

Senate Bill 348

In The Senate

February 2, 1981	Introduced and referred to Committee on Public Health, Welfare and Safety. Fiscal note requested.
February 6, 1981	Fiscal note returned.
February 21, 1981	Committee recommend bill do not pass.
February 23, 1981	On motion Senate reconsider its action taken on Adverse Committee Report and order printed and placed on second reading. Motion adopted. Bill printed and placed on members' desks.
February 24, 1981	Second reading indefinitely postponed.

1 *Amate* BILL NO. *348*
 2 INTRODUCED BY *Mike Anderson* *McBurt*
 3 *Thomas*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE LAW
 5 RELATING TO THE TREATMENT AND RELEASE OF DEVELOPMENTALLY
 6 DISABLED AND MENTALLY ILL PERSONS; AMENDING SECTIONS
 7 53-20-101, 53-20-102, 53-20-148, AND 53-21-162, MCA."

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

9 Section 1. Section 53-20-101, MCA, is amended to read:

10 "53-20-101. Purpose. The purpose of this part is to:

11 (1) secure for each person who may be developmentally
 12 disabled such treatment and habilitation as will be suited
 13 to the needs of the person and to assure that such treatment
 14 and habilitation are skillfully and humanely administered
 15 with full respect for the person's dignity and personal
 16 integrity;

17 (2) accomplish this goal ~~whenever--possible~~ in a
 18 community-based setting whenever it is appropriate for the
 19 developmentally disabled person;

20 (3) accomplish this goal in an institutionalized
 21 setting only when less restrictive alternatives are
 22 unavailable or inadequate and only when a person is so
 23 severely disabled as to require institutionalized care; and

24 (4) assure that due process of law is accorded any
 25

1 person coming under the provisions of this part."

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

3 "53-20-102. Definitions. As used in this part, the
 4 following definitions apply:

5 (1) "Board" or "mental disabilities board of visitors"
 6 means the mental disabilities board of visitors created by
 7 2-15-211.

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

16 (3) "Court" means a district court of the state of
 17 Montana.

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

1 (5) "Habilitation" means the process by which a person
 2 who is developmentally disabled is assisted to acquire and
 3 maintain those life skills which enable him to cope more
 4 effectively with the demands of his own person and
 5 environment and to raise the level of his physical, mental,
 6 and social efficiency. Habilitation includes but is not
 7 limited to formal, structured education and treatment.

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

11 (7) "Professional person" means:

12 (a) a medical doctor; or

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

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

23 (9) "Residential facility" or "facility" means any
 24 residential hospital or hospital and school which exists for
 25 the purpose of evaluating, treating, and habilitating the

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

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

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

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

21 Section 3. Section 53-20-148, MCA, is amended to read:

22 "53-20-148. Right to habilitation. (1) Persons
 23 admitted to residential facilities shall have a right to
 24 habilitation, including medical treatment, appropriate
 25 education or training, or both, and care suited to their

1 needs, regardless of age, degree of retardation, or
 2 handicapping condition. Each resident has a right to a
 3 habilitation program which will maximize his human abilities
 4 and enhance his ability to cope with his environment. Every
 5 residential facility shall recognize that each resident,
 6 regardless of ability or status, is entitled to develop and
 7 realize his fullest potential. The facility shall implement
 8 the principle of normalization so that each resident may
 9 live as normally as possible.

10 (2) Residents shall have a right to the least
 11 restrictive conditions necessary to achieve the purposes of
 12 habilitation. To this end, whenever it is considered
 13 beneficial to the resident, the facility shall make every
 14 attempt to move residents from:

- 15 (a) more to less structured living;
- 16 (b) larger to smaller facilities;
- 17 (c) larger to smaller living units;
- 18 (d) group to individual residence;
- 19 (e) segregated from the community to integrated into
- 20 the community living;
- 21 (f) dependent to independent living.

22 (3) Within 30 days of his admission to a residential
 23 facility, each resident shall have an evaluation by
 24 appropriate specialists for programming purposes.

