# CHAPTER NO. 38

# SENATE BILL NO. 127

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# INTRODUCED BY BLAYLOCK

# BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 16, 1979		Introduced and referred to Committee on Public Health, Welfare, and Safety.
January 25, 1979		Committee recommend bill do pass. Report adopted.
January 26, 1979		Printed and placed on members' desks.
January 27, 1979		Second reading, do pass.
January 29, 1979		Considered correctly engrossed.
January 30, 1979		Third reading, passed. Transmitted to second house.
	IN THE HOU	SE
January 31, 1979		Introduced and referred to Committee on Human Services.
February 5, 1979		Committee recommend bill be concurred in and placed on Consent Calendar. Report adopted.
February 8, 1979		Third reading Consent Calendar concurred in.
	IN THE SEN	ATE
February 10, 1979		Returned from second house. Concurred in. Sent to enrolling.
		Reported correctly enrolled.

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Lenter BILL NO. 127 1 INTRODUCED BY 2 BY REQUEST OF THE CODE COMMISSIONER 3

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 6 CLARIFY THE LAWS RELATING TO SOCIAL SERVICES AND 7 INSTITUTIONS: AMENDING SECTIONS 53-1-104. 53-2-20 \*\* 8 53-2-205, 53-3-103, 53-4-213, 53-4-406, 53-4-501, 53-4-505, 9 53-4-509. 53-5-303+ 53-5-304. 53-9-109. 53-20-112. 53-20-205, 53-21-112, 53-24-104, 53-24-108, 10 53-24-206+ 53-24-304, 53-30-212, AND 53-30-214, MCA; AND REPEALING 11 SECTIONS 38-121 AND 80-2101 THROUGH 80-21079 R.C.M. 1947.\* 12 13

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

Section 1. Section 53-2-104, MCA, is amended to read: "53:-2-104. Audit of public assistance records. All applications, information, and records concerning any applicant or recipient of assistance or services under this title are subject to audit for legislative oversight or determination of welfere <u>public assistance</u> fraud."

additional counsel as may be necessary for this purpose and
 fix the compensation therefor. The-total-yearly-sum-for-the
 service-may-not-exceed-\$2+400+-which-compensation--shall--be
 patd-out-of-state-public-assistance-funds\*\*

5 Section 3. Section 53-2-205, NCA, is amended to read: ъ \*53-2-205. Department authorized to establish and collect social services fees. (1) The department is hereby 7 authorized to establish and collect fees for social services 8 9 furnished which are authorized pursuant to Title XX of the 10 Social Security Act. Public Law 93-641 93-647. Such fees shall be based on a schedule determined by the department. 11 12 (2) The state share of fees provided for by subsection (1) shall be paid over to the state treasurer for the credit 13 14 of the earmarked revenue fund for the use of the department in providing social services." 15

Section 4. Section 53-3-103, MCA, is amended to read: 16 17 #53-3-103. Hedical aid and hospitalization for 18 indigent. (1) Except as provided in other parts of this 19 title. medical aid and hospitalization for county residents and nonresidents within the county unable to provide these 20 necessities for themselves are the legal and financial duty 21 22 end responsibility of the beard-of county commissioners and 23 are payable from the county poor fund. The board-of county 24 commissioners shall make provisions for competent and 25 skilled medical or surgical services as are approved by the

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department of bealth and environmental sciences or the state 1 medical association or, in the case of osteopathic 2 practitioners, by the state osteopathic associations or in 3 the case of chiropractors, by the state chiropractic 4 5 associations or in the case of optometrical services, as approved by the Montana optometric association, or in the 6 case of dental services, as--approved by the dental 7 8 association. "Medical" or "medicine" as used in this section 9 refers to the healing art as practiced by licensed 10 practitioners.

11 (2) The board, in arranging for medical care for those 12 unable to provide it for themselves, may have the care 13 provided by physicians appointed by the board who shall be 14 known as county physicians or deputy county physicians and 15 may fix a rate of compensation for the furnishing of the 16 medical attendance.

(3) The department may promulgate rules to determine 17 under what circumstances persons in the county are unable to 18 19 provide medical aid and hospitalization for themselves, including the power to define the tera "medically needy". 20 21 However, the definition may not allow payment by a county 22 for general assistance--medical for persons whose income exceeds 300% of the limitation for obtaining regular county 23 general relief assistance. 24

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

expenses or hospitalization for an individual, the county or 1 state is subrogated to the claims of the physician or 2 hospital to the extent of payment. To the extent necessary ٦ for reinbursement of medical benefits paid to or on behalf 4 of an individual, the county or state is subrogated to the 5 rights of the individual to recover from a third party who 6 may be liable to pay the medical expenses. The provisions of 7 53-2-612 which relate to medical benefits provided under 8 Titles XIX and or XX of the Social Security Act apply to Q. medical benefits provided for in this section." 10

Section 5. Section 53-4-213, MCA, is amended to read:
 "53-4-213. Department rules binding on county welfare
 departments. All rules of the department made under this
 <u>faction part shall be binding upon the county departments of</u>
 public welfare."

16 Section 6. Section 53-4-406. MCA. is amended to read: 17 \*\*53-4-406. Certified copy of license furnished for 18 adoption proceedings. Upon the request of any district 19 court. proposed adoptive parents parent. or agency. a 20 certified copy of any license issued and in good standing 21 shall be furnished by the department for use in any adoption 22 proceeding with which any licensed agency is concerned.\*\*

Z3 Section 7. Section 53-4-501, MCA, is amended to read:
 24 "53-4-501. Definitions. In this part, the following
 25 definitions apply:

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(1) "Child" means a person under 12 years of age. 1 2 (2) "Day-care facility" means a person, association, 3 or place, incorporated or unincorporated, that receives for care during the day or part of the day three or more 4 5 children of separate families and continues this type of care for 5 or more consecutive weeks. It does not include a 6 7 person who limits care to children who are related to him by blood or marriage or under his legal guardianship and all or 8 any group facilities facility established chiefly for 9 educational purposes. 10

11 (3) "Day-care center" means a day-care facility that 12 receives seven or more children for care for 5 or more hours 13 of the day for 5 or more consecutive weeks. It may include 14 facilit:es known as child-care centers, nursery schools, day 15 nurseries, and centers for the mentally retarded.

16 (4) "Department" means the department of social and
17 rehabilitation services provided for in Title 2. chapter 15.
18 part 22."

Section 8. Section 53-4-505, MCA, is amended to read: #53-4-505. Fire safety -- certification required. (1) The <u>state fire marshal of the</u> department of justice shall adopt and enforce rules for the protection of children in care facilities from fire hazards and arrange for such inspections and investigations as it considers necessary.

25 (2) Each applicant for a license to operate a day-care

center shall submit to the department of social and
 rehabilitation services a certificate of approval indicating
 that fire safety rules have been met before a license can be
 issued.

5 (3) Automatic sprinkler systems acceptable to the department---of-isstice state fire marshal shall be installed ٨ 7 in all nonfire-resistant homes two stories or more in height with 10 or more children, with the department--of--iustice R 9 state fire marshal to issue for the information and use of 10 the department of social and rehabilitation services 11 certificates of compliance with fire rules and standards 12 applicable to the facilities."

13 Section 9. Section 53-4-509, MCA, is amended to read: "53-4-509. Provisional license. The department of 14 15 social and rehabilitation services may in its discretion 16 issue a provisional license for a period of not more than 6 17 months if it finds that a substandard day-care facility is 18 attempting to meet the minimum standards. The requirement 19 that a day-care center shall be certified by the state fire marshal of the department of justice and the department of 20 **Z**1 health and environmental sciences may not be waived." 22 Section 10. Section 53-5-303, MCA, is amended to read: 23 \*53-5-303. Purpose. In order to ensure the proper care of aged persons or disabled adults in foster family care 24

25 homes and to implement provisions of federal-law-in Title

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XXv of the Social Services-Amendments-of-1974 Security. Acta
 Public Law 93-657, the department may obtain, license, and
 supervise adult foster family care homes for three or fewer
 aged persons or disabled adults in need of such care."
 Section 11. Section 53-5-304, MCA, is amended to read:
 "53-5-304. Standards for adult foster family care

7 homes. The department may establish standards by which 8 private residences may be licensed as adult foster family 9 care homes. These standards shall provide for the safety and 10 comfort of the residents and shall be are subject to the 11 advice and recommendations of the state fire marshal of the 12 department of health and environmental-sciences justice in 13 relation to fire and safety requirements."

