

HOUSE BILL NO. 333

INTRODUCED BY MARKS, DONALDSON, EUDAILY

IN THE HOUSE

January 19, 1981	Introduced and referred to Committee on Education.
February 19, 1981	Committee recommend bill do pass as amended. Report adopted.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 98; Noes, 0. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Education and Cultural Resources.
March 24, 1981	Committee recommend bill be concurred in. Report adopted.
March 26, 1981	Second reading, pass consideration.
March 27, 1981	Second reading, concurred in.
March 30, 1981	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 31, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 academic or social tasks associated with regular classroom
2 performance; and

3 (c) persistent withdrawal from peer or adult
4 interactions associated with the expected social development
5 in a regular educational environment.

6 ~~(3)(4)~~ "Handicapped child" means a child evaluated as
7 being mentally retarded, hard-of-hearing, deaf,
8 speech-impaired, visually handicapped, emotionally
9 disturbed, orthopedically impaired, other health-impaired,
10 or as having specific learning disabilities, who because of
11 those impairments needs special education and related
12 services.

13 ~~(4)(5)~~ "Hard-of-hearing" means a hearing impairment,
14 whether permanent or fluctuating, which adversely affects a
15 child's educational performance but which is not included
16 within the definition of deaf.

17 ~~(6) "Least restrictive" and "less restrictive" mean~~
18 ~~the necessary restrictions placed on the individual for his~~
19 ~~protection and habilitation, as well as the protection of~~
20 ~~others. The terms do not refer to the location of service~~
21 ~~but to the actual restrictions placed on the individual.~~

22 ~~(5)(7)~~ "Mentally retarded" means significantly
23 subaverage general intellectual functioning existing
24 concurrently with deficits in adaptive behavior and
25 manifested during the developmental period, which adversely

1 affects a child's educational performance.

2 ~~(6)(1)~~ "Orthopedically impaired" means a severe
3 orthopedic impairment which adversely affects a child's
4 educational performance. The term includes but is not
5 limited to impairment caused by congenital anomaly (e.g.,
6 clubfoot or absence of some member), impairments caused by
7 disease (e.g., poliomyelitis, bone tuberculosis), and
8 impairments from other causes (e.g., fractures or burns
9 which cause contractures, amputation, cerebral palsy).

10 ~~(7)(9)~~ "Other health-impaired" means limited strength,
11 vitality, or alertness due to chronic or acute health
12 problems such as a heart condition, tuberculosis, rheumatic
13 fever, nephritis, asthma, sickle-cell anemia, hemophilia,
14 epilepsy, lead poisoning, leukemia, or diabetes.

15 ~~(8)(10)~~ "Special education" means specially designed
16 instruction, given at no cost to the parents or guardians,
17 to meet the unique needs of a handicapped child, including
18 but not limited to classroom instruction, instruction in
19 physical education, home instruction, and instruction in
20 hospitals and institutions. The term includes but is not
21 limited to speech pathology, audiology, occupational
22 therapy, and physical therapy.

23 ~~(9)(11)~~ "Specific learning disability" means a
24 disorder in one or more of the basic psychological processes
25 involved in understanding or in using language, spoken or

1 written, which may manifest itself in an imperfect ability
 2 to listen, think, speak, read, write, spell, or do
 3 mathematical calculations. The term includes but is not
 4 limited to such conditions as perceptual handicaps, brain
 5 injury, minimal brain dysfunction, dyslexia, and
 6 developmental aphasia. The term does not include children
 7 who have learning problems which are primarily the result of
 8 visual, hearing, or motor handicaps; mental retardation; or
 9 environmental, cultural, or economic disadvantages.

10 ~~(10)~~(12) "Speech/language impaired" means a
 11 communication disorder such as stuttering, impaired
 12 articulation, or a language or voice impairment which
 13 adversely affects a child's interpersonal relationships or
 14 educational performance.

15 ~~(11)~~(13) "Visually handicapped" means a visual
 16 impairment which, after correction, adversely affects a
 17 child's educational performance. The term includes both
 18 partially seeing and blind children."

19 Section 2. Section 53-20-102, MCA, is amended to read:

20 "53-20-102. Definitions. As used in this part, the
 21 following definitions apply:

22 (1) "Board" or "mental disabilities board of visitors"
 23 means the mental disabilities board of visitors created by
 24 2-15-211.

25 (2) "Community-based facilities" or "community-based

1 services" includes those services and facilities which are
 2 available for the evaluation, treatment, and habilitation of
 3 the developmentally disabled in a community setting,
 4 including but not limited to outpatient facilities, special
 5 education services, group homes, foster homes, day-care
 6 facilities, sheltered workshops, and other community-based
 7 services and facilities.

8 (3) "Court" means a district court of the state of
 9 Montana.

10 (4) "Developmentally disabled" means suffering from
 11 disabilities attributable to mental retardation, cerebral
 12 palsy, epilepsy, autism, or any other neurologically
 13 handicapping condition closely related to mental retardation
 14 and requiring treatment similar to that required by mentally
 15 retarded individuals, which condition has continued or can
 16 be expected to continue indefinitely and constitutes a
 17 substantial handicap of such individuals.

18 (5) "Habilitation" means the process by which a person
 19 who is developmentally disabled is assisted to acquire and
 20 maintain those life skills which enable him to cope more
 21 effectively with the demands of his own person and
 22 environment and to raise the level of his physical, mental,
 23 and social efficiency. Habilitation includes but is not
 24 limited to formal, structured education and treatment.

25 ~~(6) "Least restrictive" and "less restrictive" mean~~

1 the necessary restrictions placed on the individual for his
 2 protection and habilitation, as well as the protection of
 3 others. The terms do not refer to the location of service
 4 but to the actual restrictions placed on the individual.

5 ~~(6)~~(11) "Next of kin" includes but need not be limited
 6 to the spouse, parents, adult children, and adult brothers
 7 and sisters of a person.

8 ~~(7)~~(8) "Professional person" means:

9 (a) a medical doctor; or

10 (b) a person trained in the field of developmental
 11 disabilities and certified by the department of institutions
 12 or the department of social and rehabilitation services in
 13 accordance with standards of professional licensing boards,
 14 federal regulations, and the joint commissions on
 15 accreditation of hospitals.

16 ~~(8)~~(9) "Resident" means a person admitted to a
 17 residential facility for a course of evaluation, treatment,
 18 or habilitation.

19 ~~(9)~~(10) "Residential facility" or "facility" means any
 20 residential hospital or hospital and school which exists for
 21 the purpose of evaluating, treating, and habilitating the
 22 developmentally disabled on an inpatient basis, including
 23 the Boulder River school and hospital and the Eastmont
 24 training center. The term does not include a group home,
 25 foster home, or halfway house. A correctional facility or a

1 facility for the treatment of the mentally ill shall not be
 2 a "residential facility" within the meaning of this part.

