

SENATE BILL NO. 267

INTRODUCED BY ETCHART, BOYLAN

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE SENATE

January 24, 1983	Introduced and referred to Committee on State Administration.
February 8, 1983	Committee recommend bill do pass as amended. Report adopted.
February 9, 1983	Bill printed and placed on members' desks.
February 10, 1983	Second reading, pass consideration.
February 11, 1983	Second reading, do pass.
February 12, 1983	Correctly engrossed.
February 14, 1983	Third reading, passed. Ayes, 44; Noes, 5. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Committee on State Administration.
March 19, 1983	Committee recommend bill be concurred in. Report adopted.
March 22, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in.

IN THE SENATE

March 24, 1983

Returned to Senate. Sent to
enrolling.

Reported correctly enrolled.

FIRST READING

MISSING

STATE OF MONTANA

REQUEST NO. 234-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 268 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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:

Senate Bill 268 is an act to consolidate the administration of certain benefits provided in the volunteer firefighters' compensation act under the Public Employees' Retirement Board.

COMMENTS:

No dollar estimates are presented. The bill represents a minor change in administrative policy. No additional FTE's or significant operating expenses will be required for the Public Employees' Retirement Division.

This bill does not appear to cause any fiscal impact on the Worker's Compensation Division. The division currently handles minimal volunteer firefighters' compensation claims activity and makes no charge to the fund for their administrative efforts.

FISCAL NOTE 8:FF/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-83

both civil and criminal work."

Section 2. Section 46-14-202, MCA, is amended to read:

"46-14-202. Psychiatric examination of defendant. (1)

If the defendant or his counsel files a written notice of his intent to rely on a mental disease or defect under 46-14-201 or raises the issue of his fitness to proceed, the court shall appoint at least one qualified psychiatrist or shall request the superintendent of ~~Worm-Springs the Montana~~ state hospital to designate at least one qualified psychiatrist, which designation may be or include himself, to examine and report upon the mental condition of the defendant.

(2) The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period of not exceeding 60 days or such longer period as the court determines to be necessary for the purpose and may direct that a qualified psychiatrist retained by the defendant be permitted to witness and participate in the examination.

(3) In the examination any method may be employed which is accepted by the medical profession for the examination of those alleged to be suffering from mental disease or defect."

Section 3. Section 46-14-213, MCA, is amended to read:

"46-14-213. Psychiatric testimony upon trial. (1) Upon

the trial, any psychiatrist who reported under 46-14-202 and 46-14-203 may be called as a witness by the prosecution or by the defense. If the issue is being tried before a jury, the jury may not be informed that the psychiatrist was designated by the court or by the superintendent of ~~Worm Springs the Montana~~ state hospital. Both the prosecution and the defense may summon any other qualified psychiatrist or other expert to testify, but no one who has not examined the defendant is competent to testify to an expert opinion with respect to the mental condition of the defendant, as distinguished from the validity of the procedure followed by or the general scientific propositions stated by another witness.

(2) When a psychiatrist or other expert who has examined the defendant testifies concerning the defendant's mental condition, he may make a statement as to the nature of his examination, his diagnosis of the mental condition of the defendant at the time of the commission of the offense charged, and his opinion as to the ability of the defendant to have a particular state of mind which is an element of the offense charged. The expert may make any explanation reasonably serving to clarify his diagnosis and opinion and may be cross-examined as to any matter bearing on his competency or credibility or the validity of his diagnosis or opinion."

Approved by Committee
on State Administration

SENATE BILL NO. 267

INTRODUCED BY ETCHART, BOYLAN

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE NAME OF THE INSTITUTIONS AT WARM SPRINGS AND GALEN TO THE MONTANA STATE HOSPITAL; ~~CLARIFYING THE FUNCTIONS OF THE HOSPITAL;~~
~~AND ELIMINATING THE JUVENILE RECEPTION AND EVALUATION~~
~~CENTERS~~; AMENDING SECTIONS 7-32-2144, 46-14-202, 46-14-213, 46-14-301 THROUGH 46-14-304, 46-19-202, 50-17-104, 53-1-104, 53-1-202, 53-1-402, 53-6-301 THROUGH 53-6-304, 53-20-214, 53-21-102, 53-21-202, 53-21-203, 53-21-401, 53-21-402, 53-21-411, 53-21-412, AND 53-30-211, MCA; REPEALING SECTIONS 53-21-301, 53-21-302, AND 53-30-201, MCA; AND INSTRUCTING THE CODE COMMISSIONER TO MAKE PROPER CHANGES IN MATERIAL ENACTED BY THE 48TH LEGISLATURE."

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

Section 1. Section 7-32-2144, MCA, is amended to read:

"7-32-2144. Mileage and expenses of sheriff for delivery of prisoners and mentally ill persons. (1) A sheriff delivering prisoners at the state prison or a juvenile correctional facility or mentally ill persons at the Warm--Springs Montana state hospital or other mental health facility receives actual expenses necessarily

incurred in their transportation. The expenses include the expenses of the sheriff in going to and returning from the institution. The sheriff shall take vouchers for every item of expense. The amount of these expenses, as shown by the vouchers when presented by the sheriff, shall be audited and allowed by the attorney general or by the board of county commissioners, as the case may be, and paid out of the same money and in the same manner as are other expense claims against the state or counties. In determining the actual expense if travel is by a privately owned vehicle, the mileage rate shall be allowed as provided in subsection (2). No other or further compensation may be received by sheriffs for such expenses.

(2) Unless otherwise provided, while in the discharge of his duties, both civil and criminal, the sheriff receives a mileage allowance as provided in 2-18-503. The sheriff shall also be reimbursed for actual and necessarily incurred expenses for transporting, lodging, and feeding persons ordered by the court as provided in 2-18-501 through 2-18-503. The county is not liable for and the board of county commissioners may not pay for any claim of the sheriff or other officer for any other expenses incurred in travel or for subsistence in cases where mileage is allowed under this section, the fees for mileage named in this section being in full for all such traveling expenses in

1 in a report to the court by which the person was committed
2 and shall send a copy of the application and report to the
3 county attorney of the county from which the defendant was
4 committed.

5 (2) The court shall then appoint at least two
6 qualified psychiatrists to examine the person and to report
7 their opinion as to his mental condition within 60 days or a
8 longer period which the court determines to be necessary for
9 the purpose. To facilitate the examinations and the
10 proceedings thereon, the court may have the person confined
11 in any institution located near the place where the court
12 sits which may hereafter be designated by the superintendent
13 of Warm--Springs the Montana state hospital as suitable for
14 the temporary detention of irresponsible persons.

15 (3) If the court is satisfied by the report filed
16 under subsection (1) of this section and the testimony of
17 the reporting psychiatrists which the court considers
18 necessary that the committed person may be discharged or
19 released on condition without danger to himself or others,
20 the court shall order his discharge or his release on
21 conditions which the court determines to be necessary.

