

1 H BILL NO. 534
 2 INTRODUCED BY Brand Nubar Kennedy, League
 3 Menahan Kendrick Lynch

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

15
 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
 18 read as follows:

19 "80-1402. Definition of terms. Unless the context
 20 requires otherwise, in Title 80:

21 (1) "Department" means the department of institutions
 22 provided for in Title 82A, chapter 8 social and
 23 rehabilitation services provided for in Title 82A, chapter
 24 19.

25 (2) "Director" means the director of institutions

1 social and rehabilitation services provided for in section
 2 82A-801 82A-1901.

3 (3) "Board" means the board of institutions provided
 4 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:

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.

16 (b) Hear grievances of residents of institutions
 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~~
 20 ~~department~~ who has a grievance, and has exhausted all other
 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 ~~dissatisfaction concerning a serious matter of his~~
 25 ~~employment based upon work conditions, supervision or the~~

1 ~~result of an administrative action.~~ A grievance of a
2 resident means any serious matter affecting his care or
3 treatment.

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

6 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:

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;

14 (2) "approved private treatment facility" means a
15 private agency meeting the standards prescribed in section
16 69-6216 (1) and approved under section 69-6216;

17 (3) "approved public treatment facility" means a
18 treatment agency operating under the direction and control
19 of the department or providing treatment under this act
20 through a contract with the department and approved under
21 section 69-6216;

22 (4) "department" means the department of institutions
23 social and rehabilitation services provided for in section
24 82A-801 82A-1901, R.C.M. 1947;

25 (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;

5 (6) "incompetent person" means a person who has been
6 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;

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."

16 Section 4. Section 82A-1901.1, R.C.M. 1947, is amended
17 to read as follows:

18 "82A-1901.1. Functions of department. (1) 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,
23 chapter 5);

24 ~~(2)(b)~~ Child adoption agencies (Title 10, chapter 7);

25 ~~(3)(c)~~ Day care facilities for children (Title 10,

1 chapter 8);

2 ~~(4)~~(d) Adoptions (Title 61, chapter 2);

3 ~~(5)~~(e) County poor (Title 71, chapter 1);

4 ~~(6)~~(f) Department's functions and county departments

5 of public welfare (Title 71, chapter 2);

6 ~~(7)~~(g) General relief (Title 71, chapter 3);

7 ~~(8)~~(h) Old-age assistance (Title 71, chapter 4);

8 ~~(9)~~(i) Aid to dependent children (Title 71, chapter

9 5);

10 ~~(10)~~(j) Aid to blind (Title 71, chapter 6);

11 ~~(11)~~(k) Child welfare (Title 71, chapter 7);

12 ~~(12)~~(l) Disabled persons (Title 71, chapter 12);

13 ~~(13)~~(m) Services to the blind (Title 71, chapter 14);

14 ~~(14)~~(n) Medical assistance (Title 71, chapter 15);

15 ~~(15)~~(o) Vocational rehabilitation and education (Title

16 71, chapter 18);

17 ~~(16)~~(p) Veterans' welfare (Title 71, chapter 19); and

18 ~~(17)~~(q) Problems of aging (Title 71, chapter 20).

19 (2) The department and its units are also responsible

20 for the administration of laws relating to institutions,

21 including but not limited to:

22 (a) district youth guidance homes (Title 10, chapter

23 12);

24 (b) Warm Springs state hospital (Title 80, chapter

25 24);

1 (c) determination and treatment of persons seriously

2 mentally ill or persons suffering from mental disorders

3 (Title 38, chapter 13);

4 (d) identification and habilitation of persons

5 developmentally disabled (Title 38, chapter 12);

6 (e) convalescent leave of patients (Title 38, chapter

7 5);

8 (f) eugenical sterilizations (Title 69, chapter 64);

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 (Title 80, chapter

13 16);

14 (j) Galen state hospital (Title 80, chapter 17);

15 (k) Montana veterans' home (Title 80, chapter 18);

16 (l) the state prison (Title 80, chapter 19);

17 (m) the Montana children's center (Title 80, chapter

18 21);

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 80, chapter

23 25);

24 (q) mental retardation programs;

25 (r) probation, parole, and clemency; and

1 ~~(s) alcoholism and drug dependence (Title 80, chapter~~
2 ~~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 ~~82A-804~~ 82A-1901;

10 (2) "Board" means the board of pardons provided for in
11 ~~section-82A-804~~ 82A-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 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
25 application to participate in the prisoner furlough

1 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-804~~ 82A-1909.