14 Section 12. Section 53-20-112. MCA. is amended to 15 read:

16 "53-20-112. Procedural rights. (1) Any person subject 17 to emergency admittance to a residential facility, to 18 examination or evaluation by a professional person. or to 19 any hearing held pursuant to this part shall have all the 20 rights accorded to a person subject to involuntary 21 commitment proceedings under the laws of this state relating 22 to involuntary commitment of the seriously mentally ill.

(2) In addition, the parents or guardian of any person
alleged to be developmentally disabled and in need of
developmental disabilities services have the right to:

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1 (a) be present at any hearing held: pursuant: to this 2 part:

3 (b) be represented by counsel in any hearing;

4 (c) offer evidence and cross-examine witnesses in any
5 hearing; and

6 (d) have the respondent be examined by a professional
7 person of their choice when such professional person is
8 reasonably available, unless the person so chosen is
9 objected to by the respondent or by a responsible person
10 appointed by the court."

11 Section 13. Section 53-20-205, MCA, is amended to 12 read:

#53-20-205. Community services. (1) The department may 13 establish and administer community comprehensive services. 14 programs, clinics, or other facilities throughout the state 15 for the purpose of aiding in the prevention, diagnosis, 16 amelioration, or treatment of developmental disabilities. 17 Programs, clinics, or other services may be provided 18 directly by state agenciest or indirectly through contract 19 or cooperative arrangements with other agencies of 20 government, regional or local, private or public agencies, 21 or private professional personsts or in accredited health or 22 23 long-term care facilities.

24 (2) The department may contract for programs for
 25 developmental disabilities services. Contracts entered into

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by the department shall contain specific conditions for 1 performance by the contractor. It shall set minimum 2 3 standards for programs and establish appropriate qualifications for persons employed in such programs. 4

5 (3) All developmental disabilities facilities and services shall comply with existing federal guidelines and 6 7 with requirements which will enable the services and я facilities to qualify for available aid funds. However, 9 nothing herein requires facilities serving the developmentally disabled to meet the same or equal standards 10 as licensed medical facilities unless the developmental 11 disabilities facility is providing professional or skilled 12 13 medical care.

(4) Comprehensive services, programs, clinics, or 14 15 other facilities established or provided by the department 16 under this part shall conform as nearly as possible to the 17 plans of the advisory council created under 2-15-2204 and the regional councils provided for in 53-20-207.\* 18

Section 14. Section 53-21-112, MCA, is amended to 19 20 read:

21 #53-21-112. Voluntary admission of minors. (1) 27 Notwithstanding any other provision of law, a minor who is 23 16 years of age or older may consent to receive mental 24 health services to be rendered by a facility or a person 25 licensed to practice medicine or psychology in this state.

1 [2] Except as provided by this section, the provisions 2 of 53-21-111 apoly to the voluntary admission of a minor to a mental health facility or the state hospital. 3 +2+(3) Except as provided by this subsection. voluntary admission of a minor to a mental health facility for an inpatient course of treatment shall be for the same period of time as that for an adult. A minor voluntarily admitted shall have the right to be released within 5 days of his request as provided in 53-21-111(3). The minor himself may make such request. Unless there has been a 10 11 periodic review and a voluntary readmission consented to by 12 the minor patient and his counsel, voluntary admission 13 terminates at the expiration of 1 year. Counsel shall be 14 appointed for the minor. +3+(4) If, in any application for voluntary admission

15 16 for any period of time to a mental health facility, a minor fails to join in the consent of his parents or guardian to 17 18 the voluntary admission, then the application for admission 19 shall be treated as on a <u>petition</u> for involuntary 20 commitment. Notice of the substance of this subsection and 21 of the right to counsel shall be set forth in conspicuous 22 type in a conspicuous location on any form or application 73 used for the voluntary admission of a minor to a mental health facility. The notice shall be explained to the minor 24 by the professional person approving the application." Z5

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to

1	Section 15.	Section	53-24-104,	MCA+	is	amende	d to
2	read:						
3	*53-24-104+	Deposit	of funds fr	ons fede	ral	or pr	ivate

sources with state treasurer. Funds available to the 4 5 department from federal or private sources for use in etcohot alcoholism and drug dependence prevention. 6 7 treatment, and control programs shall be deposited with the B state treasurer to the account of the department in the 9 federal and private revenue fund."

10 Section 16. Section 53-24-108, MCA, is amended to 11 read:

12 #53-24-108. Utilization of funds generated by taxation 13 on alcoholic beverages. (1) Revenue generated by 16-1-404, 16-1-406, and 16-1-408 for the treatment, rehabilitation, 14 and prevention of alcoholism may be distributed in either of 15 16 the following manners:

17 (a) as payment of fees for alcoholism services 18 provided by state-approved alcoholism programs, certified alcoholism counselors, licensed physicians, and licensed 19 hospitals; end gr 20

21 (b) as grants to persons operating state-approved alcoholism programs. 22

**Z**3 (2) No person operating a state-approved alcoholism 24 program may be required to provide matching funds as a condition of receiving a grant under subsection (1) of this 25

1 section.

(3) In addition to funding received under this 2 section, a person operating a state-approved alcoholism 3 program may accept oifts, bequests, or the donation of 4 services or money for the treatment, rehabilitation, or 5 6 prevention of alcoholism.

(4) No person receiving funding under this section to 7 A support operation of a state-approved alcoholism program may refuse alcoholism treatment, rehabilitation, or prevention 9 services to a person solely because of that person's 10 Inability to pay for those services. 11

(5) A grant made under this section is subject to the 12 following conditions: 13

(a) The grant application must contain an estimate of 14 all program income, including income from earned fees, 15 gifts, beguests, donations, and grants from other than state 16 17 sources during the period for which grant support is sought. (b) Whenever, during the period of grant support, 18 program income exceeds the amount estimated in the grant 19 application, the amount of the excess shall be reported to 20 the grantor. 21

(c) The excess shall be used by the grantee under the 22 terms of the grant in accordance with one or a combination **Z**3 of the following options: **Z**4

(i) use for any purpose that furthers the objectives 25

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of the legislation under which the grant was made; or
 (ii) deduction from total project costs to determine
 the net costs on which the grantor's share of the costs is
 based.

5 (6) Revenue generated by 16-1-404, 16-1-406, and 6 16-1-408 for the treatment, rehabilitation, and prevention 7 of alcoholism which has not been encumbered for those 8 purposes by the counties of Montana or the department shall 9 be returned to the state's general fund within 30 days after 10 the close of each fiscal year."

11 Section 17. Section 53-24-206, MCA, is amended to 12 read:

#53-24-206. Receipt financial assistance 13 of 14 authorized. The department may apply for and receive grants. allotments, or allocations of funds or other assistance for 15 purposes pertaining to the problems of elecanol alcoholism 16 17 and drug dependence or related social problems under laws and rules of the United States, any other state, or any 18 private organization. The department may cooperate with any 19 other covernment agency or private organization in programs 20 21 on atcohot alcoholism and drug dependence related social 22 problems. In carrying out cooperative programs, the 23 department may make grants of financial assistance to 24 government agencies and private organizations under terms 25 and conditions agreed upon."

