

SENATE BILL 400

IN THE SENATE

February 7, 1979	Introduced and referred to Committee on State Administration.
February 9, 1979	Rereferred to Committee on Public Health, Welfare and Safety.
February 19, 1979	Committee recommend bill, do pass.
February 20, 1979	Printed and placed on members' desks.
February 21, 1979	Rules suspended so that statement of intent allowed to be attached prior to Second reading.  No affirmative action taken.
February 22, 1979	Second reading, as amended.
February 23, 1979	Considered correctly engrossed.  On motion, rules suspended, Bill placed on calendar for third reading this day.  Third reading, passed.

IN THE HOUSE

February 27, 1979	Introduced and referred to Committee on State Administration.
April 20, 1979	Died in Committee.

1 Senate BILL NO. 400  
2 INTRODUCED BY Pat Jergeson

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE  
5 FUNCTION OF THE MENTAL DISABILITIES BOARD OF VISITORS FROM  
6 THE EXECUTIVE BRANCH TO THE LEGISLATIVE BRANCH, ATTACHING  
7 THE BOARD TO THE LEGISLATIVE AUDIT COMMITTEE; AMENDING  
8 SECTIONS 2-15-211, 53-20-104, AND 53-21-104, MCA."

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

11 Section 1. Section 2-15-211, MCA, is amended to read:

12 "2-15-211. Mental disabilities board of visitors --  
13 composition -- allocation. (1) The governor ~~legislative~~  
14 ~~audit committee~~ shall appoint a mental disabilities board of  
15 visitors.

16 ~~(2) The term of a board member is 4 years; provided~~  
17 ~~that in 1979, three members shall be appointed for a term of~~  
18 ~~4 years and two members shall be appointed for a term of 2~~  
19 ~~years. The legislative audit committee shall appoint persons~~  
20 ~~to fill the unexpired term of any member who resigns or~~  
21 ~~otherwise vacates his office.~~

22 ~~(2)(3) The board shall consist of five persons~~  
23 ~~representing but not limited to consumers, doctors of~~  
24 ~~medicine, and the behavioral sciences; at least three of~~  
25 ~~whom may not be professional persons and at least three~~

1 ~~members shall be persons other than a professional person as~~  
2 ~~defined in 53-20-102(7) and 53-21-102(10). At least one of~~  
3 ~~whom member shall be a representative of an organization~~  
4 ~~concerned with the care and welfare of the mentally ill and~~  
5 ~~one a representative of an organization concerned with the~~  
6 ~~care and welfare of the mentally retarded or developmentally~~  
7 ~~disabled. At least one member of the board shall be a~~  
8 ~~psychiatrist. No one may be a member of the board who is a~~  
9 ~~full-time agent or employee of the department of~~  
10 ~~institutions or a mental health facility affected by Title~~  
11 ~~53, chapter 20, part 1, and chapter 21, part 1, except this~~  
12 ~~prohibition does not affect any employee of a state college~~  
13 ~~or university.~~

14 ~~(3)(4) The mental disabilities board of visitors shall~~  
15 ~~be attached to the governor office of the legislative~~  
16 ~~auditor for administrative purposes. It the legislative~~  
17 ~~auditor may employ staff for the purpose of carrying out its~~  
18 ~~the board's duties as set out in Title 53, chapter 20, part~~  
19 ~~1, and chapter 21, part 1."~~

20 Section 2. Section 53-20-104, MCA, is amended to read:

21 "53-20-104. Powers and duties of mental disabilities  
22 board of visitors. (1) The board shall be an independent  
23 board of inquiry and review to assure that the treatment of  
24 all persons admitted to a residential facility is humane and  
25 decent and meets the requirements set forth in this part.

1           (2) The board shall review all plans for experimental  
2 research or hazardous treatment procedures involving persons  
3 admitted to any residential facility to assure that the  
4 research project is humane and not unduly hazardous and that  
5 it complies with the principles of the statement on the use  
6 of human subjects for research of the American association  
7 on mental deficiency and with the principles for research  
8 involving human subjects required by the United States  
9 department of health, education, and welfare. No  
10 experimental research project involving persons admitted to  
11 any residential facility affected by this part may be  
12 commenced unless it is approved by the mental disabilities  
13 board of visitors.

14           (3) The board shall investigate all cases of alleged  
15 mistreatment of a resident.

16           (4) The board shall at least annually inspect every  
17 residential facility which is providing a course of  
18 residential habilitation and treatment to any person  
19 pursuant to this part. The board shall inspect the physical  
20 plant, including residential, recreational, dining, and  
21 sanitary facilities. It shall visit all wards and treatment  
22 or habilitation areas. The board shall inquire concerning  
23 all habilitation programs being implemented by the  
24 institution.

25           (5) The board shall inspect the file of each person

1 admitted to a residential facility pursuant to this part to  
2 insure that a habilitation plan exists and is being  
3 implemented. The board shall inquire concerning all use of  
4 restraints, isolation, or other extraordinary measures.

5           (6) The board may assist any patient at a residential  
6 facility in resolving any grievance he may have concerning  
7 his admission or his course of treatment and habilitation in  
8 the facility.

9           (7) If the board believes that any facility is failing  
10 to comply with the provisions of this part in regard to its  
11 physical facilities or its treatment of any resident, it  
12 shall report its findings at once to the professional person  
13 in charge of the facility and the director of the department  
14 of institutions. If appropriate, after waiting a reasonable  
15 time for a response from such professional person, the board  
16 may notify the parents or guardian of any patient involved,  
17 the next of kin, if known, the responsible person appointed  
18 by the court for any patient involved, and the district  
19 court which has jurisdiction over the facility.

