SENATE BILL 345

IN THE SENATE

February	2, 1979		Introduced and referred to Committee on Judiciary.
February	12, 1979		Committee recommend bill, as amended.
February	13, 1979		Printed and placed on members' desks.
February	14, 1979		Motion, pass consideration.
February	15, 1979		Second reading, do pass.
		IN THE	HOUSE
February	19, 1979		Introduced and referred to Committee on Judiciary.
April 20	, 1979		Died in Committee.

LC 0769/01

Start BILL ND. 345 1 INTRODUCED BY 2 3

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW 4 5 REGARDING THE PROCEDURE FOLLOWING AN ACQUITTAL ON THE GROUNDS OF MENTAL DISEASE OR DEFECT: REQUIRING & HEARING 5 7 BEFORE DISPOSITION AND YEARLY THEREAFTER; REQUIRING THE COURT TO ORDER THE LEAST RESTRICTIVE ALTERNATIVE; я RESTRICTING THE PERIOD OF CONFINEMENT ALLOWABLE WITHOUT Q, CIVIL COMMITMENT PROCEEDINGS: AND AMENDING SECTION 10 46-14-301. MCA.* 11

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BE IT FNACIED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 14 Section 1. Section 46-14-301, MCA, is amended to read: 15 *46-14-301. Commitment Disposition upon acquittal on the ground of irresponsibility -- hearing to determine 16 17 release or discharge. (1) When a defendant is acquitted on 18 the ground of mental disease or defect excluding 19 responsibility, the court may in its discretion, order a 20 predisposition investigation in accordance with 46-18-112 21 and 46-18-113. If the trial was by jury, the court shall 22 hold a hearing to determine the appropriate disposition of 23 the defendant. If the trial was by the court, the court may 24 hold a hearing to obtain any additional testimony it 25 considers necessary to determine the appropriate disposition

ı of the defendant. In either case, the testimony and evidence 2 presented at the trial shall be considered by the court in 3 making its determination. 4 12) the The court shall order him the defendant committed to the custody of the superintendent of Warm 5 6 Springs state hospital to be placed in an appropriate institution for custody, care, and treatment unless it finds 7 8 that a less restrictive alternative is feasible, in which 9 case it shall order the least restrictive alternative necessary to protect the defendant and the public and to 10 11 permit effective treatment. 12 (2)(3) A person so-confined consitted to the custody of the superintendent shall have a hearing, unless waived, 13 within 50--deys 1 year of his confinement and yearly 14 thereafter to determine his present mental condition and 15 16 whether he may be discharged or released without danger to 17 others. The court shall cause notice of the hearing to be 18 served upon the person, his counsel, and the prosecuting 19 attorney. Such a hearing shall be deemed a civil proceeding, 20 and the burden shall be upon the defendant to prove by a 21 prependerance of the evidence that he may be safely 22 released.

the determination of the court
 upon the hearing, the defendant shall be discharged or
 released on such conditions as the court determines to be

-2-INTRODUCED BILL necessary or shall be committed to the custody of the
 superintendent of the Warm Springs state hospital to be
 placed in an appropriate institution for custody, care, and
 treatment.
 <u>(5)</u> The defendant may not be confined in the custody

6 of the superintendent for a period longer than the maximum

7 sentence of imprisonment permitted by law for the offense

8 with which the defendant was charged unless proceedings for

9 civil commitment are maintained pursuant to fitle 53+

10 chapter 21."

-End-

SB 0345/02

Approved by Committee on Judiciary

1	SENATE BILL NO. 345
2	INTRODUCED BY TOWE

A BILL FOR AN ACT ENTITLED: MAN ACT TO REVISE THE LAW 4 REGARDING THE PROCEDURE FOLLOWING AN ACQUITTAL ON THE 5 GROUNDS OF MENTAL DISEASE OR DEFECT; REQUIRING A HEARING 6 BEFORE DISPOSITION AND YEARLY THEREAFTER; REQUIRING THE 7 8 COURT TO ORDER THE LEAST RESTRICTIVE ALTERNATIVE; RESTRICTING THE PERIOD OF CONFINEMENT ALLOWABLE WITHOUT 9 10 CIVIL COMMITMENT PROCEEDINGS; AND AMENDING SECTION 46-14-301. MCA." 11

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 14 Section 1. Section 46-14-301, MCA, is amended to read: Commitment Disposition upon acquittal on 15 *46-14-301. the around of irresponsibility -- hearing to determine 16 17 release or discharge. (1) When a defendant is acquitted on 18 the ground of mental disease or defect excluding 19 responsibility, the court maxy-tin-titatdiscretions SHALL 20 order a predisposition investigation in accordance with 21 46-18-112 and 46-18-113. WHICH MUST INCLUDE AN INVESTIGATION OF THE PRESENT MENTAL CONDITION OF THE DEFENDANT. If the 22 23 trial was by jury, the court shall hold a hearing to 24 determine_the_appropriate_disposition_of_the_defendant. If 25 the trial was by the court, the court may hold a hearing to