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Section 18. Section 53-24-304, MCA, is amended to read:

3 #53~24-304. Emergency commitment of intoxicated persons and persons incapacitated by alcohol. (1) An 4 intoxicated person who has threatened, attempted, or 5 inflicted physical harm on another and is likely to inflict 6 7 physical harm on another unless committed or a person who is incapacitated by alcohol may be committed to an approved R 9 public treatment facility for emergency treatment. A refusal 10 to undergo treatment does not constitute evidence of lack of 11 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 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 18 treatment and be accompanied by a physician's certificate stating that he has examined the person sought to be 19 20 committed within 2 days before the certificate's date and 21 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 administrator of the approved public treatment facility, the 25

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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 quardian. or any other interested
person. The person shall be 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 16 detained in any treatment facility for more than 5 days. If 17 a petition for involuntary commitment under 53-24-302 has been filed within the 5 days and the administrator in charge 18 of an approved public treatment facility finds that grounds 19 for emergency commitment still exist, he may detain the 20 person until the petition has been heard and determined, but Z1 no longer than 10 days after filing the petition. 22

(6) A copy of the written application for commitment
 and of the physician's certificate and a written explanation
 of the person's right to counsel shall be given to the

person by the department within 24 hours after commitment.
 The department shall provide a reasonable opportunity for
 the person to consult counsel."

4 Section 19. Section 53-30-212. MCA, is amended to 5 read:

#53-30-212. Commutation of sentence to state prison 6 and transfer of prisoner to juvenile correctional facility. 7 (1) Upon the application of a person under the-age-of 21 8 years of age who has been sentenced to the state prison or 9 upon the application of his parents or guardian, the 10 governor may, after consulting with the department of 11 institutions and with the approval of the board of pardons, 12 commute the sentence by committing such person to the 13 department during-his-sinority until he is 21 years of age 14 or until sooner placed or discharged. 15

(2) If such person's behavior after being committed to 16 the department indicates that he is not a proper person to 17 reside at one of the department's juvenile facilities, the 18 governor, after consulting with the department and with the 19 approval of the board of pardons, may revoke the commutation 20 and return him to the state prison to serve out his 21 unexpired terms and the time spent by him at one of the 22 department department's juvenile facilities or while a 23 refugee from one of the department department's juvenile 24 facilities shall not be considered as a part of his original 25

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#### 1 sentence.

2 (3) Upon recommendation of the warden and with the 3 approval of the department, a person under the-age-of 21 4 years of age who has been sentenced to the state prison may 5 be transferred to any juvenile facility under the 6 jurisdiction and control of the department.

7 (4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a а 9 person sentenced to the state prison and approval of the 10 warden and with the approval of the department, such person 11 sentenced to the state prison who is 25 years old of age or 12 younger may be transferred to the Swan River youth forest 13 camp. Upon such transfer such person shall be under the supervision and control of the facility to which he is 14 transferred. 15

16 (5) If such person's behavior after transfer to such 17 juvenile facility indicates he might be released on parole or his sentence be commuted and he be discharged from 18 19 custody, the superintendent of such facility, with the 20 approval of the department, may make an appropriate 21 recommendation to the state board of pardons and the 22 governor, who may, in their discretion, parole such person **Z**3 or commute his sentence.

24 (6) If such person's behavior after transfer to a25 juvenile facility indicates he is not a proper person to

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reside in such facility, upon recommendation of the
superintendent and with the approval of the department, such
person shall be returned to the state prison to serve out
his unexpired term.\*

5 Section 20. Section 53-30-214, MCA, is amended to 6 read:

7 #53-30-214. Apprehension and return of child leaving juvenile facility without permission. A child who has left a 8 juvenile facility of the department of institutions without 9 permission may be apprehended and returned by any citizen. 10 n The term "juvenile facility of the department" means any 12 facility under the supervision and control of the department of institutions whose which has as its primary function is 13 14 the care, training, custody, and control of children and specifically includes the Pine Hills school for boys, the 15 16 Mountain View school for girls, the--Montana--children\*s centery--Boulder--River--school--end--hospitely and the Swan 17 18 River youth forest campy-and-Eastmont-training-center.\* 19 Section 21. Repealer. Sections 38-121 and 80~101 20 through 80-2107, R.C.M. 1947, are repealed.

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46th Legislature

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Approved by Committee on Public Health, Welfare & Safety

mate BILL NO. 127 1 au INTRODUCED BY 2

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO SOCIAL SERVICES 6 AND 7 INSTITUTIONS: AMENDING SECTIONS 53-2-104, 53-2-202+ 8 53-2-205, 53-3-103, 53-4-213, 53-4-406, 53-4-501, 53-4-505, 9 53-4-509, 53-5-303. 53-5-304. 53-9-109+ 53-20-112. 10 53-20-205+ 53-21-112+ 53-24-104+ 53-24-108+ 53-24-206+ 11 53-24-304+ 53-30-212+ AND 53-30-214+ MCA; AND REPEALING SECTIONS 38-121 AND 80-2101 THROUGH 80-2107. R.C.M. 1947.\* 12 13

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department of health and environmental sciences or the state 1 Z medical association or, in the case of osteopathic practitioners, by the state osteopathic associations or in 3 the case of chiropractors, by the state chiropractic 4 associations or in the case of optometrical services as 5 6 epproved by the Montana optometric associations or in the 7 case\_\_of dental services, as-approved by the dental association. "Medical" or "medicine" as used in this section 8 9 refers to the healing art as practiced by licensed 10 practitioners.

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center shall submit to the department of social and
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XXv of the Social Services-Amendments-of-1974 Security Acts
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5 Section 11. Section 53-5-304. MCA. is amended to read: 6 #53-5-304. Standards for adult foster family care homes. The department may establish standards by which 7 8 private residences may be licensed as adult foster family 9 care homes. These standards shall provide for the safety and comfort of the residents and shall-be are subject to the 10 advice and recommendations of the state fire marshal of the 11 department of health-and-environmental-sciences justice in 12 13 relation to fire and safety requirements."

14 Section 12. Section 53-20-112. MCA, is amended to 15 read:

16 "53-20-112. Procedural rights. (1) Any person subject 17 to emergency admittance to a residential facility, to 18 examination or evaluation by a professional person. or to 19 any hearing held pursuant to this part shall have all the 20 rights accorded to a person subject to involuntary 21 commitment proceedings under the laws of this state relating 22 to involuntary commitment of the seriously mentally ill.

23 (2) In addition, the parents or guardian of any person
24 alleged to be developmentally disabled and in need of
25 developmental disabilities services have the right to:

(a) be present at any hearing held pursuant to this
 part;

3 (b) be represented by counsel in any hearing;

4 (c) offer evidence and cross-examine witnesses in any
5 hearing; and

6 (d) have the respondent be examined by a professional
7 person of their choice when such professional person is
8 reasonably available, unless the person so chosen is
9 objected to by the respondent or by a responsible person
10 appointed by the court."

11 Section 13. Section 53-20-205, MCA, is amended to 12 read:

#53-20-205. Community services. (1) The department may 13 14 establish and administer community comprehensive services. programs, clinics, or other facilities throughout the state 15 16 for the purpose of aiding in the prevention, diagnosis, amelioration, or treatment of developmental disabilities. 17 Programs, clinics, or other services may be provided 18 directly by state agenciest or indirectly through contract 19 or cooperative arrangements with other agencies of 20 government, regional or local, private or public agencies, 21 or private professional personsts or in accredited health or 22 23 long-term care facilities.

24 (2) The department may contract for programs for
 25 developmental disabilities services. Contracts entered into

by the department shall contain specific conditions for
 performance by the contractor. It shall set minimum
 standards for programs and establish appropriate
 qualifications for persons employed in such programs.

(3) All developmental disabilities facilities and 5 services shall comply with existing federal quidelines and 6 with requirements which will enable the services and - 7 8 facilities to qualify for available aid funds. However, 9 nothing herein requires facilities serving the developmentally disabled to meet the same or equal standards 10 as licensed medical facilities unless the developmental 11 disabilities facility is providing professional or skilled 12 medical care. 13

14 (4) Comprehensive services, programs, clinics, or 15 other facilities established or provided by the department 16 under this part shall conform as nearly as possible to the 17 plans of the advisory council created, under 2-15-2204 and 18 the regional councils provided for in 53-20-207."