22 (4) If the court is not satisfied, it shall promptly
23 order a hearing to determine whether the person may safely
24 be discharged or released. A hearing is considered a civil
25 proceeding, and the burden is upon the committed person to

1 prove by a preponderance of the evidence that he may safely
2 be discharged or released. According to the determination
3 of the court upon the hearing, the committed person shall
4 then be discharged or released on conditions which the court
5 determines to be necessary or shall be recommitted to the
6 custody of the superintendent of Warm--Springs the Montana
7 state hospital, subject to discharge or release only in
8 accordance with the procedures prescribed in this section
9 and 46-14-303."

10 Section 6. Section 46-14-303, MCA, is amended to read:
11 "46-14-303. Application for discharge or release by
12 committed person. A committed person may make application
13 for his discharge or release to the court by which he was
14 committed, and the procedure to be followed upon the
15 application is the same as that prescribed above in the case
16 of an application by the superintendent of Warm-Springs the
17 Montana state hospital. However, an application by a
18 committed person need not be considered until he has been
19 confined for a period of not less than 6 months from the
20 date of the order of commitment, and if the determination of
21 the court is adverse to the application, the person shall
22 not be permitted to file a further application until 1 year
23 has elapsed from the date of any preceding hearing on an
24 application for his release or discharge."

25 Section 7. Section 46-14-304, MCA, is amended to read:

Section 4. Section 46-14-301, MCA, is amended to read:

"46-14-301. Commitment upon finding of not guilty by reason of lack of mental state -- hearing to determine release or discharge. (1) When a defendant is found not guilty for the reason that due to a mental disease or defect he could not have a particular state of mind that is an essential element of the offense charged, the court shall order a predisposition investigation in accordance with 46-18-112 and 46-18-113, which must include an investigation of the present mental condition of the defendant. If the trial was by jury, the court shall hold a hearing to determine the appropriate disposition of the defendant. If the trial was by the court, the court may hold a hearing to obtain any additional testimony it considers necessary to determine the appropriate disposition of the defendant. In either case, the testimony and evidence presented at the trial shall be considered by the court in making its determination.

(2) The court, upon finding that the defendant may not be discharged or released without danger to others, shall order the defendant committed to the custody of the superintendent of Warm-Springs ~~the~~ Montana state hospital to be placed in an appropriate institution for custody, care, and treatment.

(3) A person committed to the custody of the

superintendent shall have a hearing within 180 days of his confinement to determine his present mental condition and whether he may be discharged or released without danger to others. The hearing shall be conducted by the court which ordered the commitment unless that court transfers jurisdiction to the third judicial district. The court shall cause notice of the hearing to be served upon the person, his counsel, and the prosecuting attorney. Such a hearing shall be deemed a civil proceeding, and the burden shall be upon the defendant to prove by a preponderance of the evidence that he may be safely released.

(4) According to the determination of the court upon the hearing, the defendant shall be discharged or released on such conditions as the court determines to be necessary or shall be committed to the custody of the superintendent of the Warm-Springs ~~Montana~~ state hospital to be placed in an appropriate institution for custody, care, and treatment."

Section 5. Section 46-14-302, MCA, is amended to read:

"46-14-302. Discharge or release upon motion of superintendent. (1) If the superintendent of Warm-Springs ~~the~~ Montana state hospital believes that a person committed to his custody under 46-14-301 may be discharged or released on condition without danger to himself or others, he shall make application for the discharge or release of the person

- (b) State prison;
- (c) Mountain View school;
- (d) Pine Hills school;
- (e) Swan River youth forest camp;
- (f) Any county or city detention facility.

(2) The notification shall disclose:

- (a) the name of the person;
- (b) where the person is or will be located; and
- (c) the type of fire the person was involved in."

Section 11. Section 53-1-202, MCA, is amended to read:

"53-1-202. Institutions in department. (1) The

following institutions are in the department:

- (a) ~~Galen Montana~~ state hospital;
- (b) Montana veterans' home;
- (c) State prison;
- (d) Mountain View school;
- (e) Pine Hills school;
- (f) Boulder River school and hospital;

~~{g}--Warm-Springs-state-hospital~~

~~{h}{1}~~ Montana center for the aged;

~~{i}{1}~~ Swan River youth forest camp;

~~{j}{1}~~ Eastmont training center;

~~{k}{1}~~ Any other institution which provides care and services for juvenile delinquents, including but not limited to youth forest camps and juvenile reception and evaluation

centers.

(2) A state institution may not be moved, discontinued, or abandoned without prior consent of the legislature."

Section 12. Section 53-1-402, MCA, is amended to read:

"53-1-402. Residents subject to per diem and ancillary charges. The department shall collect and process per diem and ancillary payments for the care of residents in the following institutions:

(1) Warm-Springs Montana state hospital;

(2) Boulder River school and hospital;

~~{3}--Galen-state-hospital~~

~~{4}{1}~~ Montana veterans' home;

~~{5}{1}~~ Montana center for the aged; and

~~{6}{1}~~ Eastmont training center."

Section 13. Section 53-6-301, MCA, is amended to read:

"53-6-301. Location and primary function of hospital.

(1) The ~~institution~~ AGENCY ~~located---at~~ providing comprehensive health care services at Galen and Warm Springs, Montana, is the ~~Galen Montana~~ state hospital and as its primary function provides:

~~{a}--care and treatment of mentally ill persons;~~

~~{b}--DIAGNOSIS, CARE, EVALUATION, TREATMENT, REFERRAL, AND REHABILITATION OF PERSONS AFFECTED WITH CHEMICAL DEPENDENCY;~~

1 "46-14-304. Recommitment after conditional release. If
2 within 5 years after the conditional release of a committed
3 person the court determines after hearing evidence that the
4 conditions of release have not been fulfilled and that for
5 the safety of the person or for the safety of others his
6 conditional release should be revoked, the court shall
7 immediately order him to be recommitted to the
8 superintendent of Warm-Springs ~~the Montana~~ state hospital,
9 subject to discharge or release only in accordance with the
10 procedures prescribed in 46-14-302 and 46-14-303."

11 Section 8. Section 46-19-202, MCA, is amended to read:

12 "46-19-202. Proceedings following determination
13 regarding fitness. (1) If it is found that defendant is
14 mentally fit as provided in 46-19-201, the sheriff must
15 execute the judgment.

16 (2) If it is found that he lacks fitness, the
17 execution of judgment must be suspended and the court shall
18 commit him to the custody of the superintendent of Warm
19 Springs ~~the Montana~~ state hospital to be placed in an
20 appropriate institution of the department of institutions
21 for so long as the lack of fitness endures.