3 ~~(10)~~(11) "Respondent" means a person alleged in a
 4 petition filed pursuant to this part to be developmentally
 5 disabled and in need of developmental disability services.

6 ~~(11)~~(12) "Responsible person" means any person willing
 7 and able to assume responsibility for a person who is
 8 developmentally disabled or alleged to be developmentally
 9 disabled.

10 ~~(12)~~(13) "Seriously developmentally disabled" means
 11 developmentally disabled due to developmental or physical
 12 disability or a combination of both, rendering a person
 13 unable to function in a community-based setting and which
 14 has resulted in self-inflicted injury or injury to others or
 15 the imminent threat thereof or which has deprived the person
 16 afflicted of the ability to protect his life or health."

17 Section 3. Section 53-21-102, MCA, is amended to read:
 18 "53-21-102. Definitions. As used in this part, the
 19 following definitions apply:

20 (1) "Board" or "mental disabilities board of visitors"
 21 means the mental disabilities board of visitors created by
 22 2-15-211.

23 (2) "Court" means any district court of the state of
 24 Montana.

25 (3) "Department" means the department of institutions

1 provided for in Title 2, chapter 15, part 23.

2 (4) "Emergency situation" means a situation in which
3 any person is in imminent danger of death or serious bodily
4 harm from the activity of a person who appears to be
5 seriously mentally ill.

6 ~~(5) "Least restrictive" and "less restrictive" mean~~
7 ~~the necessary restrictions placed on the individual for his~~
8 ~~protection and habilitation, as well as the protection of~~
9 ~~others. The terms do not refer to the location of service~~
10 ~~but to the actual restrictions placed on the individual.~~

11 ~~(5)(6)~~ "Mental disorder" means any organic, mental, or
12 emotional impairment which has substantial adverse effects
13 on an individual's cognitive or volitional functions.

14 ~~(6)(7)~~ "Mental health facility" or "facility" means a
15 public hospital or a licensed private hospital which is
16 equipped and staffed to provide treatment for persons with
17 mental disorders or a community mental health center or any
18 mental health clinic or treatment center approved by the
19 department. No correctional institution or facility or jail
20 is a mental health facility within the meaning of this part.

21 ~~(7)(8)~~ "Next of kin" shall include but need not be
22 limited to the spouse, parents, adult children, and adult
23 brothers and sisters of a person.

24 ~~(8)(9)~~ "Patient" means a person committed by the court
25 for treatment for any period of time or who is voluntarily

1 admitted for treatment for any period of time.

2 ~~(9)(10)~~ "Peace officer" means any sheriff, deputy
3 sheriff, marshal, policeman, or other peace officer.

4 ~~(10)(11)~~ "Professional person" means:

5 (a) a medical doctor; or

6 (b) a person trained in the field of mental health and
7 certified by the department in accordance with standards of
8 professional licensing boards, federal regulations, and the
9 joint commission on accreditation of hospitals.

10 ~~(11)(12)~~ "Reasonable medical certainty" means
11 reasonable certainty as judged by the standards of a
12 professional person.

13 ~~(12)(13)~~ "Respondent" means a person alleged in a
14 petition filed pursuant to this part to be seriously
15 mentally ill.

16 ~~(13)(14)~~ "Friend of respondent" means any person
17 willing and able to assist a seriously mentally ill person
18 or person alleged to be seriously mentally ill in dealing
19 with legal proceedings, including consultation with legal
20 counsel and others. The friend of respondent may be the next
21 of kin, the person's conservator or legal guardian, if any,
22 representatives of a charitable or religious organization,
23 or any other person appointed by the court to perform the
24 functions of a friend of respondent set out in this part.
25 Only one person may at any one time be the friend of

1 respondent within the meaning of this part. In appointing a
2 friend of respondent, the court shall consider the
3 preference of the respondent. The court may at any time, for
4 good cause shown, change its designation of the friend of
5 respondent.

6 ~~(14)~~(15) "Seriously mentally ill" means suffering from
7 a mental disorder which has resulted in self-inflicted
8 injury or injury to others or the imminent threat thereof or
9 which has deprived the person afflicted of the ability to
10 protect his life or health. For this purpose, injury means
11 physical injury. No person may be involuntarily committed to
12 a mental health facility or detained for evaluation and
13 treatment because he is an epileptic, mentally deficient,
14 mentally retarded, senile, or suffering from a mental
15 disorder unless the condition causes him to be seriously
16 mentally ill within the meaning of this part.

17 ~~(15)~~(16) "State hospital" means the Warm Springs state
18 hospital."

-End-

Approved by Committee
on Education

1 HOUSE BILL NO. 333

2 INTRODUCED BY MARKS, DONALDSON, EUDAILY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TERMS
5 "~~LEAST---RESTRICTIVE~~"~~---~~"~~LESS---RESTRICTIVE~~"~~---~~ AND TERM
6 "APPROPRIATE PUBLIC EDUCATION" AS ~~THEY RELATE~~ IT RELATES TO
7 THE LAWS GOVERNING THE HABILITATION OF HANDICAPPED PERSONS
8 IN THE STATE OF MONTANA; AMENDING SECTIONS SECTION 20-7-401,
9 53-20-102~~---~~ AND 53-21-102~~---~~ MCA."

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

12 Section 1. Section 20-7-401, MCA, is amended to read:

13 "20-7-401. Definitions. In this title, unless the
14 context clearly indicates otherwise, the following
15 definitions apply:

16 (1) "Appropriate public education" means an
17 educational opportunity that is designed to meet the needs
18 of the handicapped individual as adequately as the needs of
19 the nonhandicapped individual are met. THE PROVISION OF
20 REGULAR OR SPECIAL EDUCATION AND RELATED AIDS AND SERVICES
21 THAT ARE DESIGNED TO MEET INDIVIDUAL EDUCATIONAL NEEDS OF
22 HANDICAPPED PERSONS AS ADEQUATELY AS THE NEEDS OF
23 NONHANDICAPPED ARE MET.

24 ~~††~~(2) "Deaf" means a hearing impairment which is so
25 severe that the child's hearing is nonfunctional for the

1 purpose of educational performance.

