

1 House BILL NO. 705
2 INTRODUCED BY Alonso
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE USE
5 OF IDENTIFYING DEVICES FOR DISABLED PERSONS; PROVIDING FOR
6 DUTIES OWED TO DISABLED PERSONS; PROVIDING FOR PENALTIES;
7 AMENDING SECTION 17-410, R.C.M. 1947."

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

10 Section 1. There is a new R.C.M. section that reads as
11 follows:

12 Purpose. The purpose of this act is to provide for
13 prompt identification of disabled persons with medical
14 abnormalities and timely and proper medical treatment for
15 those persons.

16 Section 2. There is a new R.C.M. section that reads as
17 follows:

18 Short title. This act may be cited as the "Uniform
19 Duties to Disabled Persons Act".

20 Section 3. There is a new R.C.M. section that reads as
21 follows:

22 Definitions. In this act, the following definitions
23 apply:

24 (1) "Disabled condition" means the condition of being
25 unconscious, semiconscious, incoherent, or otherwise

1 incapacitated to communicate.

2 (2) "Disabled person" means a person in a disabled
3 condition.

4 (3) "Emergency symbol" means the caduceus inscribed
5 within a six-barred cross used by the American medical
6 association to denote emergency information.

7 (4) "Identifying device" means an identifying
8 bracelet, necklace, metal tag, or similar device bearing the
9 emergency symbol and the information needed in an emergency.

10 (5) "Medical practitioner" means a person licensed or
11 authorized to practice medicine, osteopathy, and the healing
12 arts.

13 Section 4. There is a new R.C.M. section that reads as
14 follows:

15 Identifying devices for persons having certain medical
16 conditions. (1) A person who suffers from epilepsy,
17 diabetes, a cardiac condition, or any other type of illness
18 that causes temporary blackouts, semiconscious periods, or
19 complete unconsciousness or who suffers from a condition
20 requiring specific medication or treatment, is pregnant, is
21 allergic to certain medications or items used in medical
22 treatment, wears contact lenses, has religious objections to
23 certain forms of medication or medical treatment, or is
24 unable to communicate coherently or effectively in the
25 English language is authorized and encouraged to wear an

1 identifying device.

2 (2) A person may carry an identification card bearing
3 his name, type of medical condition, physician's name and
4 phone number, and other medical information.

5 (3) By wearing an identifying device, a person gives
6 his consent for any law enforcement officer or medical
7 practitioner who finds him in a disabled condition to make a
8 reasonable search of his clothing or other effects for an
9 identification card as described in subsection (2). In a
10 search conducted under this section, no incriminating
11 instruments, articles, or any other thing may be used as
12 evidence in any criminal proceeding against the person found
13 in the disabled condition and for whose benefit the search
14 is made.

15 Section 5. There is a new R.C.M. section that reads as
16 follows:

17 Duty of law enforcement officer. (1) A law enforcement
18 officer shall make a diligent effort to determine whether a
19 person found disabled is an epileptic or a diabetic or
20 suffers from some other type of illness that would cause the
21 condition. Whenever feasible, this effort shall be made
22 before the person is charged with a crime or taken to a
23 place of detention.

24 (2) In seeking to determine whether a disabled person
25 suffers from an illness, a law enforcement officer shall

1 make a reasonable search for an identifying device and an
2 identification card of the type described in [section 4(2)]
3 and examine them for emergency information. The law
4 enforcement officer may not search for an identifying device
5 or an identification card in a manner or to an extent that
6 would appear to a reasonable person in the circumstances to
7 cause an unreasonable risk of worsening the disabled
8 person's condition.

9 (3) A law enforcement officer who finds a disabled
10 person without an identifying device or identification card
11 is not relieved of his duty to that person to make a
12 diligent effort to ascertain the existence of any illness
13 causing the disabled condition.

14 (4) A cause of action against a law enforcement
15 officer does not arise from his making a reasonable search
16 of the disabled person to locate an identifying device or
17 identification card, even though the person is not wearing
18 an identifying device or carrying an identification card.

19 (5) A law enforcement officer who determines or has
20 reason to believe that a disabled person is suffering from
21 an illness causing his condition shall promptly notify the
22 person's physician, if practicable. If the officer is unable
23 to ascertain the physician's identity or to communicate with
24 him, the officer shall make a reasonable effort to cause the
25 disabled person to be transported immediately to a medical

1 practitioner or to a facility where medical treatment is
 2 available. If the officer believes it unduly dangerous to
 3 move the disabled person, he shall make a reasonable effort
 4 to obtain the assistance of a medical practitioner.

5 Section 6. There is a new R.C.M. section that reads as
 6 follows:

7 Duty of medical practitioner. (1) A medical
 8 practitioner, in discharging his duty to a disabled person
 9 whom he has undertaken to examine or treat, shall make a
 10 reasonable search for an identifying device or
 11 identification card of the type described in [section 4(2)]
 12 and examine them for emergency information.

13 (2) A cause of action against a medical practitioner
 14 does not arise from his making a reasonable search of a
 15 disabled person to locate an identifying device or
 16 identification card, even though the person is not wearing
 17 an identifying device or carrying an identification card.

18 Section 7. There is a new R.C.M. section that reads as
 19 follows:

20 Duty of others. (1) A person other than a law
 21 enforcement officer or medical practitioner who finds a
 22 disabled person shall make a reasonable effort to notify a
 23 law enforcement officer. If a law enforcement officer or
 24 medical practitioner is not present, a person who finds a
 25 disabled person may make a reasonable search for an

1 identifying device and if the identifying device is found
 2 may make a reasonable search for an identification card of
 3 the type described in [section 4(2)]. If a device or card is
 4 located, the person making the search shall attempt promptly
 5 to bring its contents to the attention of a law enforcement
 6 officer or medical practitioner.

7 (2) A cause of action does not arise from a reasonable
 8 search to locate an identifying device or identification
 9 card as authorized by subsection (1).

10 Section 8. There is a new R.C.M. section that reads as
 11 follows:

12 Falsifying identification or misrepresenting condition.
 13 A person who, with intent to deceive, provides, wears, uses,
 14 or possesses a false identifying device or identification
 15 card of the type described in [section 4(2)] is guilty of a
 16 misdemeanor and upon conviction may be fined no more than
 17 \$300 or imprisoned in the county jail for any term not to
 18 exceed 90 days, or both.

19 Section 9. There is a new R.C.M. section that reads as
 20 follows:

21 Additional duties. The duties imposed by this act are
 22 in addition to and not in limitation of other duties
 23 existing under the law of this state.

24 Section 10. Section 17-41C, R.C.M. 1947, is amended to
 25 read as follows:

1 "17-410. Emergency care rendered at scene of
2 accidents. Any person licensed as a physician and surgeon
3 under the laws of the state of Montana, or any other person,
4 who in good faith renders emergency care or assistance to a
5 person who is not wearing an identifying device as defined
6 in [section 3 of this act], without compensation, at the
7 scene of an emergency or accident, shall not be liable for
8 any civil damages for acts or omissions other than damages
9 occasioned by gross negligence or by willful or wanton acts
10 or omissions by such person in rendering such emergency
11 care."

12 Section 11. Saving clause. This act does not affect
13 rights and duties that matured, penalties that were
14 incurred, or proceedings that were begun before the
15 effective date of this act.

16 Section 12. Severability. If a part of this act is
17 invalid, all valid parts that are severable from the invalid
18 part remain in effect. If a part of this act is invalid in
19 one or more of its applications, the part remains in effect
20 in all valid applications that are severable from the
21 invalid applications.

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