19 Section 14. Section 53-21-112, MCA, is amended to 20 read:

21 \*\*53-21-112. Voluntary admission of minors. (1)
22 Notwithstanding any other provision of law, a minor who is
23 16 years of age or older may consent to receive mental
24 health services to be rendered by a facility or a person
25 licensed to practice medicine or psychology in this state.

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1	(2) Except as provided by this section: the provisions						
2	of 53-21-111 apply to the voluntary admission of a minor to						
3	a mental health facility or the state hospital.						
4	<pre>f2f(3) Except as provided by this subsection,</pre>						

voluntary admission of a minor to a mental health facility 5 for an inpatient course of treatment shall be for the same 6 period of time as that for an adult. A minor voluntarily 7 admitted shall have the right to be released within 5 days R of his request as provided in 53-21-111(3). The minor 9 himself may make such request. Unless there has been a 10 periodic review and a voluntary readmission consented to by 11 the minor patient and his counsel, voluntary admission 12 terminates at the expiration of 1 year. Counsel shall be 13 appointed for the minor. 14

(3)(4) If, in any application for voluntary admission 15 for any period of time to a mental health facility, a minor 16 fails to join in the consent of his parents or guardian to 17 the voluntary admission, then the application for admission 18 shall be treated as on a petition for involuntary 19 commitment. Notice of the substance of this subsection and 20 of the right to counsel shall be set forth in conspicuous 21 type in a conspicuous location on any form or application 22 used for the voluntary admission of a minor to a mental **Z**3 health facility. The notice shall be explained to the minor 24 by the professional person approving the application." 25

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Section 15. Section 53-24-104, MCA, is amended to read:

3 "53-24-104. Deposit of funds from federal or private 4 sources with state treasurer. Funds available to the 5 department from federal or private sources for use in 6 eleohol alcobolism and drug dependence prevention. 7 treatment, and control programs shall be deposited with the 8 state treasurer to the account of the department in the 9 federal and private revenue fund."

10 Section 16. Section 53-24-108, MCA, is amended to 11 read:

12 "53-24-108. Utilization of funds generated by taxation 13 on alcoholic beverages. (1) Revenue generated by 16-1-404. 14 16-1-406. and 16-1-408 for the treatment. rehabilitation. 15 and prevention of alcoholism may be distributed in either of 16 the following manners:

17 (a) as payment of fees for alcoholism services
18 provided by state-approved alcoholism programs, certified
19 alcoholism counselors, licensed physicians, and licensed
20 hospitals; end gr

(b) as grants to persons operating state-approved
 alcoholism programs.

(2) No person operating a state-approved should be program may be required to provide matching finds as a condition of receiving a grant under subsettion (1) of this.

1 section.

2 (3) In addition to funding received under this
3 section. a person operating a state-approved alcoholism
4 program may accept gifts. bequests, or the donation of
5 services or money for the treatment. rehabilitation. or
6 prevention of alcoholism.

7 (4) No person receiving funding under this section to
8 support operation of a state-approved alcoholism program may
9 refuse alcoholism treatment, rehabilitation, or prevention
10 services to a person solely because of that person's
11 inability to pay for those services.

12 (5) A grant made under this section is subject to the13 following conditions:

(a) The grant application must contain an estimate of
all program income, including income from earned fees,
gifts, bequests, donations, and grants from other than state
sources during the period for which grant support is sough?

(b) Whenever, during the period of grant support,
program income exceeds the amount estimated in the grant
application, the amount of the excess shall be reported to
the grantor.

(c) The excess shall be used by the grantee under the
terms of the grant in accordance with one or a combinatice
of the following options:

25 (i) use for any purpose that furthers the objectives.

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of the legislation under which the grant was made; or
 (ii) deduction from total project costs to determine
 the net costs on which the grantor's share of the costs is
 based.

5 (6) Revenue generated by 16-1-404, 16-1-406, and 6 16-1-408 for the treatment, rehabilitation, and prevention 7 of alcoholism which has not been encumbered for those 8 purposes by the counties of Montana or the department shalf 9 be returned to the state's general fund within 30 days after 10 the close of each fiscal year."

11 Section 17. Section 53-24-206, MCA, is amended to 12 read:

financial assistance 13 "53-24-206. Receipt of authorized. The department may apply for and receive grants. 14 15 allotments, or allocations of funds or other assistance for purposes pertaining to the problems of alcoholism 16 and drug dependence or related social problems under laws 17 18 and rules of the United States, any other state, or any private organization. The department may cooperate with any 19 20 other government agency or private organization in programs 21 on alcohol alcoholism and drug dependence related social 22 problems. In carrying out cooperative programs, the department may make grants of financial assistance to 23 24 government agencies and private organizations under terms Z5 and conditions agreed upon.\*

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Section 18. Section 53-24-304, MCA, is amended to
 read:

3 #53-24-304. Emergency commitment of intoxicated persons and persons incapacitated by alcohol. (1) An 4 5 intoxicated person who has threatened, attempted, or inflicted physical harm on another and is likely to inflict 6 physical harm on another unless committed or a person who is 7 incapacitated by alcohol may be committed to an approved 8 9 public treatment facility for emergency treatment. A refusal to undergo treatment does not constitute evidence of lack of 10 judgment as to the need for treatment. 11

(Z) The certifying physician, spouse, guardian, or 12 relative of the person to be committed or any other 13 responsible person may make a written application for 14 15 commitment under this section directed to the administrator 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 2 days before the certificate's date and 20 21 facts supporting the need for emergency treatment. A physician employed by the admitting facility or the 22 **Z**3 department is not eligible to be the certifying physician. (3) Upon approval of the application by the 24 administrator of the approved public treatment facility, the **2**5

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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 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.

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 this section. No person committed under this section may be 15 16 detained in any treatment facility for more than 5 days. If a petition for involuntary commitment under 53-24-302 has 17 18 been filed within the 5 days and the administrator in charge 19 of an approved public treatment facility finds that grounds 20 for emergency commitment still exist, he may detain the 21 person until the petition has been heard and determined, but no longer than 10 days after filing the petition. 22

(6) A copy of the written application for commitment.
and of the physician's certificate and a written explanation
of the person's right to counsel shall be given to the

person by the department within 24 hours after commitment.
 The department shall provide a reasonable opportunity for
 the person to consult counsel."

4 Section 19. Section 53-30-212, MCA, is amended to 5 read:

\*53-30-212. Commutation of sentence to state prison 6 7 and transfer of prisoner to juvenile correctional facility. (1) Upon the application of a person under the-age-of 21 8 q years of age who has been sentenced to the state prison or upon the application of his parents or quardian, the 10 governor may, after consulting with the department of 11 12 institutions and with the approval of the board of pardons, 13 commute the sentence by committing such person to the department during-his-minority until he is 21 years of age 14

15 or until sooner placed or discharged.

(2) If such person's behavior after being committed to 16 17 the department indicates that he is not a proper person to reside at one of the department's juvenile facilities, the 18 19 governor, after consulting with the department and with the **Z**0 approval of the board of pardons, may revoke the commutation 21 and return him to the state prison to serve out his Z2 unexpired term, and the time spent by him at one of the 23 department department's juvenile facilities or while 🧠 24 refugee from one of the department decartment's juvenile 25 facilities shall not be considered as a part of his original

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1 sentence.

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2 (3) Upon recommendation of the warden and with the 3 approval of the department, a person under the age of 21 4 years of age who has been sentenced to the state prison may 5 be transferred to any juvenile facility under the 6 jurisdiction and control of the department.

7 (4) Upon recommendation of the warden and approval of 8 a person sentenced to the state prison or application of a 9 person sentenced to the state prison and approval of the 10 warden and with the approval of the department, such person sentenced to the state prison who is 25 years old of age or 11 younger may be transferred to the Swan River youth forest 12 camp. Upon such transfer such person shall be under the 13 supervision and control of the facility to which he is 14 15 transferred.