20           (8) The board shall develop rules of procedure to  
21 implement this section. The rules shall include a procedure  
22 through which facilities investigated by the board may reply  
23 to board findings. The procedures to be used in the adoption  
24 of board rules shall comply with the requirements of the  
25 Montana Administrative Procedure Act for adoption of rules

1 by administrative agencies.

2 ~~(8)(9)~~ The board shall report annually to the governor  
3 and legislative audit committee. The legislative audit  
4 committee shall report to each session of the legislature  
5 concerning the status of the residential facilities and  
6 habilitation programs which ~~to~~ the board has inspected."

7 Section 3. Section 53-21-104, MCA, is amended to read:

8 "53-21-104. Powers and duties of mental disabilities  
9 board of visitors. (1) The board shall be an independent  
10 board of inquiry and review to assure that the treatment of  
11 all persons either voluntarily or involuntarily admitted to  
12 a mental facility is humane and decent and meets the  
13 requirements set forth in this part.

14 (2) The board shall review all plans for experimental  
15 research involving persons admitted to a mental health  
16 facility to assure that the research project is humane and  
17 not unduly hazardous and that it complies with the  
18 principles of the statement on the use of human subjects for  
19 research of the American association on mental deficiency  
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21 subjects required by the United States department of health,  
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25 by the mental disabilities board of visitors.

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3 evaluation to any person pursuant to this part. The board  
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9 (4) The board shall annually insure that a treatment  
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15 health facility in resolving any grievance he may have  
16 concerning his commitment or his course of treatment in the  
17 facility.

18 (6) The board shall employ and be responsible for  
19 full-time legal counsel at the state hospital, whose  
20 responsibility shall be to act on behalf of all patients at  
21 the institution. The board shall insure that there is  
22 sufficient legal staff and facilities to insure availability  
23 to all patients and shall require that the appointed counsel  
24 periodically interview every patient and examine his files  
25 and records. The board may employ additional legal counsel

1 for representation of patients in a similar manner at any  
2 other mental health facility having inpatient capability.

3 (7) If the board believes that any facility is failing  
4 to comply with the provisions of this part in regard to its  
5 physical facilities or its treatment of any patient, it  
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7 in charge of the facility and the director of the  
8 department, and if appropriate, after waiting a reasonable  
9 time for a response from such professional person, the board  
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12 any patient involved, and the district court which has  
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21 ~~(9) The board shall report annually to the governor~~  
22 ~~and legislative audit committee. The legislative audit~~  
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24 ~~concerning the status of the mental health facilities and~~  
25 ~~treatment programs which the board has inspected."~~

1 Senate BILL NO. 460  
 2 INTRODUCED BY Sen. Ferguson  
 3  
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 6 THE EXECUTIVE BRANCH TO THE LEGISLATIVE BRANCH, ATTACHING  
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11 any residential facility affected by this part may be  
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15 mistreatment of a resident.

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17 residential facility which is providing a course of  
18 residential habilitation and treatment to any person  
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10 to comply with the provisions of this part in regard to its  
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7 Section 3. Section 53-21-104, MCA, is amended to read:

8 "53-21-104. Powers and duties of mental disabilities  
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25 ~~treatment programs which the board has inspected."~~

1                    STATEMENT OF INTENT RE: SB 400

2

3

4            A statement of intent is required for this bill in that  
5 it delegates authority to adopt rules in section 2 and  
6 section 3.

7            It is the intent of Senate Bill 400 to allow the Board  
8 of Visitors to develop rules of procedure for allowing an  
9 orderly reply to its own reports by the mental health  
10 facility.

SB 400

## SENATE BILL NO. 400

INTRODUCED BY TOWE, JERGESON

A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE FUNCTION OF THE MENTAL DISABILITIES BOARD OF VISITORS FROM THE EXECUTIVE BRANCH TO THE LEGISLATIVE BRANCH, ATTACHING THE BOARD TO THE LEGISLATIVE AUDIT COMMITTEE; AMENDING SECTIONS 2-15-211, 53-20-104, AND 53-21-104, MCA."

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members shall be persons other than a professional person as defined in 53-20-102(7) and 53-21-102(10). At least one of whom member shall be a representative of an organization concerned with the care and welfare of the mentally ill and one a representative of an organization concerned with the care and welfare of the mentally retarded or developmentally disabled. At least one member of the board shall be a psychiatrist. No one may be a member of the board who is a full-time agent or employee of the department of institutions or a mental health facility affected by Title 53, chapter 20, part 1, and chapter 21, part 1, except this prohibition does not affect any employee of a state college or university.

(3)(4) The mental disabilities board of visitors shall be attached to the governor office of the legislative auditor for administrative purposes AND SHALL OPERATE UNDER THE SUPERVISION OF THE LEGISLATIVE AUDIT COMMITTEE. It The legislative auditor may employ staff for the purpose of carrying out the board's duties as set out in Title 53, chapter 20, part 1, and chapter 21, part 1."

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"53-20-104. Powers and duties of mental disabilities board of visitors. (1) The board shall be an independent board of inquiry and review to assure that the treatment of all persons admitted to a residential facility is humane and

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3 ~~(8)(9)(8)~~ The board shall report annually to the  
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 3 inspected.\*

-End-