8 (2) "Department" means the department of ~~institutions~~
9 ~~social and rehabilitation services~~ provided for in Title
10 82A, chapter ~~8~~ 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-82A-804~~ 82A-1909.

24 (2) "Department" means the department of ~~institutions~~
25 ~~social and rehabilitation services~~ provided for in Title

1 82A, chapter 8 19.

2 (3) "Probation" means the release by the court without
3 imprisonment except as otherwise provided by law, of a
4 defendant found guilty of a crime upon verdict or plea,
5 subject to conditions imposed by the court and subject to
6 the supervision of the department upon direction of the
7 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:

14 "95-3302.1. Qualifications of probation and parole
15 officers. Probation and parole officers shall have at least
16 a college degree and shall have received at least some
17 formal training in behavioral sciences. Exceptions to this
18 rule must be approved by the department. Related work
19 experience in the areas listed in ~~section 82A-894(2)~~
20 ~~82A-1909(2)~~ may be substituted for educational requirements
21 at the rate of one (1) year of experience for nine (9)
22 months formal education, if approved by the department. All
23 present employees will be exempt from this requirement but
24 are encouraged to further their education at the earliest
25 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-805 82A-1910~~. 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
2 of Montana, 1947, to "the department of institutions" are
3 changed to read "the department of social and rehabilitation
4 services". The code commissioner shall have these changes
5 made.

6 Section 11. Renumber. Section 82A-804, R.C.M. 1947,
7 is renumbered 82A-1909.

8 Section 12. Renumber. Section 82A-806, R.C.M. 1947,
9 is renumbered 82A-1911.

10 Section 13. Repealer. Sections 82A-801 and 82A-801.1,
11 R.C.M. 1947, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 267-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, 19 77, there is hereby submitted a Fiscal Note for House Bill 534 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 534 is an act to abolish the Department of Institutions and transfer their functions to the Department of Social and Rehabilitation Services.

ASSUMPTIONS:

1. The operations level for both Departments will be as requested in the Executive Budget for the 1979 biennium.
2. Consolidation may result in some cost savings; however, this will require adequate time to conduct a detailed analysis.

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.

Richard L. Grayson
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-2-77

Approved by Committee
on State Administration

1 H BILL NO. 534
2 INTRODUCED BY *Board Michel Kennedy League*
3 *Menahan Kanduch Lynch*

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5 DEPARTMENT OF INSTITUTIONS; TRANSFERRING THE FUNCTIONS OF
6 THAT DEPARTMENT TO THE DEPARTMENT OF SOCIAL AND
7 REHABILITATION SERVICES; TRANSFERRING THE BOARD OF
8 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,
11 95-3205, 95-3301, AND 95-3302.1, R.C.M. 1947; RENUMBERING
12 AND AMENDING SECTION 82A-805, R.C.M. 1947; RENUMBERING
13 SECTIONS 82A-804 AND 82A-806, R.C.M. 1947; AND REPEALING
14 SECTIONS 82A-801 AND 82A-801.1, R.C.M. 1947."

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

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

19 "80-1402. Definition of terms. Unless the context
20 requires otherwise, in Title 80:

21 (1) "Department" means the department of institutions
22 provided for in Title 82A, chapter 19, social and
23 rehabilitation services provided for in Title 82A, chapter
24 19.

25 (2) "Director" means the director of institutions

1 social and rehabilitation services provided for in section
2 82A-801 82A-1901.

3 (3) "Board" means the board of institutions provided
4 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:

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.

