

HOUSE BILL 223

INTRODUCED BY J. HAMMOND, MOHAR, REAM, BENGTSON

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE HOUSE

January 13, 1983	Introduced and referred to Committee on Human Services.
January 26, 1983	Committee recommend bill do pass. Report adopted.
January 27, 1983	Bill printed and placed on members' desks.
January 28, 1983	Second reading, do pass.
January 29, 1983	Considered correctly engrossed.
January 31, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 1, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 4, 1983	Committee recommend bill be concurred in. Report adopted.
March 7, 1983	Second reading, concurred in.
March 9, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 9, 1983	Returned to House.
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March 10, 1983

Sent to enrolling.

Reported correctly
enrolled.

1 ~~House~~ BILL NO. 223
2 INTRODUCED BY L. Hammond Moller
3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS
4 Ream Bengtson Moller
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE TIME
6 PERIOD FOR INVOLUNTARY COMMITMENT OF ALCOHOLICS TO 40 DAYS;
7 AMENDING SECTION 53-24-302, MCA."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Section 53-24-302, MCA, is amended to read:
11 "53-24-302. Involuntary commitment of alcoholics. (1)
12 A person may be committed to the custody of the department
13 by the district court upon the petition of his spouse or
14 guardian, a relative, the certifying physician, or the chief
15 of any approved public treatment facility. The petition
16 shall allege that the person is an alcoholic who habitually
17 lacks self-control as to the use of alcoholic beverages and
18 that he has threatened, attempted, or inflicted physical
19 harm on another and that unless committed is likely to
20 inflict physical harm on another or is incapacitated by
21 alcohol. A refusal to undergo treatment does not constitute
22 evidence of lack of judgment as to the need for treatment.
23 The petition shall be accompanied by a certificate of a
24 licensed physician who has examined the person within 2 days
25 before submission of the petition unless the person whose

1 commitment is sought has refused to submit to a medical
2 examination, in which case the fact of refusal shall be
3 alleged in the petition. The certificate shall set forth the
4 physician's findings in support of the allegations of the
5 petition. A physician employed by the admitting facility or
6 the department is not eligible to be the certifying
7 physician.

8 (2) Upon filing the petition, the court shall fix a
9 date for a hearing no later than 10 days after the date the
10 petition was filed. A copy of the petition and of the notice
11 of the hearing, including the date fixed by the court, shall
12 be served on the petitioner, the person whose commitment is
13 sought, his next of kin other than the petitioner, a parent
14 or his legal guardian if he is a minor, the administrator in
15 charge of the approved public treatment facility to which he
16 has been committed for emergency care, and any other person
17 the court believes advisable. A copy of the petition and
18 certificate shall be delivered to each person notified.

19 (3) At the hearing the court shall hear all relevant
20 testimony, including, if possible, the testimony of at least
21 one licensed physician who has examined the person whose
22 commitment is sought. The person shall have a right to have
23 a licensed physician of his own choosing examine him and
24 testify on his behalf. If he has no funds with which to pay
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4 right to counsel, and if he is unable to hire his own
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6 him at the expense of the county. The court shall examine
7 the person in open court or, if advisable, shall examine the
8 person in chambers. If he refuses an examination by a
9 licensed physician and there is sufficient evidence to
10 believe that the allegations of the petition are true or if
11 the court believes that more medical evidence is necessary,
12 the court may make a temporary order committing him to the
13 department for a period of not more than 5 days for purposes
14 of a diagnostic examination.

15 (4) If after hearing all relevant evidence, including
16 the results of any diagnostic examination by the department,
17 the court finds that grounds for involuntary commitment have
18 been established by clear and convincing evidence, it shall
19 make an order of commitment to the department. It may not
20 order commitment of a person unless it determines that the
21 department is able to provide adequate and appropriate
22 treatment for him and the treatment is likely to be
23 beneficial.

24 (5) A person committed under this section shall remain
25 in the custody of the department for treatment for a period

1 of 30 ~~40~~ days unless sooner discharged. At the end of the 30
2 ~~40~~-day period, he shall automatically be discharged unless
3 before expiration of the period the department obtains a
4 court order from the district court of the committing
5 district for his recommitment upon the grounds set forth in
6 subsection (1) for a further period of 90 days unless sooner
7 discharged. If a person has been committed because he is an
8 alcoholic likely to inflict physical harm on another, the
9 department shall apply for recommitment if after examination
10 it is determined that the likelihood still exists.

11 (6) A person recommitment under subsection (5) who has
12 not been discharged by the department before the end of the
13 90-day period shall be discharged at the expiration of that
14 period unless before expiration of the period the department
15 obtains a court order from the district court of the
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17 (1) for recommitment for a further period not to exceed 90
18 days. If a person has been committed because he is an
19 alcoholic likely to inflict physical harm on another, the
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22 recommitment orders under subsections (5) and (6) are
23 permitted.

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25 under subsection (5) or (6), the court shall fix a date for

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 9 court believes advisable. At the hearing the court shall
 10 proceed as provided in subsection (3).

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 12 department for treatment shall be discharged at any time
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19 (b) In case of an alcoholic committed on the grounds
 20 of incapacity and the need of treatment, that the incapacity
 21 no longer exists, further treatment will not be likely to
 22 bring about significant improvement in the person's
 23 condition, or treatment is no longer adequate or
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1 or recommitment is sought of his right to contest the
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 13 physician, the court shall employ a licensed physician.

14 (10) If a private treatment facility agrees with the
 15 request of a competent patient or his parent, sibling, adult
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 17 department may transfer him to the private treatment
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19 (11) A person committed under this section may at any
 20 time seek to be discharged from commitment by writ of habeas
 21 corpus or other appropriate means.

22 (12) The venue for proceedings under this section is
 23 the place in which person to be committed resides or is
 24 present."

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Approved by Comm. On Human Services

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4 *Ream Bengtson Mols*
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 2 application, be represented by counsel at every stage of any
 3 proceedings relating to his commitment and recommitment, and
 4 have counsel appointed by the court or provided by the court
 5 if he wants the assistance of counsel and is unable to
 6 obtain counsel. If the court believes that the person needs
 7 the assistance of counsel, the court shall require, by
 8 appointment if necessary, counsel for him regardless of his
 9 wishes. The person whose commitment or recommitment is
 10 sought shall be informed of his right to be examined by a
 11 licensed physician of his choice. If the person is unable to
 12 obtain a licensed physician and requests examination by a
 13 physician, the court shall employ a licensed physician.

14 (10) If a private treatment facility agrees with the
 15 request of a competent patient or his parent, sibling, adult
 16 child, or guardian to accept the patient for treatment, the
 17 department may transfer him to the private treatment
 18 facility.

19 (11) A person committed under this section may at any
 20 time seek to be discharged from commitment by writ of habeas
 21 corpus or other appropriate means.

22 (12) The venue for proceedings under this section is
 23 the place in which person to be committed resides or is
 24 present."

-End-