

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:

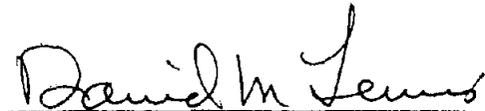
Senate Bill 268 is an act to consolidate the administration of certain benefits provided in the volunteer firefighters' compensation act under the Public Employees' Retirement Board.

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

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."

Approved by Committee  
on State Administration

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

2 \*46-14-301. Commitment upon finding of not guilty by  
3 reason of lack of mental state -- hearing to determine  
4 release or discharge. (1) When a defendant is found not  
5 guilty for the reason that due to a mental disease or defect  
6 he could not have a particular state of mind that is an  
7 essential element of the offense charged, the court shall  
8 order a predisposition investigation in accordance with  
9 46-18-112 and 46-18-113, which must include an investigation  
10 of the present mental condition of the defendant. If the  
11 trial was by jury, the court shall hold a hearing to  
12 determine the appropriate disposition of the defendant. If  
13 the trial was by the court, the court may hold a hearing to  
14 obtain any additional testimony it considers necessary to  
15 determine the appropriate disposition of the defendant. In  
16 either case, the testimony and evidence presented at the  
17 trial shall be considered by the court in making its  
18 determination.

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

25 (3) A person committed to the custody of the

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

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

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

20 \*46-14-302. Discharge or release upon motion of  
21 superintendent. (1) If the superintendent of Warm-Springs  
22 ~~the Montana~~ state hospital believes that a person committed  
23 to his custody under 46-14-301 may be discharged or released  
24 on condition without danger to himself or others, he shall  
25 make application for the discharge or release of the person

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) ~~Galen 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-hospita{}~~  
 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-hospita{}~~  
 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 ~~Galen 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 AFFECTED WITH CHEMICAL  
 25 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) ~~Given 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~~ 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 ~~Golden~~ 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, ~~Golden-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)(C) 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)(D) treatment of tuberculosis and silicosis (commonly called miner's consumption);

(b)(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

(b)(F) 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);

(21) 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.

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

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

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

16 "53-21-202. Duties of department. The department  
 17 shall:

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

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

1 cooperation with local agencies as established under this  
 2 part.

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

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

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

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

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

25 (8) establish standards for public mental health

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

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

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

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

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

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

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

25 (10) "Professional person" means:

1 (a) a medical doctor; or

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

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

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

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

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 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~~ 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."

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

2 "46-14-301. Commitment upon finding of not guilty by  
3 reason of lack of mental state -- hearing to determine  
4 release or discharge. (1) When a defendant is found not  
5 guilty for the reason that due to a mental disease or defect  
6 he could not have a particular state of mind that is an  
7 essential element of the offense charged, the court shall  
8 order a predisposition investigation in accordance with  
9 46-18-112 and 46-18-113, which must include an investigation  
10 of the present mental condition of the defendant. If the  
11 trial was by jury, the court shall hold a hearing to  
12 determine the appropriate disposition of the defendant. If  
13 the trial was by the court, the court may hold a hearing to  
14 obtain any additional testimony it considers necessary to  
15 determine the appropriate disposition of the defendant. In  
16 either case, the testimony and evidence presented at the  
17 trial shall be considered by the court in making its  
18 determination.

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

25 (3) A person committed to the custody of the

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

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

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

20 "46-14-302. Discharge or release upon motion of  
21 superintendent. (1) If the superintendent of Warm-Springs  
22 the Montana state hospital believes that a person committed  
23 to his custody under 46-14-301 may be discharged or released  
24 on condition without danger to himself or others, he shall  
25 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 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 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;~~

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

4 ~~(1) treatment of tuberculosis and silicosis~~  
 5 ~~(commonly called miner's consumption);~~

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

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

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

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

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

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

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

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

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

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

11 "53-6-302. Qualifications of superintendent. The  
 12 superintendent of ~~Galen the Montana~~ state hospital shall be  
 13 an individual with a minimum of 3 years' full-time hospital  
 14 administration experience and who is either:

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

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

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

21 "53-6-303. Transfer of patients from Galen to mental  
 22 institution. A mentally retarded or mentally ill person  
 23 residing at the Galen ~~campus facility of the Montana~~ state  
 24 hospital may be transferred to the Warm Springs ~~campus~~  
 25 ~~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 ~~Gate~~ 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, ~~Gate~~ 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.

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

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

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

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

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

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

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

25 (10) "Professional person" means:

1 (a) a medical doctor; or

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

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

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

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

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

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

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

16 "53-21-202. Duties of department. The department  
 17 shall:

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

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

1 cooperation with local agencies as established under this  
 2 part.

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

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

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

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

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

25 (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-