22 (3) When the court, on its own motion or upon
23 application of the superintendent of Warm--Springs ~~the~~
24 ~~Montana~~ state hospital, the county prosecuting officer, or
25 the defendant or his legal representative, determines after

1 a hearing, if a hearing is requested, that the defendant has
2 regained fitness to proceed, the sheriff shall be directed
3 by the court to carry out the execution. If, however, the
4 court is of the view that so much time has elapsed since the
5 commitment of the defendant that it would be unjust to
6 proceed with execution of the sentence, the court may
7 suspend the execution of the sentence and may order the
8 defendant to be discharged."

9 Section 9. Section 50-17-104, MCA, is amended to read:

10 "50-17-104. Facilities for diagnosis and treatment of
11 tuberculosis. (1) ~~Geten the~~ ~~Montana~~ state hospital shall
12 maintain facilities to carry out this chapter.

13 (2) The charge for care, treatment, and maintenance at
14 ~~Geten the~~ ~~Montana~~ state hospital shall be at the rate fixed
15 by law."

16 Section 10. Section 53-1-104, MCA, is amended to read:

17 "53-1-104. Release of arsonist -- notification of fire
18 marshal bureau. (1) Each of the following institutions or
19 facilities having the charge or custody of a person
20 convicted of arson or of a person acquitted of arson on the
21 ground of mental disease or defect shall give written
22 notification to the fire marshal bureau of the department of
23 justice whenever such a person is admitted or released by
24 it:

25 (a) Warm-Springs ~~Montana~~ state hospital;

1 for the aged, or the Boulder River school and hospital with
 2 the approval of the department of institutions if the
 3 department determines that the transfer will be in the best
 4 interests of the patient. Unless a medical or psychiatric
 5 emergency exists, 15 days prior to the transfer the
 6 department shall send notice of the proposed transfer to the
 7 patient's parent, guardian, or spouse or, if none is known,
 8 his nearest relative or friend. In the case of an emergency
 9 transfer, the department shall send notice within 72 hours
 10 after the time of transfer."

11 Section 16. Section 53-6-304, MCA, is amended to read:

12 "53-6-304. Alcoholic treatment center. (1) There is an
 13 alcoholic treatment center located at the ~~Galen~~ Montana
 14 state hospital. The admittance and discharge procedures for
 15 alcoholics are the same as for ill persons.

16 (2) As used in this section:

17 (a) "alcoholism" means a chronic illness or disorder
 18 of behavior characterized by repeated drinking of alcoholic
 19 beverages to an extent which endangers the drinker's health,
 20 interpersonal relations, or economic functioning or to an
 21 extent which endangers the public health, welfare, or
 22 safety;

23 (b) an "alcoholic" is a person suffering from the
 24 illness of alcoholism.

25 (3) The alcoholic treatment center shall provide care,

1 evaluation, treatment, referral, and rehabilitation to
 2 persons in Montana who are referred for the treatment of the
 3 illness of alcoholism or the complications thereof."

4 Section 17. Section 53-20-214, MCA, is amended to
 5 read:

6 "53-20-214. Certain transfers of funds authorized.
 7 Funds appropriated to the department of institutions, ~~Warm~~
 8 ~~Springs~~ Montana state hospital, ~~Galen-state-hospital~~, or
 9 Boulder River school and hospital may be transferred by
 10 budget amendment as provided in appropriation acts and with
 11 the approval of the governor to the department of social and
 12 rehabilitation services for comprehensive developmental
 13 disability systems if residents of any of those institutions
 14 are transferred to a comprehensive developmental disability
 15 system resulting in less expenditures at that institution
 16 than allowed by legislative appropriation."

17 Section 18. Section 53-21-102, MCA, is amended to
 18 read:

19 "53-21-102. Definitions. As used in this part, the
 20 following definitions apply:

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

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

~~(b)(1) care and treatment of institutional residents or clients of the department's community and residential programs who require acute hospital care or nursing care;~~

~~(b)(2) treatment of tuberculosis and silicosis (commonly called miner's consumption);~~

~~(b)(3) detoxification, diagnosis, care, treatment, and referral for, and rehabilitation of those persons who seek relief from the illness of alcoholism, disabling effects of alcohol and other chemical substances; and~~

~~(b)(4) contingent upon space and funds, the treatment of pulmonary diseases and other medical or organic disorders that the institution is directed to treat.~~

~~(2) If there are space and funds available, the hospital shall also treat the following:~~

~~(a) emphysema, bronchiectasis, carcinoma of the lung, and other diseases of the lung pertaining to pulmonary disorders;~~

~~(b) geriatric and senile patients afflicted with pulmonary disorders and patients who are residents of another state institution as defined in 53-1-101(4);~~

~~(2) The campus facility at Warm Springs, Montana, is the component designated as the mental health facility, as defined in 53-21-102, of the department of institutions for the care and treatment of mentally ill persons.~~

~~(3) The DESIGNATED campus facility FACILITIES at~~

~~Galen, Montana, is ARE the component COMPONENTS designated as the DEPARTMENT'S residential treatment facility FACILITIES of the department of institutions for those persons suffering from chemical dependency.~~

~~(4) The campus facility at Galen, Montana, licensed to provide acute hospital and intermediate nursing care, is the FACILITY component designated for the care and treatment of the medical and organic disorders described in this section."~~

Section 14. Section 53-6-302, MCA, is amended to read:

"53-6-302. Qualifications of superintendent. The superintendent of Galen the Montana state hospital shall be an individual with a minimum of 3 years' full-time hospital administration experience and who is either:

(1) a physician legally qualified to practice medicine in Montana; or

(2) a person with a master's degree in hospital administration, business, or in a health care- or human services-related field."

Section 15. Section 53-6-303, MCA, is amended to read:

"53-6-303. Transfer of patients from Galen to mental institution. A mentally retarded or mentally ill person residing at the Galen campus facility of the Montana state hospital may be transferred to the Warm Springs campus facility of the Montana state hospital, the Montana center

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

(15) "State hospital" means the ~~Worm--Springs~~ Montana state hospital."

Section 19. Section 53-21-202, MCA, is amended to read:

"53-21-202. Duties of department. The department shall:

(1) take cognizance of matters affecting the mental health of the citizens of the state;

(2) initiate preventive mental health activities of the statewide mental health programs, including but not limited to the implementation of mental health care and treatment, prevention, and research as can best be accomplished by community-centered services. Such means shall be utilized to initiate and operate these services in

cooperation with local agencies as established under this part.

(3) make scientific and medical research investigations relative to the incidence, cause, prevention, treatment, and care of the mentally ill;

(4) collect and disseminate information relating to mental health;

(5) prepare and maintain a comprehensive plan for the development of public mental health services in the state. The public mental health services shall include but not be limited to community comprehensive mental health centers, mental health clinics, traveling service units, and consultative and educational services.