2 ~~††~~(3) "Emotionally disturbed" means a condition
3 exhibiting one or more of the following characteristics to a
4 marked degree and over a long period of time: an inability
5 to learn which cannot be explained by intellectual, sensory,
6 or health factors; an inability to build or maintain
7 satisfactory interpersonal relationships with peers and
8 teachers; inappropriate types of behavior or feelings under
9 normal circumstances; a general pervasive mood of
10 unhappiness or depression; or a tendency to develop physical
11 symptoms, pains, or fears associated with personal or school
12 problems. The term does not include children who are
13 socially maladjusted. The emotionally disturbed category may
14 include students who also may have been diagnosed by
15 appropriate specialists as autistic, psychotic, sociopathic,
16 or schizophrenic. An emotionally disturbed child's disorders
17 are not primarily the result of problems with visual acuity,
18 hearing impairment, physical handicaps, cultural or
19 instructional factors, or mental retardation. "Emotionally
20 disturbed" refers to a person who has been identified, based
21 on a comprehensive evaluation, as having observable
22 behavioral patterns which seriously inhibit the academic and
23 social or emotional growth of the individual or the
24 educational rights of others to the point that supportive
25 services are required. These behavioral patterns may

1 include:

2 (a) excessive physical or verbal aggression toward
3 oneself or others and a lack of response to regular
4 educational intervention;

5 (b) high frequency of persistent inattention to
6 academic or social tasks associated with regular classroom
7 performance; and

8 (c) persistent withdrawal from peer or adult
9 interactions associated with the expected social development
10 in a regular educational environment.

11 ~~(3)~~(4) "Handicapped child" means a child evaluated as
12 being mentally retarded, hard-of-hearing, deaf,
13 speech-impaired, visually handicapped, emotionally
14 disturbed, orthopedically impaired, other health-impaired,
15 or as having specific learning disabilities, who because of
16 those impairments needs special education and related
17 services.

18 ~~(4)~~(5) "Hard-of-hearing" means a hearing impairment,
19 whether permanent or fluctuating, which adversely affects a
20 child's educational performance but which is not included
21 within the definition of deaf.

22 ~~(6) "Least-restrictive" and "less-restrictive" mean~~
23 ~~the necessary restrictions placed on the individual for his~~
24 ~~protection and habilitation, as well as the protection of~~
25 ~~others. The terms do not refer to the location of service~~

1 ~~but to the actual restrictions placed on the individual.~~

2 ~~(5)~~~~(7)~~(6) "Mentally retarded" means significantly
3 subaverage general intellectual functioning existing
4 concurrently with deficits in adaptive behavior and
5 manifested during the developmental period, which adversely
6 affects a child's educational performance.

7 ~~(6)~~~~(8)~~(7) "Orthopedically impaired" means a severe
8 orthopedic impairment which adversely affects a child's
9 educational performance. The term includes but is not
10 limited to impairment caused by congenital anomaly (e.g.,
11 clubfoot or absence of some member), impairments caused by
12 disease (e.g., poliomyelitis, bone tuberculosis), and
13 impairments from other causes (e.g., fractures or burns
14 which cause contractures, amputation, cerebral palsy).

15 ~~(7)~~~~(9)~~(8) "Other health-impaired" means limited
16 strength, vitality, or alertness due to chronic or acute
17 health problems such as a heart condition, tuberculosis,
18 rheumatic fever, nephritis, asthma, sickle-cell anemia,
19 hemophilia, epilepsy, lead poisoning, leukemia, or diabetes.

20 ~~(8)~~~~(10)~~(9) "Special education" means specially
21 designed instruction, given at no cost to the parents or
22 guardians, to meet the unique needs of a handicapped child,
23 including but not limited to classroom instruction,
24 instruction in physical education, home instruction, and
25 instruction in hospitals and institutions. The term includes

1 but is not limited to speech pathology, audiology,
2 occupational therapy, and physical therapy.

3 ~~(9)~~(10) "Specific learning disability" means a
4 disorder in one or more of the basic psychological processes
5 involved in understanding or in using language, spoken or
6 written, which may manifest itself in an imperfect ability
7 to listen, think, speak, read, write, spell, or do
8 mathematical calculations. The term includes but is not
9 limited to such conditions as perceptual handicaps, brain
10 injury, minimal brain dysfunction, dyslexia, and
11 developmental aphasia. The term does not include children
12 who have learning problems which are primarily the result of
13 visual, hearing, or motor handicaps; mental retardation; or
14 environmental, cultural, or economic disadvantages.

15 ~~(10)~~(11) "Speech/language impaired" means a
16 communication disorder such as stuttering, impaired
17 articulation, or a language or voice impairment which
18 adversely affects a child's interpersonal relationships or
19 educational performance.

20 ~~(11)~~(12) "Visually handicapped" means a visual
21 impairment which, after correction, adversely affects a
22 child's educational performance. The term includes both
23 partially seeing and blind children."

24 Section 2, Section 53-20-102, MCA, is amended to read
25 "53-20-102. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Board" or "mental disabilities board of visitors"
3 means the mental disabilities board of visitors created by
4 2-15-21.

5 (2) "Community-based facilities" or "community-based
6 services" includes those services and facilities which are
7 available for the evaluation, treatment, and habilitation of
8 the developmentally disabled in a community setting,
9 including but not limited to outpatient facilities, special
10 education services, group homes, foster homes, day care
11 facilities, sheltered workshops, and other community-based
12 services and facilities.

13 (3) "Court" means a district court of the state of
14 Montana.

15 (4) "Developmentally disabled" means suffering from
16 disabilities attributable to mental retardation, cerebral
17 palsy, epilepsy, autism, or any other neurologically
18 handicapping condition closely related to mental retardation
19 and requiring treatment similar to that required by mentally
20 retarded individuals, which condition has continued or can
21 be expected to continue indefinitely and constitutes a
22 substantial handicap of such individuals.

23 (5) "Habilitation" means the process by which a person
24 who is developmentally disabled is assisted to acquire and
25 maintain those life skills which enable him to cope more

1 effectively with the demands of his own person and
 2 environment and to raise the level of his physical, mental,
 3 and social efficiency. Habilitation includes but is not
 4 limited to formal structured education and treatment.

5 ~~(6) "least restrictive" and "less restrictive" mean~~
 6 ~~the necessary restrictions placed on the individual for his~~
 7 ~~protection and habilitation, as well as the protection of~~
 8 ~~others. The terms do not refer to the location of service~~
 9 ~~but to the actual restrictions placed on the individual.~~

10 (6)(f) "Next of kin" includes but need not be limited
 11 to the spouse, parents, adult children, and adult brothers
 12 and sisters of a person.

13 (7)(g) "Professional person" means:

14 (a) a medical doctor, or

15 (b) a person trained in the field of developmental
 16 disabilities and certified by the department of institutions
 17 or the department of social and rehabilitation services in
 18 accordance with standards of professional licensing boards,
 19 federal regulations, and the joint commissions on
 20 accreditation of hospitals.