16 (5) If such person's behavior after transfer to such 17 juvenile facility indicates he might be released on parole or his sentence be commuted and he be discharged from 18 custody, the superintendent of such facility, with the 19 approval of the department, may make an appropriate 20 21 recommendation to the state board of pardons and the 22 governor, who may, in their discretion, parole such person 23 or commute his sentence.

24 (6) If such person's behavior after transfer to a
25 juvenile facility indicates he is not a proper person to

reside in such facility, upon recommendation of the
 superintendent and with the approval of the department, such
 person shall be returned to the state prison to serve out
 his unexpired term.<sup>#</sup>

5 Section 20. Section 53-30-214, MCA, is amended to 6 read:

7 #53-30-214. Apprehension and return of child leaving juvenile facility without permission. A child who has left a 8 9 juvenile facility of the department of institutions without permission may be apprehended and returned by any citizen. 10 The term "juvenile facility of the department" means any 11 12 facility under the supervision and control of the department of institutions whose which has as its primary function is 13 14 the care, training, custody, and control of children and 15 specifically includes the Pine Hills school for boys, the 16 Nountain View school for girls, the--Hontane--children\*s 17 centery--Boulder--River--school--and--hospitaly and the Swan 18 River youth forest campy-and-Eastmont-training-center.\* 19 Section 21. Repeater. Sections 38-121 and 80-2101 through 80-2107, R.C.M. 1947, are repealed. 20

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Blanloch BILL NO. 127 1 INTRODUCED BY 2

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 6 CLARIFY THE LAWS RELATING TO SOCIAL SERVICES AND 7 INSTITUTIONS: AMENDING SECTIONS 53-2-104+ 53-2-202+ 8 53-2-205, 53-3-103, 53-4-213, 53-4-406, 53-4-501, 53-4-505, 9 53-4-509. 53-5-303. 53-5-304. 53-9-109, 53-20-112+ 10 53-20-205. 53-21-112. 53-24-104. 53-24-108. 53-24-206+ 53-24-304+ 53-30-212+ AND 53-30-214+ MCA; AND REPEALING 11 12 SECTIONS 38-121 AND 80-2101 THROUGH 80-2107, R.C.M. 1947.\* 13

14 BE IT EFACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 Section 1. Section 53-2-104. MCA, is amended to read: 16 "53-2-104. Audit of public assistance records. All 17 applications, information, and records concerning any 18 applicant or recipient of assistance or services under this 19 title are subject to audit for legislative oversight or 20 determination of weifere public assistance fraud."

Section 2. Section 53-2-202, MCA, is amended to read: \*53-2-202. Attorney general to act as legal adviser to department. The attorney general of the state shall act as legal adviser to the department, shall perform such legal services as may be required, and may employ such other and

1 additional counsel as may be necessary for this purpose and z fix the compensation therefor. The-total-yearly-sum-for-the з service-may-not-exceed-\$2v488v-which-compensation--shall--be paid-out-of-state-public-assistance-fundsy" 4 5 Section 3. Section 53-2-205, MCA, is amended to read: \*53-2-205. Department authorized to establish and 6 7 collect social services fees. (1) The department is hereby 8 authorized to establish and collect fees for social services 9 furnished which are authorized pursuant to Title XX of the Social Security Act, Public Law 93-641 93-647, Such fees 10 11 shall be based on a schedule determined by the department. 12 (2) The state share of fees provided for by subsection 13 (1) shall be paid over to the state treasurer for the credit of the earmarked revenue fund for the use of the department 14 15 in providing social services.\* 16 Section 4. Section 53-3-103, MCA, is amended to read: 17 =53-3-103. Medical aid and hospitalization for indigent. (1) Except as provided in other parts of this 18 19 title, medical aid and hospitalization for county residents and nonresidents within the county unable to provide these 20 necessities for themselves are the legal and financial duty 21 and responsibility of the board-of county commissioners and 22 23 are payable from the county poor fund. The board-of county commissioners shall make provisions for competent and 24 skilled medical or surgical services as are approved by the 25

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1 department of health and environmental sciences or the state 2 medical association or, in the case of osteopathic 3 practitioners, by the state osteopathic associations or in the case of chiropractors, by the state chiropractic 4 5 association, or in the case of optometrical services, as epproved by the Montana optometric associations or in the 6 7 case of dental services, as--approved by the dental 8 association. "Hedical" or "medicine" as used in this section 9 refers to the healing art as practiced by licensed 10 practitioners.

11 (2) The board, in arranging for medical care for those 12 unable to provide it for themselves, may have the care 13 provided by physicians appointed by the board who shall be 14 known as county physicians or deputy county physicians and 15 may fix a rate of compensation for the furnishing of the 16 medical attendance.

17 (3) The department may promulgate rules to determine 18 under what circumstances persons in the county are unable to 19 provide medical aid and hospitalization for themselves, including the power to define the term "medically needy". 20 21 However, the definition may not allow payment by a county for general assistance-medical for persons whose income 22 23 exceeds 300% of the limitation for obtaining regular county 24 general relief assistance.

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1 expenses or hospitalization for an individual, the county or 2 state is subrogated to the claims of the physician or hospital to the extent of payment. To the extent necessary 3 for reimbursement of medical benefits paid to or on behalf 4 5 of an individual, the county or state is subrogated to the rights of the individual to recover from a third party who 6 7 may be liable to pay the medical expenses. The provisions of 8 53-2-612 which relate to medical benefits provided under 9 Titles XIX and or XX of the Social Security Act apply to 10 medical benefits provided for in this section." 11 Section 5. Section 53-4-213, MCA, is amended to read: 12 #53-4-213. Department rules binding on county welfare

13 departments. All rules of the department wade under this 14 **fort** part shall be binding upon the county departments of 15 public welfare."

16 Section 6. Section 53-4-406. MCA. is amended to read: 17 \*53-4-406. Certified copy of license furnished for adoption proceedings. Upon the request of any district 18 court, proposed adoptive parents parent, or agency, a 19 certified copy of any license issued and in good standing 20 21 shall be furnished by the department for use in any adoption 22 proceeding with which any licensed agency is concerned.\* 23 Section 7. Section 53-4-501. MCA. is amended to read:

24 "53-4-501. Definitions. In this part, the following
25 definitions apply:

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

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(1) "Child" means a person under 12 years of age. 1 2 (2) "Day-care facility" means a person, association, or place, incorporated or unincorporated, that receives for з care during the day or part of the day three or more 4 children of separate families and continues this type of 5 care for 5 or more consecutive weeks. It does not include a - 6 person who limits care to children who are related to him by 7 8 blood or marriage or under his legal quardianship and-all or any group facilities facility established chiefly for 9 10 educational purposes.

11 (3) "Day-care center" means a day-care facility that 12 receives seven or more children for care for 5 or more hours 13 of the day for 5 or more consecutive weeks. It may include 14 facilities known as child-care centers, nursery schools, day 15 nurseries, and centers for the mentally retarded.

16 (4) "Department" means the department of social and
17 rehabilitation services provided for in Title 2. chapter 15.
18 part 22."

19 Section 8. Section 53-4-505, MCA, is amended to read: 20 "53-4-505. Fire safety -- certification required. (1) 21 The <u>state fire marshal of the</u> department of justice shall 22 adopt and enforce rules for the protection of children in 23 care facilities from fire hazards and arrange for such 24 inspections and investigations as it considers necessary.

25 (2) Each applicant for a license to operate a day-care

center shall submit to the department of social and
 rehabilitation services a certificate of approval indicating
 that fire safety rules have been met before a license can be
 issued.