16 (b) Hear grievances of residents of institutions
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~~
20 ~~department~~ who has a grievance, and has exhausted all other
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 ~~dissatisfaction concerning a serious matter of his~~
25 ~~employment based upon work conditions, supervisory or the~~

1 ~~result of an administrative action.~~ A grievance of a
2 resident means any serious matter affecting his care or
3 treatment.

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

6 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:

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;

14 (2) "approved private treatment facility" means a
15 private agency meeting the standards prescribed in section
16 69-6216 (1) and approved under section 69-6216;

17 (3) "approved public treatment facility" means a
18 treatment agency operating under the direction and control
19 of the department or providing treatment under this act
20 through a contract with the department and approved under
21 section 69-6216;

22 (4) "department" means the department of ~~institutions~~
23 social and rehabilitation services provided for in section
24 82A-881 ~~82A-1901~~, R.C.M. 1947;

25 (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;

5 (6) "incompetent person" means a person who has been
6 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;

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."

16 Section 4. Section 82A-1901.1, R.C.M. 1947, is amended
17 to read as follows:

18 "82A-1901.1. Functions of department. (1) 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,
23 chapter 5);

24 ~~(2)(b)~~ Child adoption agencies (Title 10, chapter 7);

25 ~~(3)(c)~~ Day care facilities for children (Title 10,

1 chapter 8);

2 ~~†4)†(d)~~ Adoptions (Title 61, chapter 2);

3 ~~†5)†(e)~~ County poor (Title 71, chapter 1);

4 ~~†6)†(f)~~ Department's functions and county departments

5 of public welfare (Title 71, chapter 2);

6 ~~†7)†(g)~~ General relief (Title 71, chapter 3);

7 ~~†8)†(h)~~ Old-age assistance (Title 71, chapter 4);

8 ~~†9)†(i)~~ Aid to dependent children (Title 71, chapter

9 5);

10 ~~†10)†(j)~~ Aid to blind (Title 71, chapter 6);

11 ~~†11)†(k)~~ Child welfare (Title 71, chapter 7);

12 ~~†12)†(l)~~ Disabled persons (Title 71, chapter 12);

13 ~~†13)†(m)~~ Services to the blind (Title 71, chapter 14);

14 ~~†14)†(n)~~ Medical assistance (Title 71, chapter 15);

15 ~~†15)†(o)~~ Vocational rehabilitation and education (Title

16 71, chapter 18);

17 ~~†16)†(p)~~ Veterans' welfare (Title 71, chapter 19); and

18 ~~†17)†(q)~~ Problems of aging (Title 71, chapter 20).

19 ~~(2) The department and its units are also responsible~~

20 ~~for the administration of laws relating to institutions,~~

21 ~~including but not limited to:~~

22 ~~(a) district youth guidance homes (Title 10, chapter~~

23 ~~12);~~

24 ~~(b) Warm Springs state hospital (Title 80, chapter~~

25 ~~24);~~

1 ~~(c) determination and treatment of persons seriously~~

2 ~~mentally ill or persons suffering from mental disorders~~

3 ~~(Title 38, chapter 13);~~

4 ~~(d) identification and habilitation of persons~~

5 ~~developmentally disabled (Title 38, chapter 12);~~

6 ~~(e) convalescent leave of patients (Title 38, chapter~~

7 ~~5);~~

8 ~~(f) eugenical sterilizations (Title 69, chapter 64);~~

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 (Title 80, chapter~~

13 ~~16);~~

14 ~~(j) Galen state hospital (Title 80, chapter 17);~~

15 ~~(k) Montana veterans' home (Title 80, chapter 18);~~

16 ~~(l) the state prison (Title 80, chapter 19);~~

17 ~~(m) the Montana children's center (Title 80, chapter~~

18 ~~21);~~

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 80, chapter~~

23 ~~25);~~

24 ~~(q) mental retardation programs;~~

25 ~~(r) probation, parole, and clemency; and~~

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-804 82A-1901;~~

10 (2) "Board" means the board of pardons provided for in
11 ~~section-82A-804 82A-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 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
25 application to participate in the prisoner furlough

1 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-804 82A-1909.~~

8 (2) "Department" means the department of ~~institutions~~
9 social and rehabilitation services provided for in Title
10 82A, chapter ~~8 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-82A-804 82A-1909.~~

24 (2) "Department" means the department of ~~institutions~~
25 social and rehabilitation services provided for in Title

1 82A, chapter 8 19.