(6) provide by regulations for the examination of persons who apply for examination or who are admitted either as inpatients or outpatients ~~into--Worm--Springs~~ to the ~~Montana~~ state hospital or other public mental health facilities;

(7) receive from agencies of the United States and other state agencies, persons or groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials, and contributions for the development of mental health services within the state;

(8) establish standards for public mental health

(3) "Department" means the department of institutions provided for in Title 2, chapter 15, part 23.

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

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

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

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

(8) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

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

(10) "Professional person" means:

(a) a medical doctor; or

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

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

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

(13) "Friend of respondent" means any person willing and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause shown, change its designation of the friend of respondent.

professionals to provide necessary medical services; and

(c) if possible, an institution or institutions of higher learning with educational programs in disciplines with relevance to the problems of aging."

Section 22. Section 53-21-402, MCA, is amended to read:

"53-21-402. Powers and duties of department of institutions. The department of institutions:

(1) shall contract with nonprofit corporations which demonstrate expertise in and the capability of providing rehabilitative and restorative programs for aged citizens for the operation and management of nursing homes established under this part;

(2) shall ensure that nursing homes established and operated under this part are in compliance with all applicable federal and state regulations;

(3) shall adopt rules for staffing requirements and the admission of patients;

(4) shall provide that geriatric residents of Warm Springs the Montana state hospital have first priority for admission to nursing homes established under this part;

(5) may accept grants, gifts, bequests, and contributions in money or property or any other form from individuals, corporations, associations, or federal, state, and local government agencies for the purposes of

establishing and operating nursing homes under this part."

Section 23. Section 53-21-411, MCA, is amended to read:

"53-21-411. Location and function of center. The institution located at Lewistown is the Montana center for the aged. The primary function of the center is the care and treatment of persons who have been admitted to Warm-Springs the Montana state hospital and subsequently transferred to the center."

Section 24. Section 53-21-412, MCA, is amended to read:

"53-21-412. Transfer of patients between Warm--Springs and--Galen-hospitals Montana state hospital and center. With the approval of the department of institutions, the Warm Springs Montana state hospital may transfer a patient to the center or from the center to the state hospital. ~~With the approval of the department, the state hospital may transfer a patient residing at the center to Galen state hospital.~~ Unless a medical or psychiatric emergency exists, 15 days prior to the transfer the department shall notify the patient's parent, guardian, or spouse or, if none is known, his nearest relative or friend. In the case of an emergency transfer, the department shall send notice within 72 hours after the time of transfer."

Section 25. Section 53-30-211, MCA, is amended to

1 facilities; and

2 (9) evaluate performance of public mental health
3 facilities in compliance with federal and state standards."

4 Section 20. Section 53-21-203, MCA, is amended to
5 read:

6 "53-21-203. Departmental contracts with mental health
7 corporations. (1) The department may enter into contracts
8 with regional mental health corporations for the purposes of
9 the prevention, diagnosis, and treatment of mental illness.
10 Under rules adopted by the department, mental health
11 corporations may be provided for directly by state agencies
12 or indirectly through contract or cooperative arrangements
13 with other agencies of government, regional or local,
14 private or public agencies, private professional persons, or
15 hospitals.

16 (2) State funds specifically appropriated for regional
17 mental health service contracts shall not exceed 50% of the
18 budget approved by the department. Furthermore, the
19 department may establish a system whereby funds appropriated
20 to the Warm-Springs Montana state hospital for patient care
21 may be transferred to the community mental health services
22 used to implement this part. If the patient load at Warm
23 Springs the Montana state hospital is reduced and these
24 patients become patients of a community mental health
25 service, a portion of the funds appropriated for Warm

1 Springs the Montana state hospital may be used to supplement
2 the regional budget. However, if those patients are returned
3 to Warm--Springs the Montana state hospital from the
4 community mental health services, these funds may revert
5 back to the Warm--Springs Montana state hospital. The
6 department shall establish rules to implement this
7 provision."

8 Section 21. Section 53-21-401, MCA, is amended to
9 read:

10 "53-21-401. Legislative intent. (1) It is the intent
11 of the legislature that geriatric patients at Warm-Springs
12 the Montana state hospital and geriatric residents of the
13 state who may in the future be placed at Warm-Springs the
14 Montana state hospital and who do not need intensive
15 psychiatric care receive care and treatment in nursing homes
16 located in community settings.

17 (2) It is the further intent of the legislature that
18 nursing homes providing such care and treatment be located
19 regionally so that the residents may be near their homes and
20 families.

21 (3) It is the further intent of the legislature that
22 these nursing homes shall be located in communities with:

23 (a) a labor pool large enough to ensure adequate and
24 qualified staffing;

25 (b) sufficient medical facilities and medical

1 read:

2 "53-30-211. Transfer of child to other facility or
3 institution -- notice. (1) The department of institutions
4 upon recommendation of the superintendent of a facility may
5 transfer a child resident in one of its juvenile facilities
6 to any other facility or institution under the jurisdiction
7 and control of the department.

8 (2) In the case of transfers of children in juvenile
9 facilities to Warm-Springs the ~~the~~ Montana state hospital or
10 Boulder River school and hospital and unless medical or
11 psychiatric emergency exists, 15 days prior to the transfer
12 the department shall send notice of the proposed transfer to
13 the parents or legal guardian of the child and to the
14 district court who committed the child. In the case of an
15 emergency transfer, the department shall send notice within
16 72 hours after the time of transfer."

17 NEW_SECTION. Section 26. Repealer. Sections
18 53-21-301, 53-21-302, and 53-30-201, MCA, are repealed.

19 NEW_SECTION. Section 27. Code commissioner
20 instruction. Whenever the term "Warm Springs state hospital"
21 or "Galen state hospital" appears in any material enacted by
22 the 48th legislature, whether in new or amended sections,
23 the code commissioner is instructed to change such reference
24 to "Montana state hospital" and make such other incidental
25 changes in grammar and punctuation as may be required.

-End-

1 SENATE BILL NO. 267

2 INTRODUCED BY ETCHART, BOYLAN

3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE NAME OF
6 THE INSTITUTIONS AT WARM SPRINGS AND GALEN TO THE MONTANA
7 STATE HOSPITAL; CLARIFYING THE FUNCTIONS OF THE HOSPITAL;
8 AND ELIMINATING THE JUVENILE RECEPTION AND EVALUATION
9 CENTER; AMENDING SECTIONS 7-32-2144, 46-14-202, 46-14-213,
10 46-14-301 THROUGH 46-14-304, 46-19-202, 50-17-104, 53-1-104,
11 53-1-202, 53-1-402, 53-6-301 THROUGH 53-6-304, 53-20-214,
12 53-21-102, 53-21-202, 53-21-203, 53-21-401, 53-21-402,
13 53-21-411, 53-21-412, AND 53-30-211, MCA; REPEALING SECTIONS
14 53-21-301, 53-21-302, AND 53-30-201, MCA; AND INSTRUCTING
15 THE CODE COMMISSIONER TO MAKE PROPER CHANGES IN MATERIAL
16 ENACTED BY THE 48TH LEGISLATURE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Section 7-32-2144, MCA, is amended to read:

20 "7-32-2144. Mileage and expenses of sheriff for
21 delivery of prisoners and mentally ill persons. (1) A
22 sheriff delivering prisoners at the state prison or a
23 juvenile correctional facility or mentally ill persons at
24 the Warm--Springs Montana state hospital or other mental
25 health facility receives actual expenses necessarily

THIRD READING

There are no changes in S B 267 second reading (yellow) amended.
please refer to it for complete text.