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(3) Automatic sprinkler systems acceptable to the 5 department--of-justice state fire marshal shall be installed ٨ 7 in all nonfire-resistant homes two stories or more in height A with 10 or more children, with the department--of--- justice 9 state fire marshal to issue for the information and use of 10 the department of social and rehabilitation services certificates of compliance with fire rules and standards 11 applicable to the facilities." 12

13 Section 9. Section 53-4-509. MCA. is asended to read: #53-4-509. Provisional license. The department of 14 social and rehabilitation services may in its discretion 15 issue a provisional license for a period of not more than 6 16 months if it finds that a substandard day-care facility is 17 18 attempting to meet the minimum standards. The requirement that a day-care center shall be certified by the state \_fire 19 marshal of the department of justice and the department of 20 health and environmental sciences may not be waived." 21

Section 10. Section 53-5-303, MCA, is amended to read: \*53-5-303. Purpose. In order to ensure the proper care of aged persons or disabled adults in foster family care homes and to implement provisions of federal-tom-in Title SBIQ7

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1 XXy of the Social Services-Amendments-of-1974 Security\_Acts Z Public Law 93-647+ the department may obtain+ license+ and з supervise adult foster family care homes for three or fewer 4 aged persons or disabled adults in need of such care." 5 Section 11. Section 53-5-304, MCA, is amended to read: 6 \*53-5-304. Standards for adult foster family care 7 homes. The department may establish standards by which 8 private residences may be licensed as adult foster family 9 care homes. These standards shall provide for the safety and comfort of the residents and shall-be are subject to the 10 11 advice and recommendations of the state fire marshal of the 12 department of health-and-environmental-sciences lustice in 13 relation to fire and safety requirements.\* 14 Section 12. Section 53-20-112, MCA, is amended to 15 read: 16 #53-20-112. Procedural rights. (1) Any person subject 17 to emergency admittance to a residential facility, to 18 examination or evaluation by a professional person, or to 19 any hearing held pursuant to this part shall have all the 20 rights accorded to a person subject to involuntary 21 commitment proceedings under the laws of this state relating 22 to involuntary commitment of the seriously mentally ill.

(2) In addition, the parents or guardian of any person
alleged to be developmentally disabled and in need of
developmental disabilities services have the right to:

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1 (a) be present at any hearing held pursuant to this 7 part; 3 (b) be represented by counsel in any hearing; (c) offer evidence and cross-examine witnesses in any 4 5 hearing; and (d) have the respondent be examined by a professional 6 7 person of their choice when such professional person is 8 reasonably available, unless the person so chosen is 9 objected to by the respondent or by a responsible person appointed by the court." 10 11 Section 13. Section 53-20-205, MCA, is amended to

12 read: 13 **\*53-20-205**• Community services• (1) The department may

14 establish and administer compunity comprehensive services. 15 programs, clinics, or other facilities throughout the state 16 for the purpose of aiding in the prevention, diagnosis, 17 amelioration, or treatment of developmental disabilities. 18 Programs, clinics, or other services may be provided 19 directly by state agenciest or indirectly through contract or cooperative arrangements with other agencies of 20 21 qovernment, regional or local, private or public agencies, or private professional personsts or in accredited health or 22 long-term care facilities. 23

(2) The department may contract for programs for
 developmental disabilities services. Contracts entered into

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by the department shall contain specific conditions for
 performance by the contractor. It shall set minimum
 standards for programs and establish appropriate
 qualifications for persons employed in such programs.

(3) All developmental disabilities facilities and 5 6 services shall comply with existing federal guidelines and 7 with requirements which will enable the services and facilities to qualify for available aid funds. However, 8 9 nothing herein requires facilities servina the developmentally disabled to meet the same or equal standards 10 as licensed medical facilities unless the developmental 11 12 disabilities facility is providing professional or skilled 13 medical care.

14 (4) Comprehensive services, programs, clinics, or 15 other facilities established or provided by the department 16 under this part shall conform as nearly as possible to the 17 plans of the advisory council created under 2-15-2204 and 18 the regional councils provided for in 53-20-207."

19 Section 14. Section 53-21-112, MCA, is amended to 20 read:

\*53-21-112. Voluntary admission of minors. (1)
Notwithstanding any other provision of law, a minor who is
16 years of age or older may consent to receive mental
health services to be rendered by a facility or a person
licensed to practice medicine or psychology in this state.

<u>f21. Except as provided by this sections the provisions</u>
 <u>of. 53-21-111 apply to the voluntary admission of a minor to</u>
 <u>a mental health facility or the state hospitals</u>
 <u>f27(3)</u> Except as provided by this subsection,
 voluntary admission of a minor to a mental health facility

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for an inpatient course of treatment shall be for the same 6 period of time as that for an adult. A minor voluntarily 7 8 admitted shall have the right to be released within 5 days 9 of his request as provided in 53-21-111(3). The minor himself may make such request. Unless there has been a 10 periodic review and a voluntary readmission consented to by 11 12 the minor patient and his counsel, voluntary admission terminates at the expiration of 1 year. Counsel shall be 13 appointed for the minor. 14

15 (3)(4) If, in any application for voluntary admission for any period of time to a mental health facility, a minor 16 17 fails to join in the consent of his parents or guardian to 18 the voluntary admission, then the application for admission 19 shall be treated as an <u>a petition for</u> involuntary commitment. Notice of the substance of this subsection and 20 21 of the right to counsel shall be set forth in conspicuous type in a conspicuous location on any form or application 22 Z3 used for the voluntary admission of a minor to a mental health facility. The notice shall be explained to the minor 24 Z5 by the professional person approving the application.\*

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1 Section 15. Section 53-24-104. MCA, is amended to 2 read:

3 "53-24-104. Deposit of funds from federal or private 4 sources with state treasurer. Funds available to the 5 department from federal or private sources for use in 6 alcohol alcoholism and drug dependence prevention. 7 treatment, and control programs shall be deposited with the 8 state treasurer to the account of the department in the 9 federal and private revenue fund."

10 Section 16. Section 53-24-108, MCA, is amended to 11 read:

12 "53-24-108. Utilization of funds generated by taxation 13 on alcoholic beverages. (1) Revenue generated by 16-1-404; 14 16-1-406, and 16-1-408 for the treatment, rehabilitation; 15 and prevention of alcoholism may be distributed in either of 16 the following manners:

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18 provided by state-approved alcoholism programs, certified
19 alcoholism counselors, licensed physicians, and licensed
20 hospitals; end or

21 (b) as grants to persons operating state-approved 22 alcoholism programs.

23 (2) No person operating a state-approved alcoholism
24 program may be required to provide matching funds as a
25 condition of receiving a grant under subsection (1) of this

1 section.

2 (3) In addition to funding received under this
3 section, a person operating a state-approved alcoholism
4 program may accept gifts, bequests, or the donation of
5 services or money for the treatment, rehabilitation, or
6 prevention of alcoholism.

7 (4) No person receiving funding under this section to
8 support operation of a state-approved alcoholism program may
9 refuse alcoholism treatment, rehabilitation, or prevention
10 services to a person solely because of that person's
11 inability to pay for those services.

12 (5) A grant made under this section is subject to the13 following conditions:

(a) The grant application must contain an estimate of
all program income, including income from earned fees,
gifts, bequests, donations, and grants from other than state
sources during the period for which grant support is sought
(b) Whenever, during the period of grant support,
program income exceeds the amount estimated in the grant

20 application, the amount of the excess shall be reported to 21 the grantor.

(c) The excess shall be used by the grantee under the
terms of the grant in accordance with one or a combination
of the following options:

25 (i) use for any purpose that furthers the objectives

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of the legislation under which the grant was made; or
 (ii) deduction from total project costs to determine
 the net costs on which the grantor's share of the costs is
 based.

5 (6) Revenue generated by 16-1-404, 16-1-406, and 6 16-1-408 for the treatment, rehabilitation, and prevention 7 of alcoholism which has not been encumbered for those 8 purposes by the counties of Montana or the department shall 9 be returned to the state's general fund within 30 days after 10 the close of each fiscal year."