25 (4) Each resident shall have an individualized

1 habilitation plan formulated by the facility. This plan
 2 shall be developed by appropriate professional persons and
 3 implemented as soon as possible, but no later than 30 days
 4 after the resident's admission to the facility. An interim
 5 program of habilitation, based on the preadmission
 6 evaluation conducted pursuant to this part, shall commence
 7 promptly upon the resident's admission. Each individualized
 8 habilitation plan shall contain:

9 (a) a statement of the nature of the specific
 10 limitations and the needs of the resident;

11 (b) a description of intermediate and long-range
 12 habilitation goals with a projected timetable for their
 13 attainment;

14 (c) a statement of and an explanation for the plan of
 15 habilitation for achieving these intermediate and long-range
 16 goals;

17 (d) a statement of the least restrictive setting for
 18 habilitation necessary to achieve the habilitation goals of
 19 the resident;

20 (e) a specification of the professional persons and
 21 other staff members who are responsible for the particular
 22 resident's attaining these habilitation goals;

23 (f) criteria for release to less restrictive settings
 24 for habilitation, based on the resident's needs, including
 25 criteria for discharge ~~and a projected date for discharge.~~

1 ~~The date of discharge is dependent upon fulfillment of the~~
2 ~~criteria for discharge.~~

3 (5) As part of his habilitation plan, each resident
4 shall have an individualized postinstitutionalization plan,
5 ~~if deinstitutionalization is an appropriate goal for that~~
6 ~~resident,~~ that includes an identification of services needed
7 to make a satisfactory community placement possible. This
8 plan shall be developed by a professional person who shall
9 begin preparation of such plan upon the resident's admission
10 to the institution and shall complete such plan as soon as
11 practicable. The parents or guardian or next of kin of the
12 resident, the responsible person appointed by the court, if
13 any, and the resident, if able to give informed consent,
14 shall be consulted in the development of such plan and shall
15 be informed of the content of such plan.

16 (6) In the interests of continuity of care, one
17 professional person shall whenever possible be responsible
18 for supervising the implementation of the habilitation plan,
19 integrating the various aspects of the habilitation program,
20 and recording the resident's progress as measured by
21 objective indicators. This professional person shall also be
22 responsible for ensuring that the resident is released when
23 appropriate to a less restrictive habilitation setting.

24 (7) The habilitation plan shall be reviewed monthly by
25 the professional person responsible for supervising the

1 implementation of the plan and shall be modified if
2 necessary. In addition, 6 months after admission and at
3 least annually thereafter, each resident shall receive a
4 comprehensive psychological, social, habilitative, and
5 medical diagnosis and evaluation and his habilitation plan
6 shall be reviewed by an interdisciplinary team of no less
7 than two professional persons and such resident care workers
8 as are directly involved in his habilitation and care. A
9 habilitation plan shall be reviewed monthly.

10 (8) Each resident placed in the community shall
11 receive transitional habilitation assistance.

12 (9) The professional person in charge of the
13 residential facility shall report in writing to the parents
14 or guardian of the resident or the responsible person at
15 least every 6 months on the resident's habilitation and
16 medical condition. Such report shall also state any
17 appropriate habilitation program which has not been afforded
18 to the resident because of inadequate habilitation
19 resources.

20 (10) The parents or guardian of each resident or the
21 responsible person appointed by the court shall promptly
22 upon the resident's admission receive a written copy of all
23 the above standards for adequate habilitation. Each
24 resident, if the resident is able to comprehend, shall
25 promptly upon his admission be orally informed in clear

1 language of the above standards and, where appropriate, be
 2 provided with a written copy. In addition, the parents,
 3 guardian, responsible person, and where able to comprehend,
 4 the resident shall receive such other information concerning
 5 the care and habilitation of the resident as may be
 6 available to assist them in understanding the situation of
 7 the resident and the rights of the resident in the
 8 institution."