SB267

1 SENATE BILL NO. 267

2 INTRODUCED BY ETCHART, BOYLAN

3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE NAME OF
6 THE INSTITUTIONS AT WARM SPRINGS AND GALEN TO THE MONTANA
7 STATE HOSPITAL; ~~CLARIFYING THE FUNCTIONS OF THE HOSPITAL;~~
8 ~~AND ELIMINATING THE JUVENILE RECEPTION AND EVALUATION~~
9 ~~CENTER~~; AMENDING SECTIONS 7-32-2144, 46-14-202, 46-14-213,
10 46-14-301 THROUGH 46-14-304, 46-19-202, 50-17-104, 53-1-104,
11 53-1-202, 53-1-402, 53-6-301 THROUGH 53-6-304, 53-20-214,
12 53-21-102, 53-21-202, 53-21-203, 53-21-401, 53-21-402,
13 53-21-411, 53-21-412, AND 53-30-211, MCA; REPEALING SECTIONS
14 53-21-301, 53-21-302, AND 53-30-201, MCA; AND INSTRUCTING
15 THE CODE COMMISSIONER TO MAKE PROPER CHANGES IN MATERIAL
16 ENACTED BY THE 48TH LEGISLATURE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Section 7-32-2144, MCA, is amended to read:

20 "7-32-2144. Mileage and expenses of sheriff for
21 delivery of prisoners and mentally ill persons. (1) A
22 sheriff delivering prisoners at the state prison or a
23 juvenile correctional facility or mentally ill persons at
24 the ~~Warm--Springs Montana~~ state hospital or other mental
25 health facility receives actual expenses necessarily

1 incurred in their transportation. The expenses include the
2 expenses of the sheriff in going to and returning from the
3 institution. The sheriff shall take vouchers for every item
4 of expense. The amount of these expenses, as shown by the
5 vouchers when presented by the sheriff, shall be audited and
6 allowed by the attorney general or by the board of county
7 commissioners, as the case may be, and paid out of the same
8 money and in the same manner as are other expense claims
9 against the state or counties. In determining the actual
10 expense if travel is by a privately owned vehicle, the
11 mileage rate shall be allowed as provided in subsection (2).
12 No other or further compensation may be received by sheriffs
13 for such expenses.

14 (2) Unless otherwise provided, while in the discharge
15 of his duties, both civil and criminal, the sheriff receives
16 a mileage allowance as provided in 2-18-503. The sheriff
17 shall also be reimbursed for actual and necessarily incurred
18 expenses for transporting, lodging, and feeding persons
19 ordered by the court as provided in 2-18-501 through
20 2-18-503. The county is not liable for and the board of
21 county commissioners may not pay for any claim of the
22 sheriff or other officer for any other expenses incurred in
23 travel or for subsistence in cases where mileage is allowed
24 under this section, the fees for mileage named in this
25 section being in full for all such traveling expenses in

1 both civil and criminal work."

2 Section 2. Section 46-14-202, MCA, is amended to read:

3 "46-14-202. Psychiatric examination of defendant. (1)
4 If the defendant or his counsel files a written notice of
5 his intent to rely on a mental disease or defect under
6 46-14-201 or raises the issue of his fitness to proceed, the
7 court shall appoint at least one qualified psychiatrist or
8 shall request the superintendent of ~~Warm-Springs the Montana~~
9 state hospital to designate at least one qualified
10 psychiatrist, which designation may be or include himself,
11 to examine and report upon the mental condition of the
12 defendant.

13 (2) The court may order the defendant to be committed
14 to a hospital or other suitable facility for the purpose of
15 the examination for a period of not exceeding 60 days or
16 such longer period as the court determines to be necessary
17 for the purpose and may direct that a qualified psychiatrist
18 retained by the defendant be permitted to witness and
19 participate in the examination.

20 (3) In the examination any method may be employed
21 which is accepted by the medical profession for the
22 examination of those alleged to be suffering from mental
23 disease or defect."

24 Section 3. Section 46-14-213, MCA, is amended to read:

25 "46-14-213. Psychiatric testimony upon trial. (1) Upon

1 the trial, any psychiatrist who reported under 46-14-202 and
2 46-14-203 may be called as a witness by the prosecution or
3 by the defense. If the issue is being tried before a jury,
4 the jury may not be informed that the psychiatrist was
5 designated by the court or by the superintendent of ~~Warm~~
6 ~~Springs the Montana~~ state hospital. Both the prosecution
7 and the defense may summon any other qualified psychiatrist
8 or other expert to testify, but no one who has not examined
9 the defendant is competent to testify to an expert opinion
10 with respect to the mental condition of the defendant, as
11 distinguished from the validity of the procedure followed by
12 or the general scientific propositions stated by another
13 witness.

14 (2) When a psychiatrist or other expert who has
15 examined the defendant testifies concerning the defendant's
16 mental condition, he may make a statement as to the nature
17 of his examination, his diagnosis of the mental condition of
18 the defendant at the time of the commission of the offense
19 charged, and his opinion as to the ability of the defendant
20 to have a particular state of mind which is an element of
21 the offense charged. The expert may make any explanation
22 reasonably serving to clarify his diagnosis and opinion and
23 may be cross-examined as to any matter bearing on his
24 competency or credibility or the validity of his diagnosis
25 or opinion."

Section 4. Section 46-14-301, MCA, is amended to read:

"46-14-301. Commitment upon finding of not guilty by reason of lack of mental state -- hearing to determine release or discharge. (1) When a defendant is found not guilty for the reason that due to a mental disease or defect he could not have a particular state of mind that is an essential element of the offense charged, the court shall order a predisposition investigation in accordance with 46-18-112 and 46-18-113, which must include an investigation of the present mental condition of the defendant. If the trial was by jury, the court shall hold a hearing to determine the appropriate disposition of the defendant. If the trial was by the court, the court may hold a hearing to obtain any additional testimony it considers necessary to determine the appropriate disposition of the defendant. In either case, the testimony and evidence presented at the trial shall be considered by the court in making its determination.