21 ~~(8)(h) "Resident" means a person admitted to a~~
 22 ~~residential facility for a course of evaluation, treatment,~~
 23 ~~or habilitation.~~

24 (9)(i) "Residential facility" or "facility" means any
 25 residential hospital or hospital and school which exists for

1 the purpose of evaluating, treating, and habilitating the
 2 developmentally disabled on an inpatient basis, including
 3 the Boulder River school and hospital and the Eastmont
 4 training centers. The term does not include a group home,
 5 foster home, or halfway house. A correctional facility or a
 6 facility for the treatment of the mentally ill shall not be
 7 a "residential facility" within the meaning of this part.

8 (10)(ii) "Respondent" means a person alleged in a
 9 petition filed pursuant to this part to be developmentally
 10 disabled and in need of developmental disability services.

11 (11)(i) "Responsible person" means any person willing
 12 and able to assume responsibility for a person who is
 13 developmentally disabled or alleged to be developmentally
 14 disabled.

15 (12)(i) "Seriously developmentally disabled" means
 16 developmentally disabled due to developmental or physical
 17 disability or a combination of both rendering a person
 18 unable to function in a community-based setting and which
 19 has resulted in self-inflicted injury or injury to others or
 20 the imminent threat thereof or which has deprived the person
 21 afflicted of the ability to protect his life or health.

22 Section 3, Section 53-21-102, MCA, is amended to read:
 23 "53-21-102. Definitions. As used in this part, the
 24 following definitions apply:

25 (1) "Board" or "mental disabilities board of visitors"

1 means--the--mental-disabilities-board-of-visitors-created-by
2 2-15-211*

3 (2)--"Court"--means-any-district-court-of-the--state--of
4 Montana*

5 (3)--"Department"--means-the-department-of-institutions
6 provided-for-in-title-2,chapter-15,part-23*

7 (4)--"Emergency-situation"--means-a-situation--in--which
8 any--person-is-in-imminent-danger-of-death-or-serious-bodily
9 harm-from-the--activity--of--a--person--who--appears--to--be
10 seriously-mentally-ill*

11 (5)--"least-restrictive"--and--"less-restrictive"--mean
12 the-necessary-restrictions-placed-on-the-individual-for-his
13 protection--and--habilitation--as-well-as-the-protection-of
14 others--The-terms-do-not-refer-to-the--location--of--service
15 but-to-the-actual-restrictions-placed-on-the-individual*

16 (5)(6)--"Mental-disorder"--means-any-organic,mental,or
17 emotional--impairment--which-has-substantial-adverse-effects
18 on-an-individual's-cognitive-or-volitional-functions*

19 (6)(7)--"Mental-health-facility"--or--"facility"--means--a
20 public--hospital--or--a--licensed--private-hospital-which-is
21 equipped-and-staffed-to-provide-treatment-for--persons--with
22 mental--disorders-or-a-community-mental-health-center-or-any
23 mental-health-clinic-or-treatment--center--approved--by--the
24 department--No-correctional-institution-or-facility-or-jail
25 is-a-mental-health-facility-within-the-meaning-of-this-part*

1 (7)(8)--"Next-of-kin"--shall-include--but--need--not--be
2 limited--to--the--spouse,parents,adult-children,--and--adult
3 brothers-and-sisters-of-a-person*

4 (8)(9)--"Patient"--means-a-person-committed-by-the-court
5 for-treatment-for-any-period-of-time-or-who--is--voluntarily
6 admitted-for-treatment-for-any-period-of-time*

7 (9)(10)--"Peace--officer"--means--any--sheriff,--deputy
8 sheriff,marshal,--policeman,--or--other-peace-officers*

9 (10)(11)--"Professional-person"--means*
10 (a)--a-medical-doctor,--or

11 (b)--a-person-trained-in-the-field-of-mental-health-and
12 certified-by-the-department-in-accordance-with-standards--of
13 professional--licensing-boards,--federal-regulations,--and-the
14 joint-commission-on-accreditation-of-hospitals*

15 (11)(12)--"Reasonable--medical--certainty"--means
16 reasonable--certainty--as--judged--by--the--standards--of--a
17 professional-person*

18 (12)(13)--"Respondent"--means--a--person--alleged--in--a
19 petition--filed--pursuant--to--this--part--to--be--seriously
20 mentally-ill*

21 (13)(14)--"Friend--of--respondent"--means--any--person
22 willing--and--able-to-assist-a-seriously-mentally-ill-person
23 or-person-alleged-to-be-seriously-mentally-ill--in-dealing
24 with--legal--proceedings,--including-consultation-with-legal
25 counsel-and-others,--the-friend-of-respondent-may-be-the-next

1 of-kin, the-person's-conservator-or-legal-guardian, if--any
2 representatives--of--a-charitable-or-religious-organization,
3 or-any-other-person-appointed-by-the-court--to--perform--the
4 functions--of--a--friend-of-respondent-set-out-in-this-part.
5 Only-one-person-may--at-any-one-time-be--the--friend--of
6 respondent--within-the-meaning-of-this-part--in-appointing-a
7 friend--of--respondent,--the--court---shall---consider---the
8 preference-of-the-respondent. The-court-may-at-any-time, for
9 good--cause--shown,--change-its-designation-of-the-friend-of
10 respondent.

11 (14)(15) "Seriously-mentally-ill" means-suffering--from
12 a--mental--disorder--which--has--resulted--in-self-inflicted
13 injury-or-injury-to-others-or-the-imminent-threat-thereof-or
14 which-has-deprived-the-person-afflicted-of--the--ability--to
15 protect--his--life-or-health. For-this-purpose, injury-means
16 physical-injury. No-person-may-be-involuntarily-committed-to
17 a-mental-health-facility--or--detained--for--evaluation--and
18 treatment--because--he--is--an-epileptic, mentally-deficient,
19 mentally--retarded, senile, or--suffering--from--a--mental
20 disorder--unless--the--condition--causes-him-to-be-seriously
21 mentally-ill--within-the-meaning-of-this-part.

22 (15)(16) "State-hospital" means-the-Warm-Springs--state
23 hospital."

-End-

HOUSE BILL NO. 333

INTRODUCED BY MARKS, DONALDSON, EUDAILY

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TERMS "LEAST---RESTRICTIVE"---"LESS---RESTRICTIVE"---AND TERM "APPROPRIATE PUBLIC EDUCATION" AS THEY-RELATE IT RELATES TO THE LAWS GOVERNING THE HABILITATION OF HANDICAPPED PERSONS IN THE STATE OF MONTANA; AMENDING SECTIONS SECTION 20-7-401, 53-20-102, AND 53-21-102, MCA."