11 Section 17. Section 53-24-206, MCA, is amended to 12 read:

\*53-24-206. Receipt of financial assistance 13 authorized. The department may apply for and receive grants. 14 allotments, or allocations of funds or other assistance for 15 purposes pertaining to the problems of alcoholism 16 17 and drug dependence or related social problems under laws and rules of the United States, any other state, or any 18 private organization. The department may cooperate with any 19 other government agency or private organization in programs 20 21 on atcohot alcoholism and drug dependence related social 22 problems. In carrying out cooperative programs, the department may make grants of financial assistance to 23 24 government agencies and private organizations under terms **2**5 and conditions agreed upon.\*

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Section 18. Section 53-24-304, MCA, is amended to

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3 #53-24-304. Emergency commitment of intoxicated persons and persons incapacitated by alcohol. (1) An ٠ intoxicated person who has threatened, attempted, or 5 inflicted physical harm on another and is likely to inflict 6 7 physical harm on another unless committed or a person who is incapacitated by alcohol may be committed to an approved 8 9 public treatment facility for emergency treatment. A refusal to undergo treatment does not constitute evidence of lack of 10 judgment as to the need for treatment. 11

12 (2) The certifying physician, spouse, guardian, or relative of the person to be committed or any other 13 14 responsible person 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 stating that he has examined the person sought to be 19 committed within 2 days before the certificate's date and 20 21 facts supporting the need for emergency treatment. A Z? physician employed by the admitting facility or the department is not aligible to be the certifying physician. **Z**3 (3) Upon approval of the application by the 24 administrator of the approved public treatment facility, the 25

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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 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.

12 (5) When on the advice of the medical staff the 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 5 days. If 16 17 a petition for involuntary commitment under 53-24-302 has been filed within the 5 days and the administrator in charge 18 of an approved public treatment facility finds that grounds 19 for emergency commitment still exist. he may detain the 20 person until the petition has been heard and determined, but 21 22 no longer than 10 days after filing the petition.

(6) A copy of the written application for commitment
and of the physician's certificate and a written explanation
of the person's right to counsel shall be given to the

person by the department within 24 hours after commitment.
 The department shall provide a reasonable opportunity for
 the person to consult counsel."

Section 19- Section 53-30-212, MCA, is amended to 5 read:

#53-30-212. Commutation of sentence to state prison 6 and transfer of prisoner to juvenile correctional facility. 7 (1) Upon the application of a person under the-oge-of 21 8 years of ace who has been sentenced to the state prison or 9 upon the application of his parents or quardian, the 10 governor may, after consulting with the department of 11 institutions and with the approval of the board of pardons, 12 commute the sentence by committing such person to the 13 department during-his-minority until he is 21 years of age 14

15 or until sooner placed or discharged.

(Z) If such person's behavior after being committed to 16 the department indicates that he is not a proper person to 17 reside at one of the department's juvenile facilities, the 18 governor, after consulting with the department and with the 19 approval of the board of pardons, may revoke the commutation **Z**0 and return him to the state prison to serve out his 21 unexpired term, and the time spent by him at one of the 22 department department's juvenile facilities or while a **Z**3 refugee from one of the department department's juvenile 24 facilities shall not be considered as a part of his original 25

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1 sentence.

2 (3) Upon recommendation of the warden and with the
3 approval of the department, a person under the age of 21
4 years of age who has been sentenced to the state prison may
5 be transferred to any juvenile facility under the
6 jurisdiction and control of the department.

7 (4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a 8 person sentenced to the state prison and approval of the 9 warden and with the approval of the department, such person 10 sentenced to the state prison the is 25 years old of age or 11 younger may be transferred to the Swan River youth forest 12 13 camp. Upon such transfer such person shall be under the supervision and control of the facility to which he is 14 transferred. 15

(5) If such person's behavior after transfer to such 16 17 juvenile facility indicates he might be released on parole or his sentence be commuted and he be discharged from 18 19 custody, the superintendent of such facility, with the approval of the department, may make an appropriate 20 recommendation to the state board of pardons and the 21 22 governor, who may, in their discretion, parole such person Z3 or commute his sentence.

24 (6) If such person's behavior after transfer to a
25 juvenile facility indicates he is not a proper person to

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reside in such facility, upon recommendation of the
 superintendent and with the approval of the department, such
 person shall be returned to the state prison to serve out
 his unexpired term.\*

5 Section 20. Section 53-30-214. MCA, is amended to 6 read:

\*53-30-214. Apprehension and return of child leaving 7 juvenile facility without permission. A child who has left a R iuvenile facility of the department of institutions without 9 permission may be apprehended and returned by any citizen. 10 The term "juvenile facility of the department" means any rı 12 facility under the supervision and control of the department of institutions whose which has as its primary function is 13 the care, training, custody, and control of children and 14 specifically includes the Pine Hills school for boys, the 15 Mountain View school for girls, the-Montane-children\*s 16 17 centery--Boulder--River--school--and--hospitely and the Swan River youth forest campy-and-Eastmont-training-center.\* 18 19 Section 21. Repeater. Sections 38-121 and 80-2101 through 80-2107, R.C.H. 1947, are repealed. 20

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 1
 SENATE BILL NO. 127

 2
 INTRODUCED BY BLAYLOCK

 3
 BY REQUEST OF THE CODE COMMISSIONER

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 6 CLARIFY THE LAWS RELATING TO SOCIAL SERVICES AND 7 INSTITUTIONS; AMENDING SECTIONS 53-2-104+ 53-2-202+ 53-2-205. 53-3-103. 53-4-213. 53-4-406. 53-4-501. 53-4-505. A 9 53-4-509+ 53-5-303+ 53-5-304, 53-9-109+ 53-20-112+ 53-20-205, 53-21-112, 53-24-104, 53-24-108, 53-24-206. 10 53-24-304. 53-30-212. AND 53-30-214. MCA; AND REPEALING 11 SECTIONS 38-121 AND 80-2101 THROUGH 80-2107, R.C.M. 1947.\* 12 13

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 53-2-104, MCA, is amended to read: "53-2-104. Audit of public assistance records. All applications, information, and records concerning any applicant or recipient of assistance or services under this title are subject to audit for legislative oversight or determination of welfare <u>public\_assistance</u> fraud."

21 Section 2. Section 53-2-202, MCA, is amended to read: 22 "53-2-202. Attorney general to act as legal adviser to 23 department. The attorney general of the state shall act as 24 legal adviser to the department, shall perform such legal 25 services as may be required, and may employ such other and

additional counsel as may be necessary for this purpose and 1 fix the compensation therefor. The-total-yearly-sum-for-the 2 service-may-not-exceed-\$2+480+-which-compensation--shail--be 3 4 paid-out-of-state-public-assistance-funds." 5 Section 3. Section 53-2-205. MCA. is amended to read: 6 #53-2-205. Department authorized to establish and 7 collect social services fees. (1) The department is hereby 8 authorized to establish and collect fees for social services 9 furnished which are authorized pursuant to Title XX of the 10 Social Security Act, Public Law 93-641 93-647. Such fees 11 shall be based on a schedule determined by the department. 12 (2) The state share of fees provided for by subsection 13 (1) shall be paid over to the state treasurer for the credit 14 of the carmarked revenue fund for the use of the department 15 in providing social services." 16 Section 4. Section 53-3-103, MCA, is amended to read: 17 #53-3-103. Medical aid and hospitalization for 18 indigent. (1) Except as provided in other parts of this title, medical aid and hospitalization for county residents 19 20 and nonresidents within the county unable to provide these 21 necessities for themselves are the legal and financial duty 22 and responsibility of the board-of county commissioners and 23 are payable from the county poor fund. The board-of county 24 commissioners shall make provisions for competent and 25 skilled medical or surgical services as are approved by the

-2- SENATE REFERENCE BILL SB 127 HOUSE CONSENT CALENDAR

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(1) "Child" means a person under 12 years of age. 1 2 (2) "Day-care facility" means a persone associatione or place, incorporated or unincorporated, that receives for 3 4 care during the day or part of the day three or more children of separate families and continues this type of 5 6 care for 5 or more consecutive weeks. It does not include a person who limits care to children who are related to him by 7 blood or marriage or under his legal guardianship and-all or 8 any group facilities facility established chiefly for 9 educational purposes. 10

11 (3) "Day-care center" means a day-care facility that 12 receives seven or more children for care for 5 or more hours 13 of the day for 5 or more consecutive weeks. It may include 14 facilities known as child-care centers, nursery schools, day 15 nurseries, and centers for the mentally retarded.