(2) The court, upon finding that the defendant may not be discharged or released without danger to others, shall order the defendant committed to the custody of the superintendent of Warm-Springs the Montana state hospital to be placed in an appropriate institution for custody, care, and treatment.

(3) A person committed to the custody of the

superintendent shall have a hearing within 180 days of his confinement to determine his present mental condition and whether he may be discharged or released without danger to others. The hearing shall be conducted by the court which ordered the commitment unless that court transfers jurisdiction to the third judicial district. The court shall cause notice of the hearing to be served upon the person, his counsel, and the prosecuting attorney. Such a hearing shall be deemed a civil proceeding, and the burden shall be upon the defendant to prove by a preponderance of the evidence that he may be safely released.

(4) According to the determination of the court upon the hearing, the defendant shall be discharged or released on such conditions as the court determines to be necessary or shall be committed to the custody of the superintendent of the Warm-Springs Montana state hospital to be placed in an appropriate institution for custody, care, and treatment."

Section 5. Section 46-14-302, MCA, is amended to read:

"46-14-302. Discharge or release upon motion of superintendent. (1) If the superintendent of Warm-Springs the Montana state hospital believes that a person committed to his custody under 46-14-301 may be discharged or released on condition without danger to himself or others, he shall make application for the discharge or release of the person

1 in a report to the court by which the person was committed
2 and shall send a copy of the application and report to the
3 county attorney of the county from which the defendant was
4 committed.

5 (2) The court shall then appoint at least two
6 qualified psychiatrists to examine the person and to report
7 their opinion as to his mental condition within 60 days or a
8 longer period which the court determines to be necessary for
9 the purpose. To facilitate the examinations and the
10 proceedings thereon, the court may have the person confined
11 in any institution located near the place where the court
12 sits which may hereafter be designated by the superintendent
13 of Warm-Springs ~~the Montana~~ state hospital as suitable for
14 the temporary detention of irresponsible persons.

15 (3) If the court is satisfied by the report filed
16 under subsection (1) of this section and the testimony of
17 the reporting psychiatrists which the court considers
18 necessary that the committed person may be discharged or
19 released on condition without danger to himself or others,
20 the court shall order his discharge or his release on
21 conditions which the court determines to be necessary.

22 (4) If the court is not satisfied, it shall promptly
23 order a hearing to determine whether the person may safely
24 be discharged or released. A hearing is considered a civil
25 proceeding, and the burden is upon the committed person to

1 prove by a preponderance of the evidence that he may safely
2 be discharged or released. According to the determination
3 of the court upon the hearing, the committed person shall
4 then be discharged or released on conditions which the court
5 determines to be necessary or shall be recommitted to the
6 custody of the superintendent of Warm-Springs ~~the Montana~~
7 state hospital, subject to discharge or release only in
8 accordance with the procedures prescribed in this section
9 and 46-14-303."

10 Section 6. Section 46-14-303, MCA, is amended to read:

11 "46-14-303. Application for discharge or release by
12 committed person. A committed person may make application
13 for his discharge or release to the court by which he was
14 committed, and the procedure to be followed upon the
15 application is the same as that prescribed above in the case
16 of an application by the superintendent of Warm-Springs ~~the~~
17 ~~Montana~~ state hospital. However, an application by a
18 committed person need not be considered until he has been
19 confined for a period of not less than 6 months from the
20 date of the order of commitment, and if the determination of
21 the court is adverse to the application, the person shall
22 not be permitted to file a further application until 1 year
23 has elapsed from the date of any preceding hearing on an
24 application for his release or discharge."

25 Section 7. Section 46-14-304, MCA, is amended to read:

1 "46-14-304. Recommitment after conditional release. If
2 within 5 years after the conditional release of a committed
3 person the court determines after hearing evidence that the
4 conditions of release have not been fulfilled and that for
5 the safety of the person or for the safety of others his
6 conditional release should be revoked, the court shall
7 immediately order him to be recommitted to the
8 superintendent of ~~Warm-Springs~~ the Montana state hospital,
9 subject to discharge or release only in accordance with the
10 procedures prescribed in 46-14-302 and 46-14-303."

11 Section 8. Section 46-19-202, MCA, is amended to read:

12 "46-19-202. Proceedings following determination
13 regarding fitness. (1) If it is found that defendant is
14 mentally fit as provided in 46-19-201, the sheriff must
15 execute the judgment.

16 (2) If it is found that he lacks fitness, the
17 execution of judgment must be suspended and the court shall
18 commit him to the custody of the superintendent of ~~Warm~~
19 ~~Springs~~ the Montana state hospital to be placed in an
20 appropriate institution of the department of institutions
21 for so long as the lack of fitness endures.

22 (3) When the court, on its own motion or upon
23 application of the superintendent of ~~Warm--Springs~~ the
24 ~~Montana~~ state hospital, the county prosecuting officer, or
25 the defendant or his legal representative, determines after

1 a hearing, if a hearing is requested, that the defendant has
2 regained fitness to proceed, the sheriff shall be directed
3 by the court to carry out the execution. If, however, the
4 court is of the view that so much time has elapsed since the
5 commitment of the defendant that it would be unjust to
6 proceed with execution of the sentence, the court may
7 suspend the execution of the sentence and may order the
8 defendant to be discharged."

9 Section 9. Section 50-17-104, MCA, is amended to read:

10 "50-17-104. Facilities for diagnosis and treatment of
11 tuberculosis. (1) ~~Given the~~ the Montana state hospital shall
12 maintain facilities to carry out this chapter.

13 (2) The charge for care, treatment, and maintenance at
14 ~~Given the~~ the Montana state hospital shall be at the rate fixed
15 by law."

16 Section 10. Section 53-1-104, MCA, is amended to read:

17 "53-1-104. Release of arsonist -- notification of fire
18 marshal bureau. (1) Each of the following institutions or
19 facilities having the charge or custody of a person
20 convicted of arson or of a person acquitted of arson on the
21 ground of mental disease or defect shall give written
22 notification to the fire marshal bureau of the department of
23 justice whenever such a person is admitted or released by
24 it:

25 (a) ~~Warm-Springs~~ Montana state hospital;

1 (b) State prison;
 2 (c) Mountain View school;
 3 (d) Pine Hills school;
 4 (e) Swan River youth forest camp;
 5 (f) Any county or city detention facility.
 6 (2) The notification shall disclose:
 7 (a) the name of the person;
 8 (b) where the person is or will be located; and
 9 (c) the type of fire the person was involved in."
 10 Section 11. Section 53-1-202, MCA, is amended to read:
 11 "53-1-202. Institutions in department. (1) The
 12 following institutions are in the department:
 13 (a) ~~Geten~~ Montana state hospital;
 14 (b) Montana veterans' home;
 15 (c) State prison;
 16 (d) Mountain View school;
 17 (e) Pine Hills school;
 18 (f) Boulder River school and hospital;
 19 ~~(g) Warm-Springs-state-hospital;~~
 20 ~~(h) (g) Montana center for the aged;~~
 21 ~~(i) (h) Swan River youth forest camp;~~
 22 ~~(j) (i) Eastmont training center;~~
 23 ~~(k) (j) Any other institution which provides care and~~
 24 ~~services for juvenile delinquents, including but not limited~~
 25 ~~to youth forest camps and juvenile reception and evaluation~~

1 centers.