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

Section 1. Section 20-7-401, MCA, is amended to read:

"20-7-401. Definitions. In this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Appropriate public education" means an educational opportunity that is designed to meet the needs of the handicapped individual as adequately as the needs of the nonhandicapped individual are met. THE PROVISION OF REGULAR OR SPECIAL EDUCATION AND RELATED AIDS AND SERVICES THAT ARE DESIGNED TO MEET INDIVIDUAL EDUCATIONAL NEEDS OF HANDICAPPED PERSONS AS ADEQUATELY AS THE NEEDS OF NONHANDICAPPED ARE MET.

(2) "Deaf" means a hearing impairment which is so severe that the child's hearing is nonfunctional for the

purpose of educational performance.

(3) "Emotionally disturbed" means a condition exhibiting one or more of the following characteristics to a marked degree and over a long period of time: an inability to learn which cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms, pains, or fears associated with personal or school problems. The term does not include children who are socially maladjusted. The emotionally disturbed category may include students who also may have been diagnosed by appropriate specialists as autistic, psychotic, sociopathic, or schizophrenic. An emotionally disturbed child's disorders are not primarily the result of problems with visual acuity, hearing impairment, physical handicaps, cultural or instructional factors, or mental retardation. "Emotionally disturbed" refers to a person who has been identified, based on a comprehensive evaluation, as having observable behavioral patterns which seriously inhibit the academic and social or emotional growth of the individual or the educational rights of others to the point that supportive services are required. These behavioral patterns may

1 include:

2 (a) excessive physical or verbal aggression toward
3 oneself or others and a lack of response to regular
4 educational intervention;

5 (b) high frequency of persistent inattention to
6 academic or social tasks associated with regular classroom
7 performance; and

8 (c) persistent withdrawal from peer or adult
9 interactions associated with the expected social development
10 in a regular educational environment.

11 ~~(3)~~(4) "Handicapped child" means a child evaluated as
12 being mentally retarded, hard-of-hearing, deaf,
13 speech-impaired, visually handicapped, emotionally
14 disturbed, orthopedically impaired, other health-impaired,
15 or as having specific learning disabilities, who because of
16 those impairments needs special education and related
17 services.

18 ~~(4)~~(5) "Hard-of-hearing" means a hearing impairment,
19 whether permanent or fluctuating, which adversely affects a
20 child's educational performance but which is not included
21 within the definition of deaf.

22 ~~(6) "Least-restrictive" and "less-restrictive" mean~~
23 ~~the-necessary-restrictions-placed-on-the-individual-for-his~~
24 ~~protection-and-habilitation-as-well-as-the-protection-of~~
25 ~~others.-The-terms-do-not-refer-to-the-location-of-service~~

1 ~~but-to-the-actual-restrictions-placed-on-the-individual~~

2 ~~(5)~~~~(7)~~(6) "Mentally retarded" means significantly
3 subaverage general intellectual functioning existing
4 concurrently with deficits in adaptive behavior and
5 manifested during the developmental period, which adversely
6 affects a child's educational performance.

7 ~~(6)~~~~(8)~~(7) "Orthopedically impaired" means a severe
8 orthopedic impairment which adversely affects a child's
9 educational performance. The term includes but is not
10 limited to impairment caused by congenital anomaly (e.g.,
11 clubfoot or absence of some member), impairments caused by
12 disease (e.g., poliomyelitis, bone tuberculosis), and
13 impairments from other causes (e.g., fractures or burns
14 which cause contractures, amputation, cerebral palsy).

15 ~~(7)~~~~(9)~~(8) "Other health-impaired" means limited
16 strength, vitality, or alertness due to chronic or acute
17 health problems such as a heart condition, tuberculosis,
18 rheumatic fever, nephritis, asthma, sickle-cell anemia,
19 hemophilia, epilepsy, lead poisoning, leukemia, or diabetes.

20 ~~(8)~~~~(10)~~(9) "Special education" means specially
21 designed instruction, given at no cost to the parents or
22 guardians, to meet the unique needs of a handicapped child,
23 including but not limited to classroom instruction,
24 instruction in physical education, home instruction, and
25 instruction in hospitals and institutions. The term includes

1 but is not limited to speech pathology, audiology,
2 occupational therapy, and physical therapy.

3 ~~(9)~~(10) "Specific learning disability" means a
4 disorder in one or more of the basic psychological processes
5 involved in understanding or in using language, spoken or
6 written, which may manifest itself in an imperfect ability
7 to listen, think, speak, read, write, spell, or do
8 mathematical calculations. The term includes but is not
9 limited to such conditions as perceptual handicaps, brain
10 injury, minimal brain dysfunction, dyslexia, and
11 developmental aphasia. The term does not include children
12 who have learning problems which are primarily the result of
13 visual, hearing, or motor handicaps; mental retardation; or
14 environmental, cultural, or economic disadvantages.

15 ~~(10)~~(11) "Speech/language impaired" means a
16 communication disorder such as stuttering, impaired
17 articulation, or a language or voice impairment which
18 adversely affects a child's interpersonal relationships or
19 educational performance.

20 ~~(11)~~(12) "Visually handicapped" means a visual
21 impairment which, after correction, adversely affects a
22 child's educational performance. The term includes both
23 partially seeing and blind children."

24 Section 2, Section 53-20-102, MCA, is amended to read:
25 "53-20-102. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Board" or "mental disabilities board of visitors"
3 means the mental disabilities board of visitors created by
4 2-15-21.

5 (2) "Community-based facilities" or "community-based
6 services" includes those services and facilities which are
7 available for the evaluation, treatment, and habilitation of
8 the developmentally disabled in a community setting,
9 including but not limited to outpatient facilities, special
10 education services, group homes, foster homes, day care
11 facilities, sheltered workshops, and other community-based
12 services and facilities.

13 (3) "Court" means a district court of the state of
14 Montana.

15 (4) "Developmentally disabled" means suffering from
16 disabilities attributable to mental retardation, cerebral
17 palsy, epilepsy, autism, or any other neurologically
18 handicapping condition closely related to mental retardation
19 and requiring treatment similar to that required by mentally
20 retarded individuals, which condition has continued or can
21 be expected to continue indefinitely and constitutes a
22 substantial handicap of such individuals.

23 (5) "Habilitation" means the process by which a person
24 who is developmentally disabled is assisted to acquire and
25 maintain those life skills which enable him to cope more

1 effectively with the demands of his own person and
 2 environment and to raise the level of his physical, mental,
 3 and social efficiency. Habilitation includes but is not
 4 limited to formal, structured education and treatment.