2 (3) "Probation" means the release by the court without
3 imprisonment except as otherwise provided by law, of a
4 defendant found guilty of a crime upon verdict or plea,
5 subject to conditions imposed by the court and subject to
6 the supervision of the department upon direction of the
7 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:

14 "95-3302.1. Qualifications of probation and parole
15 officers. Probation and parole officers shall have at least
16 a college degree and shall have received at least some
17 formal training in behavioral sciences. Exceptions to this
18 rule must be approved by the department. Related work
19 experience in the areas listed in section--82A-884(2)
20 82A-1909(2) may be substituted for educational requirements
21 at the rate of one (1) year of experience for nine (9)
22 months formal education, if approved by the department. All
23 present employees will be exempt from this requirement but
24 are encouraged to further their education at the earliest
25 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-805~~ 82A-1910. 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
2 of Montana, 1947, to "the department of institutions" are
3 changed to read "the department of social and rehabilitation
4 services". The code commissioner shall have these changes
5 made.

6 Section 11. Renumber. Section 82A-804, R.C.M. 1947,
7 is renumbered 82A-1909.

8 Section 12. Renumber. Section 82A-806, R.C.M. 1947,
9 is renumbered 82A-1911.

10 Section 13. Repealer. Sections 82A-801 and 82A-801.1,
11 R.C.M. 1947, are repealed.

-End-

1 H BILL NO. 534
 2 INTRODUCED BY Brandon Mular Kennedy, League
 3 Manahan Renduch Lynch

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

15
 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
 18 read as follows:

19 "80-1402. Definition of terms. Unless the context
 20 requires otherwise, in Title 80:

21 (1) "Department" means the department of institutions
 22 ~~provided for in title 82A, chapter 8~~ social and
 23 rehabilitation services provided for in title 82A, chapter
 24 19.

25 (2) "Director" means the director of institutions

1 ~~social and rehabilitation services provided for in section~~
 2 ~~82A-804 82A-1901.~~

3 (3) "Board" means the board of institutions provided
 4 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:

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.

16 (b) Hear grievances of residents of institutions
 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~~
 20 department who has a grievance, and has exhausted all other
 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 ~~dissatisfaction--concerning--a--serious--matter--of--his~~
 25 ~~employment--based--upon--work--conditions--supervision--or--the~~

1 ~~result of an administrative action.~~ A grievance of a
2 resident means any serious matter affecting his care or
3 treatment.

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

6 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:

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;

14 (2) "approved private treatment facility" means a
15 private agency meeting the standards prescribed in section
16 69-6216 (1) and approved under section 69-6216;

17 (3) "approved public treatment facility" means a
18 treatment agency operating under the direction and control
19 of the department or providing treatment under this act
20 through a contract with the department and approved under
21 section 69-6216;

22 (4) "department" means the department of institutions
23 social and rehabilitation services provided for in section
24 82A-801 82A-1901, R.C.M. 1947;

25 (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;

5 (6) "incompetent person" means a person who has been
6 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;

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."