2 (2) A state institution may not be moved,
 3 discontinued, or abandoned without prior consent of the
 4 legislature."

5 Section 12. Section 53-1-402, MCA, is amended to read:
 6 "53-1-402. Residents subject to per diem and ancillary
 7 charges. The department shall collect and process per diem
 8 and ancillary payments for the care of residents in the
 9 following institutions:

- 10 (1) Warm-Springs Montana state hospital;
 11 (2) Boulder River school and hospital;
 12 ~~(3) Galen-state-hospital;~~
 13 ~~(4) (3) Montana veterans' home;~~
 14 ~~(5) (4) Montana center for the aged; and~~
 15 ~~(6) (5) Eastmont training center."~~

16 Section 13. Section 53-6-301, MCA, is amended to read:
 17 "53-6-301. Location and primary function of hospital.
 18 (1) The institution ~~AGENCY located---at~~ ~~providing~~
 19 ~~comprehensive health care services at~~ Galen ~~and~~ ~~Warm~~
 20 ~~Springs, Montana~~ is the ~~Geten~~ Montana state hospital and as
 21 its primary function provides:

- 22 ~~(a) care and treatment of mentally ill persons;~~
 23 ~~(b) DIAGNOSIS, CARE, EVALUATION, TREATMENT, REFERRAL,~~
 24 ~~AND REHABILITATION OF PERSONS AFFLICTED WITH CHEMICAL~~
 25 ~~DEPENDENCY;~~

(b)(1) care and treatment of institutional residents or clients of the department's community and residential programs who require acute hospital care or nursing care;

(c)(1) treatment of tuberculosis and silicosis (commonly called miner's consumption);

(b)(1)(E) detoxification, diagnosis, ~~care~~ treatment, and ~~referral~~ ~~for~~ ~~and~~ ~~rehabilitation~~ of those persons who seek relief from the ~~illness~~ ~~of~~ ~~alcoholism~~ disabling effects of alcohol and other chemical substances; and

(f)(1) contingent upon space and funds, the treatment of pulmonary diseases and other medical or organic disorders ~~that the institution is directed to treat.~~

(2) ~~if there are space and funds available, the hospital shall also treat the following:~~

(a) ~~emphysema, bronchiectasis, carcinoma of the lung, and other diseases of the lung pertaining to pulmonary disorders;~~

(b) ~~geriatric and senile patients afflicted with pulmonary disorders and patients who are residents of another state institution as defined in 53-1-101(4);~~

(2) The campus facility at Warm Springs, Montana, is the component designated as the mental health facility, as defined in 53-21-102, of the department of institutions for the care and treatment of mentally ill persons.

(3) The DESIGNATED campus facility FACILITIES at

Galen, Montana, is ARE the component COMPONENTS designated as the DEPARTMENT'S residential treatment facility FACILITIES of the department of institutions for those persons suffering from chemical dependency.

(4) The campus facility at Galen, Montana, licensed to provide acute hospital and intermediate nursing care, is the FACILITY component designated for the care and treatment of the medical and organic disorders described in this section.

Section 14. Section 53-6-302, MCA, is amended to read:

"53-6-302. Qualifications of superintendent. The superintendent of Galen the Montana state hospital shall be an individual with a minimum of 3 years' full-time hospital administration experience and who is either:

(1) a physician legally qualified to practice medicine in Montana; or

(2) a person with a master's degree in hospital administration, business, or in a health care or human services-related field."

Section 15. Section 53-6-303, MCA, is amended to read:

"53-6-303. Transfer of patients from Galen to mental institution. A mentally retarded or mentally ill person residing at the Galen campus facility of the Montana state hospital may be transferred to the Warm Springs campus facility of the Montana state hospital, the Montana center

1 for the aged, or the Boulder River school and hospital with
 2 the approval of the department of institutions if the
 3 department determines that the transfer will be in the best
 4 interests of the patient. Unless a medical or psychiatric
 5 emergency exists, 15 days prior to the transfer the
 6 department shall send notice of the proposed transfer to the
 7 patient's parent, guardian, or spouse or, if none is known,
 8 his nearest relative or friend. In the case of an emergency
 9 transfer, the department shall send notice within 72 hours
 10 after the time of transfer."

11 Section 16. Section 53-6-304, MCA, is amended to read:

12 "53-6-304. Alcoholic treatment center. (1) There is an
 13 alcoholic treatment center located at the ~~Galen~~ Montana
 14 state hospital. The admittance and discharge procedures for
 15 alcoholics are the same as for ill persons.

16 (2) As used in this section:

17 (a) "alcoholism" means a chronic illness or disorder
 18 of behavior characterized by repeated drinking of alcoholic
 19 beverages to an extent which endangers the drinker's health,
 20 interpersonal relations, or economic functioning or to an
 21 extent which endangers the public health, welfare, or
 22 safety;

23 (b) an "alcoholic" is a person suffering from the
 24 illness of alcoholism.

25 (3) The alcoholic treatment center shall provide care,

1 evaluation, treatment, referral, and rehabilitation to
 2 persons in Montana who are referred for the treatment of the
 3 illness of alcoholism or the complications thereof."

4 Section 17. Section 53-20-214, MCA, is amended to
 5 read:

6 "53-20-214. Certain transfers of funds authorized.
 7 Funds appropriated to the department of institutions, Warm
 8 Springs Montana state hospital, ~~Galen-state-hospital~~, or
 9 Boulder River school and hospital may be transferred by
 10 budget amendment as provided in appropriation acts and with
 11 the approval of the governor to the department of social and
 12 rehabilitation services for comprehensive developmental
 13 disability systems if residents of any of those institutions
 14 are transferred to a comprehensive developmental disability
 15 system resulting in less expenditures at that institution
 16 than allowed by legislative appropriation."

17 Section 18. Section 53-21-102, MCA, is amended to
 18 read:

19 "53-21-102. Definitions. As used in this part, the
 20 following definitions apply:

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

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

(3) "Department" means the department of institutions provided for in Title 2, chapter 15, part 23.

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

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

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

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

(8) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

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

(10) "Professional person" means:

(a) a medical doctor; or

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

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

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

(13) "Friend of respondent" means any person willing and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause shown, change its designation of the friend of respondent.

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

(15) "State hospital" means the ~~Warm--Springs Montana~~ state hospital."