5 ~~(6) "least restrictive" and "less restrictive" mean~~
 6 ~~the necessary restrictions placed on the individual for his~~
 7 ~~protection and habilitation, as well as the protection of~~
 8 ~~others. The terms do not refer to the location of service~~
 9 ~~but to the actual restrictions placed on the individual.~~

10 ~~(7)(7) "Next of kin" includes but need not be limited~~
 11 ~~to the spouse, parents, adult children, and adult brothers~~
 12 ~~and sisters of a person.~~

13 ~~(7)(8) "Professional person" means:~~
 14 ~~(a) a medical doctor, or~~
 15 ~~(b) a person trained in the field of developmental~~
 16 ~~disabilities and certified by the department of institutions~~
 17 ~~or the department of social and rehabilitation services in~~
 18 ~~accordance with standards of professional licensing boards,~~
 19 ~~federal regulations, and the joint commissions on~~
 20 ~~accreditation of hospitals.~~

21 ~~(8)(9) "Resident" means a person admitted to a~~
 22 ~~residential facility for a course of evaluation, treatment,~~
 23 ~~or habilitation.~~

24 ~~(9)(10) "Residential facility" or "facility" means any~~
 25 ~~residential hospital or hospital and school which exists for~~

1 the purpose of evaluating, treating, and habilitating the
 2 developmentally disabled on an inpatient basis, including
 3 the Boulder River school and hospital and the Eastmont
 4 training centers. The term does not include a group home,
 5 foster home, or halfway house. A correctional facility or a
 6 facility for the treatment of the mentally ill shall not be
 7 a "residential facility" within the meaning of this part.

8 ~~(10)(11) "Respondent" means a person alleged in a~~
 9 ~~petition filed pursuant to this part to be developmentally~~
 10 ~~disabled and in need of developmental disability services.~~

11 ~~(11)(12) "Responsible person" means any person willing~~
 12 ~~and able to assume responsibility for a person who is~~
 13 ~~developmentally disabled or alleged to be developmentally~~
 14 ~~disabled.~~

15 ~~(12)(13) "Seriously developmentally disabled" means~~
 16 ~~developmentally disabled due to developmental or physical~~
 17 ~~disability or a combination of both, rendering a person~~
 18 ~~unable to function in a community-based setting and which~~
 19 ~~has resulted in self-inflicted injury or injury to others or~~
 20 ~~the imminent threat thereof or which has deprived the person~~
 21 ~~afflicted of the ability to protect his life or health.~~

22 Section 3, Section 53-21-102, MCA, is amended to read
 23 "53-21-102. Definitions. As used in this part, the
 24 following definitions apply:

25 (1) "Board" or "mental disabilities board of visitors"

1 means--the--mental-disabilities-board-of-visitors-created-by
2 2-15-211v

3 (2)--"Court"--means-any-district-court-of-the--state--of
4 Montana

5 (3)--"Department"--means-the-department-of-institutions
6 provided-for-in-title-2v-chapter-15v-part-23v

7 (4)--"Emergency-situation"--means-a-situation--in--which
8 any--person-is-in-imminent-danger-of-death-or-serious-bodily
9 harm-from-the--activity--of--a--person--who--appears--to--be
10 seriously-mentally-ill

11 (5)--"Least-restrictive"--and--"less-restrictive"--mean
12 the-necessary-restrictions-placed-on-the-individual-for-his
13 protection--and--habilitation--as-well-as-the-protection-of
14 others--The-terms-do-not-refer-to-the--location--of--service
15 but-to-the-actual-restrictions-placed-on-the-individual

16 (5)(6)--"Mental-disorder"--means-any-organic-mental-or
17 emotional--impairment--which-has-substantial-adverse-effects
18 on-an-individual's-cognitive-or-volitional-functions

19 (6)(7)--"Mental-health-facility"--or--"facility"--means--a
20 public--hospital--or--a--licensed--private-hospital-which-is
21 equipped-and-staffed-to-provide-treatment-for--persons--with
22 mental--disorders-or-a-community-mental-health-center-or-any
23 mental-health-clinic-or-treatment--center--approved--by--the
24 department--No-correctional-institution-or-facility-or-jail
25 is-a-mental-health-facility-within-the-meaning-of-this-part

1 (7)(8)--"Next-of-kin"--shall-include--but--need--not--be
2 limited--to--the--spouse,-parents,-adult-children,-and-adult
3 brothers-and-sisters-of-a-person

4 (8)(9)--"Patient"--means-a-person-committed-by-the-court
5 for-treatment-for-any-period-of-time-or-who--is--voluntarily
6 admitted-for-treatment-for-any-period-of-time

7 (9)(10)--"Peace--officer"--means--any--sheriff,-deputy
8 sheriff,-marshal,-policeman,-or-other-peace-officer

9 (10)(11)--"Professional-person"--means+

10 (a)--a-medical-doctor-or

11 (b)--a-person-trained-in-the-field-of-mental-health-and
12 certified-by-the-department-in-accordance-with-standards--of
13 professional--licensing-boards,-federal-regulations,-and-the
14 joint-commission-on-accreditation-of-hospitals

15 (11)(12)--"Reasonable--medical--certainty"--means
16 reasonable--certainty--as--judged--by--the--standards--of--a
17 professional-person

18 (12)(13)--"Respondent"--means--a--person--alleged--in--a
19 petition--filed--pursuant--to--this--part--to--be--seriously
20 mentally-ill

21 (13)(14)--"Friend--of--respondent"--means--any--person
22 willing--and--able--to--assist--a--seriously-mentally-ill--person
23 or-person-alleged-to-be-seriously-mentally-ill--in--dealing
24 with--legal--proceedings--including-consultation-with-legal
25 counsel--and-others--The-friend-of-respondent-may-be-the-next

1 of-kin, the person's conservator or legal guardian, if any,
2 representatives of a charitable or religious organization,
3 or any other person appointed by the court to perform the
4 functions of a friend of respondent set out in this part.
5 Only one person may at any one time be the friend of
6 respondent within the meaning of this part. In appointing a
7 friend of respondent, the court shall consider the
8 preference of the respondent. The court may at any time, for
9 good cause shown, change its designation of the friend of
10 respondent.

11 (14)(15) "Seriously mentally ill" means suffering from
12 a mental disorder which has resulted in self-inflicted
13 injury or injury to others or the imminent threat thereof or
14 which has deprived the person afflicted of the ability to
15 protect his life or health. For this purpose, injury means
16 physical injury. No person may be involuntarily committed to
17 a mental health facility or detained for evaluation and
18 treatment because he is an epileptic, mentally deficient,
19 mentally retarded, senile, or suffering from a mental
20 disorder unless the condition causes him to be seriously
21 mentally ill within the meaning of this part.

22 (15)(16) "State hospital" means the Warm Springs state
23 hospital.

-End-

HOUSE BILL NO. 333

INTRODUCED BY MARKS, DONALDSON, EUDAILY

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TERMS
~~"LEAST---RESTRICTIVE"~~ ~~"LESS---RESTRICTIVE"~~ AND TERM
 "APPROPRIATE PUBLIC EDUCATION" AS THEY ~~RELATE~~ IT RELATES TO
 THE LAWS GOVERNING THE HABILITATION OF HANDICAPPED PERSONS
 IN THE STATE OF MONTANA; AMENDING ~~SECTIONS~~ SECTION 20-7-401,
 53-28-102, AND 53-21-102, MCA."