16 (4) "Department" means the department of social and
17 rehabilitation services provided for in Title 2, chapter 15,
18 part 22."

19Section 8. Section 53-4-505, MCA, is amended to read:20#53-4-505. Fire safety -- certification required. (1)21The state\_fire\_marshal\_of\_the department of justice shall22adopt and enforce rules for the protection of children in23care facilities from fire hazards and arrange for such24inspections and investigations as it considers necessary.

25 (2) Each applicant for a license to operate a day-care

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center shall submit to the department of social and
 rehabilitation services a certificate of approval indicating
 that fire safety rules have been met before a license can be
 issued.

(3) Automatic sprinkler systems acceptable to the . 6 deportment--of-justice state fire marshal shall be installed in all nonfire-resistant homes two stories or more in height 7 8 with 10 or more children, with the department-of-justice state\_fire\_marshal to issue for the information and use of 9 the department of social and rehabilitation services 10 11 certificates of compliance with fire rules and standards applicable to the facilities." 12

13 Section 9. Section 53-4-509, MCA, is amended to read: #53-4-509. Provisional license. The department of 14 15 social and rehabilitation services may in its discretion 16 issue a provisional license for a period of not more than 6 17 months if it finds that a substandard day-care facility is 18 attempting to meet the minimum standards. The requirement 19 that a day-care center shall be certified by the state fire marshal of the department of justice and the department of 20 21 health and environmental sciences may not be waived." Section 10. Section 53-5-303, MCA, is amended to read: 22 23 #53-5-303. Purpose. In order to ensure the proper care 24 of aged persons or disabled adults in foster family care

homes and to implement provisions of federal-law-in Title

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by the department shall contain specific conditions for
 performance by the contractor. It shall set minimum
 standards for programs and establish appropriate
 qualifications for persons employed in such programs.

5 (3) All developmental disabilities facilities and services shall comply with existing federal quidelines and 6 7 with requirements which will enable the services and facilities to qualify for available aid funds. However, 8 nothing herein requires facilities serving 0 the developmentally disabled to meet the same or equal standards 10 as licensed medical facilities unless the developmental 11 disabilities facility is providing professional or skilled 12 13 medical care.

14 (4) Comprehensive services, programs, clinics, or 15 other facilities established or provided by the department 16 under this part shall conform as nearly as possible to the 17 plans of the advisory council created under 2-15-2204 and 18 the regional councils provided for in 53-20-207.\*\*

19 Section 14. Section 53-21-112. MCA. is amended to 20 read:

21 \*\*53-21-112. Voluntary admission of minors. (1)
22 Notwithstanding any other provision of law, a minor who is
23 16 years of age or older may consent to receive mental
24 health services to be rendered by a facility or a person
25 licensed to practice medicine or psychology in this state.

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1 (2) Except as provided by this section: the provisions 2 of 53-21-111 apply to the voluntary admission of a minor to 3 a mental health facility or the state hospital. 4 +2+(3) Except as provided by this subsection+ 5 voluntary admission of a minor to a mental health facility for an inpatient course of treatment shall be for the same 6 period of time as that for an adult. A minor voluntarily 7 8 admitted shall have the right to be released within 5 days of his request as provided in 53-21-111(3). The minor 9 10 himself may make such request. Unless there has been a 11 periodic review and a voluntary readmission consented to by 12 the minor patient and his counsel, voluntary admission terminates at the expiration of 1 year. Counsel shall be 13 14 appointed for the minor. (3)(4) If, in any application for voluntary admission 15 for any period of time to a mental health facility, a minor 16 fails to join in the consent of his parents or guardian to 17 18 the voluntary admission, then the application for admission

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19 shall be treated as an <u>a\_\_\_petition\_\_\_for</u> involuntary 20 commitment. Notice of the substance of this subsection and 21 of the right to counsel shall be set forth in conspicuous 22 type in a conspicuous location on any form or application 23 used for the voluntary admission of a minor to a mental 24 health facility. The notice shall be explained to the minor 25 by the professional person approving the application."

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of the legislation under which the grant was made; or
 (ii) deduction from total project costs to determine
 the net costs on which the grantor's share of the costs is
 based.

5 (6) Revenue generated by 16-1-404, 16-1-406, and 6 16-1-408 for the treatment, rehabilitation, and prevention 7 of alcoholism which has not been encumbered for those 8 purposes by the counties of Montana or the department shall 9 be returned to the state's general fund within 30 days after 10 the close of each fiscal year."

11 Section 17. Section 53-24-206, MCA, is amended to 12 read:

13 \*53-24-206. Receipt of financial assistance 14 authorized. The department may apply for and receive grants, 15 allotments, or allocations of funds or other assistance for 16 purposes pertaining to the problems of elecanol alcoholism and drug dependence or related social problems under laws 17 18 and rules of the United States, any other state, or any private organization. The department may cooperate with any 19 20 other government agency or private organization in programs 21 on atcohot alcoholism and drug dependence related social problems. In carrying out cooperative programs, the 22 23 department may make grants of financial assistance to 24 government agencies and private organizations under terms 25 and conditions agreed upon."

Section 18. Section 53-24-304, MCA, is amended to read:

3 \*53-24-304. Emergency commitment of intoxicated persons and persons incapacitated by alcohol. (1) An 4 intoxicated person who has threatened, attempted, or 5 inflicted physical harm on another and is likely to inflict 6 physical harm on another unless committed or a person who is 7 incapacitated by alcohol may be committed to an approved 8 9 public treatment facility for emergency treatment. A refusal 10 to undergo treatment does not constitute evidence of lack of 11 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 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 18 treatment and be accompanied by a physician's certificate 19 stating that he has examined the person sought to be 20 committed within 2 days before the certificate's date and 21 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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#### 1 sentence.

2 {3} Upon recommendation of the warden and with the
3 approval of the department, a person under the--age-of 21
4 years of age who has been sentenced to the state prison may
5 be transferred to any juvenile facility under the
6 jurisdiction and control of the department.

(4) Upon recommendation of the warden and approval of 7 a person sentenced to the state prison or application of a 8 person sentenced to the state prison and approval of the 9 warden and with the approval of the department, such person 10 sentenced to the state prison who is 25 years old of age or 11 younger may be transferred to the Swan River youth forest 12 camp. Upon such transfer such person shall be under the 13 supervision and control of the facility to which he is 14 transferred. 15

(5) If such person's behavior after transfer to such 16 17 juvenile facility indicates he might be released on parole 18 or his sentence be commuted and he be discharged from 19 custody, the superintendent of such facility, with the 20 approval of the department, may make an appropriate recommendation to the state board of pardons and the 21 governor, who may, in their discretion, parole such person 22 23 or commute his sentence.

24 (6) If such person's behavior after transfer to a
25 juvenile facility indicates he is not a proper person to

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t reside in such facility, upon recommendation of the
superintendent and with the approval of the department, such
person shall be returned to the state prison to serve out
his unexpired term."

5 Section 20. Section 53-30-214. MCA. is amended to 6 read:

7 #53-30-214. Apprehension and return of child leaving juvenile facility without permission. A child who has left a 8 9 invenile facility of the department of institutions without 10 permission may be apprehended and returned by any citizen. 11 The term "juvenile facility of the department" means any facility under the supervision and control of the department 12 of institutions whose which has as its primary function is 13 the care, training, custody, and control of children and 14 specifically includes the Pine Hills school for boys, the 15 16 Mountain View school for girls, the--Montane--children\*s 17 centery--Boulder--River--school--end--hospitaly and the Swan River youth forest campy-and-Eastmont-training-center.\* 10 19 Section 21. Repeater. Sections 38-121 and 80-2101

20 through 80-2107, R.C.N. 1947, are repeated.

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