

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.

1 Senat BILL NO. 345
2 INTRODUCED BY Dur.

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

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 46-14-301, MCA, is amended to read:
15 "46-14-301. Commitment Disposition upon acquittal on
16 the ground of irresponsibility -- hearing to determine
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

1 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 (2) the the court shall order him the defendant
5 committed to the custody of the superintendent of Warm
6 Springs state hospital to be placed in an appropriate
7 institution for custody, care, and treatment unless it finds
8 that a less restrictive alternative is feasible, in which
9 case it shall order the least restrictive alternative
10 necessary to protect the defendant and the public and to
11 permit effective treatment.

12 (2)(3) A person so confined committed to the custody
13 of the superintendent shall have a hearing, unless waived,
14 within 50--days 1 year of his confinement and yearly
15 thereafter to determine his present mental condition and
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 preponderance of the evidence that he may be safely
22 released.

23 (3)(4) According to the determination of the court
24 upon the hearing, the defendant shall be discharged or
25 released on such conditions as the court determines to be

1 necessary or shall be committed to the custody of the
2 superintendent of the Warm Springs state hospital to be
3 placed in an appropriate institution for custody, care, and
4 treatment.

5 ~~(5) 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 Title 53,~~
10 ~~chapter 21."~~

-End-

Approved by Committee
on Judiciary

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20 ~~order a predisposition investigation in accordance with~~
21 ~~46-18-112 and 46-18-113, WHICH MUST INCLUDE AN INVESTIGATION~~
22 ~~OF THE PRESENT MENTAL CONDITION OF THE DEFENDANT. If the~~
23 ~~trial was by jury, the court shall hold a hearing to~~
24 ~~determine the appropriate disposition of the defendant. If~~
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10 ~~that a less restrictive alternative is feasible, in which~~
11 ~~case it shall order the least restrictive alternative~~
12 ~~necessary to protect the defendant and the public and to~~
13 ~~permit effective treatment.~~

14 ~~(2)(3)~~ A person so-confined ~~committed to the custody~~
15 ~~of the superintendent~~ shall have a hearing, unless waived,
16 within ~~50--days~~ 1 year of his confinement ~~and yearly~~
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18 whether he may be discharged or released without danger to
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