9 Section 4. Section 53-21-162, MCA, is amended to read:

10 "53-21-162. Establishment of patient treatment plan.

11 (1) Each patient admitted as an inpatient to a mental health
 12 facility shall have a comprehensive physical and mental
 13 examination and review of behavioral status within 48 hours
 14 after admission to the mental health facility.

15 (2) Each patient shall have an individualized
 16 treatment plan. This plan shall be developed by appropriate
 17 professional persons, including a psychiatrist, and shall be
 18 implemented no later than 10 days after the patient's
 19 admission. Each individualized treatment plan shall contain:

20 (a) a statement of the nature of the specific problems
 21 and specific needs of the patient;

22 (b) a statement of the least restrictive treatment
 23 conditions necessary to achieve the purposes of commitment;

24 (c) a description of intermediate and long-range
 25 treatment goals, with a projected timetable for their

1 attainment;

2 (d) a statement and rationale for the plan of
 3 treatment for achieving these intermediate and long-range
 4 goals;

5 (e) a specification of staff responsibility and a
 6 description of proposed staff involvement with the patient
 7 in order to attain these treatment goals;

8 (f) criteria for release to less restrictive treatment
 9 conditions and criteria for discharge, ~~the date of discharge~~
 10 ~~being dependent upon fulfillment of the criteria for~~
 11 ~~discharge;~~ and

12 (g) a notation of any therapeutic tasks and labor to
 13 be performed by the patient.

14 (3) As part of his treatment plan, each patient shall
 15 have an individualized after-care plan. This plan shall be
 16 developed by a professional person as soon as practicable
 17 after the patient's admission to the facility.

18 (4) In the interests of continuity of care, whenever
 19 possible one professional person (who need not have been
 20 involved with the development of the treatment plan) shall
 21 be responsible for supervising the implementation of the
 22 treatment plan, integrating the various aspects of the
 23 treatment program, and recording the patient's progress.
 24 This professional person shall also be responsible for
 25 ensuring that the patient is released, where appropriate,

1 into a less restrictive form of treatment.

2 (5) The treatment plan shall be continuously reviewed
3 by the professional person responsible for supervising the
4 implementation of the plan and shall be modified if
5 necessary. Moreover, at least every 90 days each patient
6 shall receive a mental examination from and his treatment
7 plan shall be reviewed by a professional person other than
8 the professional person responsible for supervising the
9 implementation of the plan."

-End-

STATE OF MONTANA

REQUEST NO. 287-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 4, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 348 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

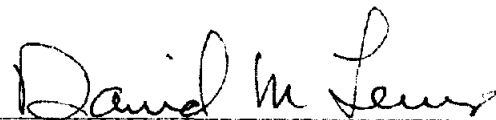
An act to amend the law relating to the treatment and release of developmentally disabled and mentally ill persons; amending sections 53-20-101, 53-20-102, 53-20-148, and 53-21-162, MCA.

Assumptions

1. Raise the possibility that, for some individuals, institutionalization is appropriate; therefore, the average daily population of the institution could increase.
2. Allow the Office of Public Instruction, in addition to the Departments of Social and Rehabilitation Services and Institutions to certify developmentally disabled professional persons.

Fiscal Impact

The estimated gross cost of keeping a resident at Boulder River School and Hospital will be \$46,000 in FY 1982 and \$51,000 in FY 1983. Since the population could increase, it is probable that the budget for Boulder River School and Hospital would increase.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-6-81

Public Health, Welfare and Safety

Objection Raised to
Adverse Committee Report

1
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3 *Mike Anderson* *McCallum*
Thomas

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17 integrity;

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19 community-based setting whenever it is appropriate for the
20 developmentally disabled person;

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22 setting only when less restrictive alternatives are
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8 plan shall be developed by a professional person who shall
9 begin preparation of such plan upon the resident's admission
10 to the institution and shall complete such plan as soon as
11 practicable. The parents or guardian or next of kin of the
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-End-