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

Section 1. Section 20-7-401, MCA, is amended to read:

"20-7-401. Definitions. In this title, unless the
 context clearly indicates otherwise, the following
 definitions apply:

(1) "Appropriate public education" means an
~~educational opportunity that is designed to meet the needs~~
~~of the handicapped individual as adequately as the needs of~~
~~the nonhandicapped individual are met.~~ THE PROVISION OF
REGULAR OR SPECIAL EDUCATION AND RELATED AIDS AND SERVICES
THAT ARE DESIGNED TO MEET INDIVIDUAL EDUCATIONAL NEEDS OF
HANDICAPPED PERSONS AS ADEQUATELY AS THE NEEDS OF
NONHANDICAPPED ARE MET.

(2) "Deaf" means a hearing impairment which is so
 severe that the child's hearing is nonfunctional for the

purpose of educational performance.

(3) "Emotionally disturbed" means a condition
 exhibiting one or more of the following characteristics to a
 marked degree and over a long period of time: an inability
 to learn which cannot be explained by intellectual, sensory,
 or health factors; an inability to build or maintain
 satisfactory interpersonal relationships with peers and
 teachers; inappropriate types of behavior or feelings under
 normal circumstances; a general pervasive mood of
 unhappiness or depression; or a tendency to develop physical
 symptoms, pains, or fears associated with personal or school
 problems. The term does not include children who are
 socially maladjusted. The emotionally disturbed category may
 include students who also may have been diagnosed by
 appropriate specialists as autistic, psychotic, sociopathic,
 or schizophrenic. An emotionally disturbed child's disorders
 are not primarily the result of problems with visual acuity,
 hearing impairment, physical handicaps, cultural or
 instructional factors, or mental retardation. "Emotionally
 disturbed" refers to a person who has been identified, based
 on a comprehensive evaluation, as having observable
 behavioral patterns which seriously inhibit the academic and
 social or emotional growth of the individual or the
 educational rights of others to the point that supportive
 services are required. These behavioral patterns may

1 include:

2 (a) excessive physical or verbal aggression toward
3 oneself or others and a lack of response to regular
4 educational intervention;

5 (b) high frequency of persistent inattention to
6 academic or social tasks associated with regular classroom
7 performance; and

8 (c) persistent withdrawal from peer or adult
9 interactions associated with the expected social development
10 in a regular educational environment.

11 ~~(3)~~(4) "Handicapped child" means a child evaluated as
12 being mentally retarded, hard-of-hearing, deaf,
13 speech-impaired, visually handicapped, emotionally
14 disturbed, orthopedically impaired, other health-impaired,
15 or as having specific learning disabilities, who because of
16 those impairments needs special education and related
17 services.

18 ~~(4)~~(5) "Hard-of-hearing" means a hearing impairment,
19 whether permanent or fluctuating, which adversely affects a
20 child's educational performance but which is not included
21 within the definition of deaf.

22 ~~(6) -- "Least-restrictive" and "less-restrictive" mean~~
23 ~~the--necessary--restrictions--placed--on--the--individual--for--his~~
24 ~~protection--and--habilitation--as--well--as--the--protection--of~~
25 ~~others--The--terms--do--not--refer--to--the--location--of--service~~

1 ~~but-to-the-actual-restrictions-placed-on-the-individuals~~

2 ~~(5)~~(7)(6) "Mentally retarded" means significantly
3 subaverage general intellectual functioning existing
4 concurrently with deficits in adaptive behavior and
5 manifested during the developmental period, which adversely
6 affects a child's educational performance.

7 ~~(6)~~(8)(7) "Orthopedically impaired" means a severe
8 orthopedic impairment which adversely affects a child's
9 educational performance. The term includes but is not
10 limited to impairment caused by congenital anomaly (e.g.,
11 clubfoot or absence of some member), impairments caused by
12 disease (e.g., poliomyelitis, bone tuberculosis), and
13 impairments from other causes (e.g., fractures or burns
14 which cause contractures, amputation, cerebral palsy).

15 ~~(7)~~(9)(8) "Other health-impaired" means limited
16 strength, vitality, or alertness due to chronic or acute
17 health problems such as a heart condition, tuberculosis,
18 rheumatic fever, nephritis, asthma, sickle-cell anemia,
19 hemophilia, epilepsy, lead poisoning, leukemia, or diabetes.

20 ~~(8)~~(10)(9) "Special education" means specially
21 designed instruction, given at no cost to the parents or
22 guardians, to meet the unique needs of a handicapped child,
23 including but not limited to classroom instruction,
24 instruction in physical education, home instruction, and
25 instruction in hospitals and institutions. The term includes

1 but is not limited to speech pathology, audiology,
2 occupational therapy, and physical therapy.

3 ~~(9)~~~~(11)~~~~(10)~~ "Specific learning disability" means a
4 disorder in one or more of the basic psychological processes
5 involved in understanding or in using language, spoken or
6 written, which may manifest itself in an imperfect ability
7 to listen, think, speak, read, write, spell, or do
8 mathematical calculations. The term includes but is not
9 limited to such conditions as perceptual handicaps, brain
10 injury, minimal brain dysfunction, dyslexia, and
11 developmental aphasia. The term does not include children
12 who have learning problems which are primarily the result of
13 visual, hearing, or motor handicaps; mental retardation; or
14 environmental, cultural, or economic disadvantages.

15 ~~(10)~~~~(12)~~~~(11)~~ "Speech/language impaired" means a
16 communication disorder such as stuttering, impaired
17 articulation, or a language or voice impairment which
18 adversely affects a child's interpersonal relationships or
19 educational performance.

20 ~~(11)~~~~(13)~~~~(12)~~ "Visually handicapped" means a visual
21 impairment which, after correction, adversely affects a
22 child's educational performance. The term includes both
23 partially seeing and blind children."