Section 19. Section 53-21-202, MCA, is amended to read:

"53-21-202. Duties of department. The department shall:

(1) take cognizance of matters affecting the mental health of the citizens of the state;

(2) initiate preventive mental health activities of the statewide mental health programs, including but not limited to the implementation of mental health care and treatment, prevention, and research as can best be accomplished by community-centered services. Such means shall be utilized to initiate and operate these services in

cooperation with local agencies as established under this part.

(3) make scientific and medical research investigations relative to the incidence, cause, prevention, treatment, and care of the mentally ill;

(4) collect and disseminate information relating to mental health;

(5) prepare and maintain a comprehensive plan for the development of public mental health services in the state. The public mental health services shall include but not be limited to community comprehensive mental health centers, mental health clinics, traveling service units, and consultative and educational services.

(6) provide by regulations for the examination of persons who apply for examination or who are admitted either as inpatients or outpatients ~~into--Warm--Springs to the~~ Montana state hospital or other public mental health facilities;

(7) receive from agencies of the United States and other state agencies, persons or groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials, and contributions for the development of mental health services within the state;

(8) establish standards for public mental health

1 facilities; and

2 (9) evaluate performance of public mental health
3 facilities in compliance with federal and state standards."

4 Section 20. Section 53-21-203, MCA, is amended to
5 read:

6 "53-21-203. Departmental contracts with mental health
7 corporations. (1) The department may enter into contracts
8 with regional mental health corporations for the purposes of
9 the prevention, diagnosis, and treatment of mental illness.
10 Under rules adopted by the department, mental health
11 corporations may be provided for directly by state agencies
12 or indirectly through contract or cooperative arrangements
13 with other agencies of government, regional or local,
14 private or public agencies, private professional persons, or
15 hospitals.

16 (2) State funds specifically appropriated for regional
17 mental health service contracts shall not exceed 50% of the
18 budget approved by the department. Furthermore, the
19 department may establish a system whereby funds appropriated
20 to the Warm-Springs Montana state hospital for patient care
21 may be transferred to the community mental health services
22 used to implement this part. If the patient load at Warm
23 Springs the Montana state hospital is reduced and these
24 patients become patients of a community mental health
25 service, a portion of the funds appropriated for Warm

1 Springs the Montana state hospital may be used to supplement
2 the regional budget. However, if those patients are returned
3 to Warm--Springs the Montana state hospital from the
4 community mental health services, these funds may revert
5 back to the Warm--Springs Montana state hospital. The
6 department shall establish rules to implement this
7 provision."

8 Section 21. Section 53-21-401, MCA, is amended to
9 read:

10 "53-21-401. Legislative intent. (1) It is the intent
11 of the legislature that geriatric patients at Warm-Springs
12 the Montana state hospital and geriatric residents of the
13 state who may in the future be placed at Warm-Springs the
14 Montana state hospital and who do not need intensive
15 psychiatric care receive care and treatment in nursing homes
16 located in community settings.

17 (2) It is the further intent of the legislature that
18 nursing homes providing such care and treatment be located
19 regionally so that the residents may be near their homes and
20 families.

21 (3) It is the further intent of the legislature that
22 these nursing homes shall be located in communities with:

23 (a) a labor pool large enough to ensure adequate and
24 qualified staffing;

25 (b) sufficient medical facilities and medical

1 professionals to provide necessary medical services; and

2 (c) if possible, an institution or institutions of
3 higher learning with educational programs in disciplines
4 with relevance to the problems of aging."

5 Section 22. Section 53-21-402, MCA, is amended to
6 read:

7 "53-21-402. Powers and duties of department of
8 institutions. The department of institutions:

9 (1) shall contract with nonprofit corporations which
10 demonstrate expertise in and the capability of providing
11 rehabilitative and restorative programs for aged citizens
12 for the operation and management of nursing homes
13 established under this part;

14 (2) shall ensure that nursing homes established and
15 operated under this part are in compliance with all
16 applicable federal and state regulations;

17 (3) shall adopt rules for staffing requirements and
18 the admission of patients;

19 (4) shall provide that geriatric residents of Warm
20 Springs ~~the Montana~~ state hospital have first priority for
21 admission to nursing homes established under this part;

22 (5) may accept grants, gifts, bequests, and
23 contributions in money or property or any other form from
24 individuals, corporations, associations, or federal, state,
25 and local government agencies for the purposes of

1 establishing and operating nursing homes under this part."

2 Section 23. Section 53-21-411, MCA, is amended to
3 read:

4 "53-21-411. Location and function of center. The
5 institution located at Lewistown is the Montana center for
6 the aged. The primary function of the center is the care and
7 treatment of persons who have been admitted to Warm-Springs
8 ~~the Montana~~ state hospital and subsequently transferred to
9 the center."

10 Section 24. Section 53-21-412, MCA, is amended to
11 read:

12 "53-21-412. Transfer of patients between Warm--Springs
13 ~~and--Galen-hospitals Montana state hospital~~ and center. With
14 the approval of the department of institutions, the Warm
15 Springs ~~Montana~~ state hospital may transfer a patient to the
16 center or from the center to the state hospital. ~~With-the~~
17 ~~approval-of-the-department-the-state-hospital-may-transfer~~
18 ~~a-patient-residing-at-the-center-to-Galen-state-hospital~~
19 Unless a medical or psychiatric emergency exists, 15 days
20 prior to the transfer the department shall notify the
21 patient's parent, guardian, or spouse or, if none is known,
22 his nearest relative or friend. In the case of an emergency
23 transfer, the department shall send notice within 72 hours
24 after the time of transfer."

25 Section 25. Section 53-30-211, MCA, is amended to

1 read:

2 "53-30-211. Transfer of child to other facility or
3 institution -- notice. (1) The department of institutions
4 upon recommendation of the superintendent of a facility may
5 transfer a child resident in one of its juvenile facilities
6 to any other facility or institution under the jurisdiction
7 and control of the department.

8 (2) In the case of transfers of children in juvenile
9 facilities to Warm-Springs ~~the~~ Montana state hospital or
10 Boulder River school and hospital and unless medical or
11 psychiatric emergency exists, 15 days prior to the transfer
12 the department shall send notice of the proposed transfer to
13 the parents or legal guardian of the child and to the
14 district court who committed the child. In the case of an
15 emergency transfer, the department shall send notice within
16 72 hours after the time of transfer."

17 **NEW_SECTION.** Section 26. Repealer. Sections
18 53-21-301, 53-21-302, and 53-30-201, MCA, are repealed.

19 **NEW_SECTION.** Section 27. Code commissioner
20 instruction. Whenever the term "Warm Springs state hospital"
21 or "Galen state hospital" appears in any material enacted by
22 the 48th legislature, whether in new or amended sections,
23 the code commissioner is instructed to change such reference
24 to "Montana state hospital" and make such other incidental
25 changes in grammar and punctuation as may be required.

-End-