read as follows:
- 18 **82A-1901.1. Functions of department. (11 The
 19 department and its units are responsible for administering
 20 laws pertaining to public assistance. including but not
 21 limited to:
- 22 (+)(a) Dependent and neglected children (Title 10, 23 chapter 5);
- 24 (2)(b) Child adoption agenices (Title 10, chapter 7); 25 (3)(c) Day care facilities for children (Title 10,

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ı	chapter 8);	1	(c) determination and treatment of persons seriously
2	(4)(d) Adoptions (Title 61, chapter 2);	2	mentally ill or persons suffering from mental disorders
3	<pre>(5)(a) County poor {Title 71, chapter 1};</pre>	3	(Title 38. chapter 131:
4	<pre>+6†(f) Department's functions and county departments</pre>	4	(d) identification and habilitation of persons
5	of public welfare (Title 71, chapter 2);	5	developmentally disabled (Title 38, chapter 12):
6	<pre>(++)131 General relief (Title 71, chapter 3);</pre>	6	(e) convalescent leave of patients (Title 38, chapter
7	<pre>+8+(h) Old-age assistance (Title 71+ chapter 4);</pre>	7	51:
9	(9)(i) Aid to dependent children (Title 71, chapter	8	If leugenical sterilizations (Title:69. chapter 64):
9	5);	9	(g) juvenile facilities (litle 80. chapters 14 and
10	(18)(i) Aid to blind fTitle:71, chapter 6);	10	22):
11	(11)(k) Child welfare (Title 71, chapter 7);	11	(h) institutional industries (Title 80: chapter 15):
12	(12)[1] Disabled persons (Title 71, chapter 12);	12	(i) payments for care of patients (Title 83, chapter
13	(13)(m) Services to the blind (Title 71, chapter 14);	13	16):
14	<pre>(14)(n) Medical assistance (Title.71, chapter 15);</pre>	14	(j), Galen state hospital (Title:80: chapter 17);
15	(15)(0) Vocational rehabilitation and education (Title	15	(k) Montana veterans home [Title 80. chapter 18]:
16	71, chapter 18);	16	(1) the state prison (Title 80. chapter 19):
17	(16)[p] Veterans' welfare (Title 71, chapter 19); and	17	(m) the Montana children's center (little 80: chapter
18	(17)(q) Problems of aging (Title 71, chapter 20).	18	211:
19	(2) The department and its units are also responsible	19	in Boulder River school and hospital and Eastwont
20	for the administration of laws relating to institutions:	20	training center:
21	including but not limited to:	21	(o) mental hygiene services and mental health centers:
22	(a) district youth guidance homes (Title 10: chapter	22	(p) Montana center for the aged (Title 30. chapter
23	12):	23	25);
24	(b) Warm Springs state hospital (Title 80. chapter	24	<pre>// nental retardation programs:</pre>
25	24):	25	(r) probation parole and clemency; and

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1	(s) alcoholism and drug dependence (Title 80. chapter
2	27).**
3	Section 5. Section 95-2218, R.C.M. 1947, is amended to
4	read as follows:
5	#95-2218. Definitions. Unless the context requires
6	otherwise, in this act:
7	(1) "Department" means the department of institutions
8	social and rehabilitation services provided for in section
9	82A-881 .82A-1901;
10	(2) "Board" means the board of pardons provided for in
11	section-824-864 <u>824-1909</u> .
12	(3) "State prison" means the Montana state prison at
13	Deer Lodge and any adult correctional facility under the
14	direction of the department;
15	(4) "Prisoner" means a person sentenced by a district
16	court to a term of confinement in the state prison;
17	(5) "Supervising agency" means any federal, state,
18	county, local or private agency, Indian tribe and
19	reservation, or any person, group, association or
20	organization approved by the department to undertake the
21	supervision of prisoners participating in the furlough
22	program;
23	(6) "Jail" means any county jail or tribal jail;
24	(7) "Applicant" means any prisoner who has signed an

2	Section 6. Section 95-3205, R.C.M. 1947, is amended to
3	read as follows:
4	*95-3205. Definitions. Unless the context requires
5	otherwise, in this chapter:
6	(1) "Board" means the board of pardons provided for in
7	section-824-884 <u>824-1909</u> .
8	(2) "Department" means the department of institutions
9	social and remabilitation services provided for in litte
10	82A, chapter # <u>19</u> .
11	(3) "Parole" means the release to the community of 3
12	prisoner by the decision of the board prior to the
13	expiration of his term, subject to conditions imposed by the
14	board and subject to supervision of the department of
15	institutions.
16	(4) "Executive clemency" refers to the powers of the
17	governor as provided by section 12 of article VI of the
18	constitution of Montana."
19	Section 7. Section 95-3301, R.C.M. 1947, is amended to
20	read as follows:
21	#95-3301. Definitions. As used in this chapter, unless
22	the context requires otherwise: (1) "Board" means the board
23	of pardons provided for in section-82A-804 82A-1909.

program."

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application to participate in the prisoner furlough

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social and rehabilitation services provided for in Title

(2) "Department" means the department of institutions

82A, chapter 8 19.

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- (3) "Probation" means the release by the court without imprisonment except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department upon direction of the court.
- 8 (4) "Parole" means the release to the community of a
 9 prisoner by the decision of the board prior to the
 10 expiration of his term, subject to conditions imposed by the
 11 board and subject to supervision of the department."
- 12 Section 8. Section 95-3302.1, R.C.M. 1947, is amended 13 to read as follows:

"95-3302.1. Qualifications of probation and parole officers. Probation and parole officers shall have at least a college degree and shall have received at least some formal training in behavioral sciences. Exceptions to this rule must be approved by the department. Related work experience in the areas listed in section—024-804(2) 82A-1909(2) may be substituted for educational requirements at the rate of one (1) year of experience for nine (9) months formal education, if approved by the department. All present employees will be exempt from this requirement but are encouraged to further their education at the earliest opportunity."

- Section 9. Section 82A-805, R.C.M. 1947, is renumbered 82A-1910 and is amended to read as follows:
- 3 **62A-005 82A-1910. Board of eugenics -- composition -4 qualifications -- allocation -- designation. (1) There is a
 5 board of eugenics.
- (2) The board consists of seven (7) members, and one
 (1) ex officio member. The members are:
- 8 (a) Two (2) physicians licensed to practice medicine
 9 and surgery in this state to be appointed after considering
 10 the recommendation of the Montana medical association;
- 11 (b) One (1) lawyer licensed to practice law in this 12 state to be appointed after considering the recommendation 13 of the Montana bar association;
- 14 (c) Three (3) lay members;
- 15 (d) One (1) psychologist;
- 16 (e) The director of institutions social and
 17 rehabilitation services, who is an ex officio member of the
 18 board.
- 19 (3) The board is allocated to the department for 20 administrative purposes only as prescribed in section 21 82A-108.
- 22 (4) The board is designated as a quasi-judicial board 23 for purposes of section 82A-112.
- Section 10. There is a new R.C.M. section that reads as follows:

1 Terminology change. All references in the Revised Codes of Montana, 1947, to "the department of institutions" are Z 3 changed to read "the department of social and rehabilitation services*. The code commissioner shall have these changes 4 5 made. Section 11. Renumber. Section 82A-804; R.C.M. 1947; 7 is renumbered 82A-1909. Section 12. Renumber. Section 82A-836, R.C.M. 1947, 8 9 is renumbered 82A-1911. 10 Section 13. Repealer. Sections 82A-801 and 82A-801.1.

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R.C.M. 1947, are repealed.