24 Section 2, Section 53-20-102, MCA, is amended to read
25 "53-20-102. Definitions. As used in this part the

1 following definitions apply:

2 ~~(1) "Board" or "mental disabilities board of visitors"~~
3 ~~means the mental disabilities board of visitors created by~~
4 ~~2-15-211.~~

5 ~~(2) "Community-based facilities" or "community-based~~
6 ~~services" includes those services and facilities which are~~
7 ~~available for the evaluation, treatment, and habilitation of~~
8 ~~the developmentally disabled in a community setting,~~
9 ~~including but not limited to outpatient facilities, special~~
10 ~~education services, group homes, foster homes, day care~~
11 ~~facilities, sheltered workshops, and other community-based~~
12 ~~services and facilities.~~

13 ~~(3) "Court" means a district court of the state of~~
14 ~~Montana.~~

15 ~~(4) "Developmentally disabled" means suffering from~~
16 ~~disabilities attributable to mental retardation, cerebral~~
17 ~~palsy, epilepsy, autism, or any other neurologically~~
18 ~~handicapping condition closely related to mental retardation~~
19 ~~and requiring treatment similar to that required by mentally~~
20 ~~retarded individuals, which condition has continued or can~~
21 ~~be expected to continue indefinitely and constitutes a~~
22 ~~substantial handicap of such individuals.~~

23 ~~(5) "Habilitation" means the process by which a person~~
24 ~~who is developmentally disabled is assisted to acquire and~~
25 ~~maintain those life skills which enable him to cope more~~

1 effectively with the demands of his own person and
 2 environment and to raise the level of his physical, mental,
 3 and social efficiency. Habilitation includes but is not
 4 limited to formal structured education and treatment.

5 (6) "Least restrictive" and "less restrictive" mean
 6 the necessary restrictions placed on the individual for his
 7 protection and habilitation as well as the protection of
 8 others. The terms do not refer to the location of service
 9 but to the actual restrictions placed on the individual.

10 (6)(7) "Next of kin" includes but need not be limited
 11 to the spouse, parents, adult children, and adult brothers
 12 and sisters of a person.

13 (7)(8) "Professional person" means:

14 (a) a medical doctor; or

15 (b) a person trained in the field of developmental
 16 disabilities and certified by the department of institutions
 17 or the department of social and rehabilitation services in
 18 accordance with standards of professional licensing boards,
 19 federal regulations, and the joint commissions on
 20 accreditation of hospitals.

21 (8)(9) "Resident" means a person admitted to a
 22 residential facility for a course of evaluation, treatment,
 23 or habilitation.

24 (9)(10) "Residential facility" or "facility" means any
 25 residential hospital or hospital and school which exists for

1 the purpose of evaluating, treating, and habilitating the
 2 developmentally disabled on an inpatient basis, including
 3 the Boulder River school and hospital and the Eastmont
 4 training center. The term does not include a group home,
 5 foster home, or halfway house. A correctional facility or a
 6 facility for the treatment of the mentally ill shall not be
 7 a "residential facility" within the meaning of this part.

8 (10)(11) "Respondent" means a person alleged in a
 9 petition filed pursuant to this part to be developmentally
 10 disabled and in need of developmental disability services.

11 (11)(12) "Responsible person" means any person willing
 12 and able to assume responsibility for a person who is
 13 developmentally disabled or alleged to be developmentally
 14 disabled.

15 (12)(13) "Seriously developmentally disabled" means
 16 developmentally disabled due to developmental or physical
 17 disability or a combination of both rendering a person
 18 unable to function in a community-based setting and which
 19 has resulted in self-inflicted injury or injury to others or
 20 the imminent threat thereof or which has deprived the person
 21 of the ability to protect his life or health.

22 Section 3, Section 53-21-102, MCA, is amended to read
 23 "53-21-102. Definitions. As used in this part, the
 24 following definitions apply:

25 (1) "Board" or "mental disabilities board of visitors"

1 means the mental disabilities board of visitors created by
 2 2-15-211.
 3 {2} "Court" means any district court of the state of
 4 Montana.
 5 {3} "Department" means the department of institutions
 6 provided for in Title 2, chapter 15, part 23.
 7 {4} "Emergency situation" means a situation in which
 8 any person is in imminent danger of death or serious bodily
 9 harm from the activity of a person who appears to be
 10 seriously mentally ill.
 11 {5} "Least restrictive" and "less restrictive" mean
 12 the necessary restrictions placed on the individual for his
 13 protection and habilitation, as well as the protection of
 14 others. The terms do not refer to the location of service
 15 but to the actual restrictions placed on the individual.
 16 {5}{6} "Mental disorder" means any organic, mental, or
 17 emotional impairment which has substantial adverse effects
 18 on an individual's cognitive or volitional functions.
 19 {6}{7} "Mental health facility" or "facility" means a
 20 public hospital or a licensed private hospital which is
 21 equipped and staffed to provide treatment for persons with
 22 mental disorders or a community mental health center or any
 23 mental health clinic or treatment center approved by the
 24 departments. No correctional institution or facility or jail
 25 is a mental health facility within the meaning of this part.

1 {7}{8} "Next of kin" shall include but need not be
 2 limited to the spouse, parents, adult children, and adult
 3 brothers and sisters of a person.
 4 {8}{9} "Patient" means a person committed by the court
 5 for treatment for any period of time or who is voluntarily
 6 admitted for treatment for any period of time.
 7 {9}{10} "Peace officer" means any sheriff, deputy
 8 sheriff, marshal, policeman, or other peace officer.
 9 {10}{11} "Professional person" means
 10 (a) a medical doctor or
 11 (b) a person trained in the field of mental health and
 12 certified by the department in accordance with standards of
 13 professional licensing boards, federal regulations, and the
 14 joint commission on accreditation of hospitals.
 15 {11}{12} "Reasonable medical certainty" means
 16 reasonable certainty as judged by the standards of a
 17 professional person.
 18 {12}{13} "Respondent" means a person alleged in a
 19 petition filed pursuant to this part to be seriously
 20 mentally ill.
 21 {13}{14} "Friend of respondent" means any person
 22 willing and able to assist a seriously mentally ill person
 23 or person alleged to be seriously mentally ill in dealing
 24 with legal proceedings, including consultation with legal
 25 counsel and others. The friend of respondent may be the next

1 of-kin, the person's conservator or legal guardian, if any,
2 representatives of a charitable or religious organization,
3 or any other person appointed by the court to perform the
4 functions of a friend of respondent set out in this part.
5 Only one person may at any one time be the friend of
6 respondent within the meaning of this part. In appointing a
7 friend of respondent, the court shall consider the
8 preference of the respondent. The court may at any time, for
9 good cause shown, change its designation of the friend of
10 respondent.

11 ~~(14)(15)~~ "Seriously mentally ill" means suffering from
12 a mental disorder which has resulted in self-inflicted
13 injury or injury to others or the imminent threat thereof or
14 which has deprived the person afflicted of the ability to
15 protect his life or health for this purpose. Injury means
16 physical injury. No person may be involuntarily committed to
17 a mental health facility or detained for evaluation and
18 treatment because he is an epileptic, mentally deficient,
19 mentally retarded, senile, or suffering from a mental
20 disorder unless the condition causes him to be seriously
21 mentally ill within the meaning of this part.

22 ~~(15)(16)~~ "State hospital" means the Warm Springs state
23 hospital.

-End-