16 Section 4. Section 82A-1901.1, R.C.M. 1947, is amended
17 to read as follows:

18 "82A-1901.1. Functions of department. (1) 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,
23 chapter 5);

24 ~~(2)(b)~~ Child adoption agencies (Title 10, chapter 7);

25 ~~(3)(c)~~ Day care facilities for children (Title 10,

1 chapter 8);

2 ~~4~~(d) Adoptions (Title 61, chapter 2);

3 ~~5~~(e) County poor (Title 71, chapter 1);

4 ~~6~~(f) Department's functions and county departments

5 of public welfare (Title 71, chapter 2);

6 ~~7~~(g) General relief (Title 71, chapter 3);

7 ~~8~~(h) Old-age assistance (Title 71, chapter 4);

8 ~~9~~(i) Aid to dependent children (Title 71, chapter

9 5);

10 ~~10~~(j) Aid to blind (Title 71, chapter 6);

11 ~~11~~(k) Child welfare (Title 71, chapter 7);

12 ~~12~~(l) Disabled persons (Title 71, chapter 12);

13 ~~13~~(m) Services to the blind (Title 71, chapter 14);

14 ~~14~~(n) Medical assistance (Title 71, chapter 15);

15 ~~15~~(o) Vocational rehabilitation and education (Title

16 71, chapter 18);

17 ~~16~~(p) Veterans' welfare (Title 71, chapter 19); and

18 ~~17~~(q) Problems of aging (Title 71, chapter 20).

19 (2) The department and its units are also responsible

20 for the administration of laws relating to institutions,

21 including but not limited to:

22 (a) district youth guidance homes (Title 10, chapter

23 12);

24 (b) Warm Springs state hospital (Title 80, chapter

25 24);

1 (c) determination and treatment of persons seriously

2 mentally ill or persons suffering from mental disorders

3 (Title 38, chapter 13);

4 (d) identification and habilitation of persons

5 developmentally disabled (Title 38, chapter 12);

6 (e) convalescent leave of patients (Title 38, chapter

7 5);

8 (f) eugenic sterilizations (Title 69, chapter 64);

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 (Title 80, chapter

13 16);

14 (j) Galen state hospital (Title 80, chapter 17);

15 (k) Montana veterans' home (Title 80, chapter 18);

16 (l) the state prison (Title 80, chapter 19);

17 (m) the Montana children's center (Title 80, chapter

18 21);

19 (n) Boulder River school and hospital and Eastmont

20 training centers;

21 (o) mental hygiene services and mental health centers;

22 (p) Montana center for the aged (Title 80, chapter

23 25);

24 (q) mental retardation programs;

25 (r) probation, parole, and clemency; and

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-804 82A-1901~~;

10 (2) "Board" means the board of pardons provided for in
11 ~~section-82A-804 82A-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 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
25 application to participate in the prisoner furlough

1 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-804 82A-1909~~.

8 (2) "Department" means the department of ~~institutions~~
9 social and rehabilitation 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-82A-804 82A-1909~~.

24 (2) "Department" means the department of ~~institutions~~
25 social and rehabilitation services provided for in Title

1 82A, chapter 8 19.

2 (3) "Probation" means the release by the court without
3 imprisonment except as otherwise provided by law, of a
4 defendant found guilty of a crime upon verdict or plea,
5 subject to conditions imposed by the court and subject to
6 the supervision of the department upon direction of the
7 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:

14 "95-3302.1. Qualifications of probation and parole
15 officers. Probation and parole officers shall have at least
16 a college degree and shall have received at least some
17 formal training in behavioral sciences. Exceptions to this
18 rule must be approved by the department. Related work
19 experience in the areas listed in ~~section--82A-894(2)~~
20 ~~82A-1909(2)~~ may be substituted for educational requirements
21 at the rate of one (1) year of experience for nine (9)
22 months formal education, if approved by the department. All
23 present employees will be exempt from this requirement out
24 are encouraged to further their education at the earliest
25 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-805~~ ~~82A-1910~~. 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
2 of Montana, 1947, to "the department of institutions" are
3 changed to read "the department of social and rehabilitation
4 services". The code commissioner shall have these changes
5 made.

6 Section 11. Renumber. Section 82A-804, R.C.M. 1947,
7 is renumbered 82A-1909.

8 Section 12. Renumber. Section 82A-806, R.C.M. 1947,
9 is renumbered 82A-1911.

10 Section 13. Repealer. Sections 82A-801 and 82A-801.I,
11 R.C.M. 1947, are repealed.

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