Ł	obtain_any_additional_testimony_it_considers_necessary_to
2	determine the appropriate disposition of the defendante In
3	<u>either_case1_the_testimony_and_evidence_presented_at_the</u>
4	trial_shallbeconsideredbythecourtinmakingits
5	determination.
6	<u>121_the The</u> court shall order h im <u>the</u>_defendant
7	committed to the custody of the superintendent of Warm
8	Springs state hospital to be placed in an appropriate
9	institution for custody, care, and treatment <u>unless it finds</u>
10	that a lass restrictive alternative is feasibles in which
11	<u>case_it_shall_order_the_least_restrictive_alternative</u>
12	necessary to protect the defendant and the public and to
13	permit_effective_treatment.
14	<pre>f27(3) A person so-confined committed to the custody</pre>
15	of the superintendent shall have a hearing, unless waived,
16	within 50doys <u>1 year</u> of his confinement <u>and yearly</u>
17	thereafter to determine his present mental condition and
18	whether he may be discharged or released without danger to
19	others. The court shall cause notice of the hearing to be
20	served upon the person, his counsel, and the prosecuting
21	attorney. Such a hearing shall be deemed a civil proceeding.
22	and the burden shall be upon the defendant to prove by a
23	preponderance of the evidence that he may be safely
24	released.

25 (3)(4) According to the determination of the court

-2- SECOND READING

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upon the hearing, the defendant shall be discharged or released on such conditions as the court determines to be necessary or shall be committed to the custody of the superintendent of the Warm Springs state hospital to be placed in an appropriate institution for custody, care, and treatment.

7 151_The_defendant_may_not_be_confined_in_the_custody
8 of_the_superintendent_for_a_period_longer_than_the_maximum
9 sentence_of_imprisonment_permitted_by_law_for_tbe_offense
10 with_which_the_defendant_was_charged_unless_proceedings_for
11 civil_commitment_are_maintained_pursuant_to_Title_53:
12 chapter_21a*

-End-

SB 0345/02

ı	SENATE BILL NO. 345	1 <u>obtain_any_additional_testimony_it_considers_necessary_to</u>
Z	INTRODUCED BY TOWE	2 determine the appropriate disposition of the defendant. In
3		3 either_cases_the_testimony_and_evidence_presented_at_the
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW	4 trial_shall_be_considered_by_the_court_in_making_its
5	REGARDING THE PROCEDURE FOLLOWING AN ACQUITTAL ON THE	5 <u>determination</u>
6	GROUNDS OF MENTAL DISEASE OR DEFECT; REQUIRING A HEARING	6 <u>[21_the The</u> court shall order him the defendant
7	BEFORE DISPOSITION AND YEARLY THEREAFTER; REQUIRING THE	7 committed to the custody of the superintendent of Warm
3	COURT TO ORDER THE LEAST RESTRICTIVE ALTERNATIVE;	8 Springs state hospital to be placed in an appropriate
9	RESTRICTING THE PERIOD OF CONFINEMENT ALLOWABLE WITHOUT	9 Institution for custody, care, and treatment unless it finds
10	CIVIL COMMITMENT PROCEEDINGS; AND AMENDING SECTION	10 that a less restrictive alternative is feasible: in which
11	46-14-301, NCA."	11 <u>case_it_shall_order_the_least_restrictive_alternative</u>
12		12 Decessary to protect the defendant and the public and to
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	13 permit_effective_treatment.
14	Section 1. Section 46-14-301, HCA, is amended to read:	14 <u>f27[3]</u> A person so-confined <u>committed to the custody</u>
15	#46-14-301. Ecomitment <u>Disposition</u> upon acquittal on	15 of the superintendent shall have a hearing, unless waived,
16	the ground of irresponsibility hearing to determine	16 within 50 days <u>1 year</u> of his confinement <u>and yearly</u>
17	release or discharge. (1) When a defendant is acquitted on	17 <u>thereafter</u> to determine his present mental condition and
18	the ground of mental disease or defect excluding	18 whether he may be discharged or released without danger to
19	responsibility, <u>the court maxy-tin-tta-discretion</u> SHALL	19 others. The court shall cause notice of the hearing to be
20	order_a_predisposition_investigation_in_accordance_with	20 served upon the person, his counsel, and the prosecuting
21	46-18-112_and_46-18-113+_WHICH_NUST_INCLUDE_AN_INVESTIGATION	21 attorney. Such a hearing shall be deemed a civil proceeding.
22	DE_IHE_PRESENT_MENTAL_CONDITION_DE_THE_DEEENDANIIE_tos	22 and the burden shall be upon the defendant to prove by a
23	<u>trial was by jury, the court shall hold a bearing to</u>	23 preponderance of the evidence that he may be safely
24	determine_the_appropriate_disposition_of_the_defendants_lf	24 released.
25	the trial was by the court, the court may hold a hearing to	25 (3)(4) According to the determination of the court
		-2- SB 345

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THIRD READING

SB 345

upon the hearing, the defendant shall be discharged or
 released on such conditions as the court determines to be
 necessary or shall be committed to the custody of the
 superintendent of the Narm Springs state hospital to be
 placed in an appropriate institution for custody, care, and
 treatment.

-End-