

SENATE BILL NO. 395

INTRODUCED BY E. SMITH, MAZUREK

IN THE SENATE

February 10, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 15, 1983	Committee recommend bill do not pass. Ayes, 29; Noes, 18. Report adopted. On motion Senate reconsider its action taken on SB 395. Motion adopted. Rereferred to Committee on Public Health, Welfare and Safety.
February 16, 1983	Committee recommend bill do pass. Report adopted.
February 17, 1983	Bill printed and placed on members' desks.
February 18, 1983	Second reading, do pass.
February 19, 1983	Correctly engrossed.
February 21, 1983	Third reading, passed. Ayes, 49; Noes, 1. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Human Services.
March 15, 1983	Committee recommend bill be concurred in. Report adopted.

March 19, 1983	Second reading, pass consideration.
March 21, 1983	On motion taken from second reading and rereferred to Committee on Human Services.
March 23, 1983	Statement of Intent attached. Committee recommend bill be concurred in. Report adopted.
March 28, 1983	Second reading, concurred in. Third reading, concurred in.

IN THE SENATE

March 29, 1983	Returned to Senate with Statement of Intent.
April 6, 1983	Second reading, Statement of Intent concurred in.
April 7, 1983	Third reading, Statement of Intent concurred in. Ayes, 50; Noes, 0. Sent to enrolling. Reported correctly enrolled.

1 *Senate* BILL NO. *345*
 2 INTRODUCED BY *E. Smith*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING SPECIFIC
 5 AUTHORITY FOR THE DEPARTMENT OF SOCIAL AND REHABILITATION
 6 SERVICES AND THE DEPARTMENT OF INSTITUTIONS TO CERTIFY
 7 PROFESSIONAL PERSONS SERVING DEVELOPMENTALLY DISABLED
 8 PERSONS; REQUIRING THE DEPARTMENTS TO ADOPT RULES GOVERNING
 9 THAT CERTIFICATION; AMENDING SECTION 53-20-102, MCA."
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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 53-20-102, MCA, is amended to read:
 13 "53-20-102. Definitions. As used in this part, the
 14 following definitions apply:
 15 (1) "Board" or "Mental disabilities board of visitors"
 16 means the mental disabilities board of visitors created by
 17 2-15-211.
 18 (2) "Community-based facilities" or "community-based
 19 services" includes those services and facilities which are
 20 available for the evaluation, treatment, and habilitation of
 21 the developmentally disabled in a community setting,
 22 including but not limited to outpatient facilities, special
 23 education services, group homes, foster homes, day-care
 24 facilities, sheltered workshops, and other community-based
 25 services and facilities.

1 (3) "Court" means a district court of the state of
 2 Montana.

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

11 (5) "Habilitation" means the process by which a person
 12 who is developmentally disabled is assisted to acquire and
 13 maintain those life skills which enable him to cope more
 14 effectively with the demands of his own person and
 15 environment and to raise the level of his physical, mental,
 16 and social efficiency. Habilitation includes but is not
 17 limited to formal, structured education and treatment.

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

21 (7) "Professional person" means:

22 (a) a licensed medical doctor; or

23 (b) ~~a person trained in the field of developmental~~
 24 ~~disabilities and certified by the department of institutions~~
 25 ~~or the department of social and rehabilitation services in~~

1 accordance-with-standards-of-professional-licensing--boards
 2 federal---regulations---and---the---joint---commissions---on
 3 accreditation-of-hospitals a person who has been certified
 4 as provided for in [section 2] by the department of social
 5 and rehabilitation services and the department of
 6 institutions.

7 [8] "Resident" means a person admitted to a
 8 residential facility for a course of evaluation, treatment,
 9 or habilitation.

10 [9] "Residential facility" or "facility" means any
 11 residential hospital or hospital and school which exists for
 12 the purpose of evaluating, treating, and habilitating the
 13 developmentally disabled on an inpatient basis, including
 14 the Boulder River school and hospital and the Eastmont
 15 training center. The term does not include a group home,
 16 foster home, or halfway house. A correctional facility or a
 17 facility for the treatment of the mentally ill shall not be
 18 a "residential facility" within the meaning of this part.

19 [10] "Respondent" means a person alleged in a petition
 20 filed pursuant to this part to be developmentally disabled
 21 and in need of developmental disability services.

22 [11] "Responsible person" means any person willing and
 23 able to assume responsibility for a person who is
 24 developmentally disabled or alleged to be developmentally
 25 disabled.

1 (12) "Seriously developmentally disabled" means
 2 developmentally disabled due to developmental or physical
 3 disability or a combination of both, rendering a person
 4 unable to function in a community-based setting and which
 5 has resulted in self-inflicted injury or injury to others or
 6 the imminent threat thereof or which has deprived the person
 7 afflicted of the ability to protect his life or health."

8 ~~NEW SECTION.~~ Section 2. Certification of professional
 9 persons required. No person may act in a professional
 10 capacity as provided for in this part unless he is a
 11 professional person as defined in 53-20-102.

12 ~~NEW SECTION.~~ Section 3. Certification of professional
 13 persons. (1) The department of social and rehabilitation
 14 services and the department of institutions shall certify
 15 professional persons for purposes of this part.

16 [2] The department of social and rehabilitation
 17 services and the department of institutions shall adopt
 18 rules governing the certification of professional persons.
 19 The rules must establish the appropriate combination of
 20 education, skills, and experience necessary for
 21 certification and set forth qualifications developed by
 22 reference to recognized national standards in the field of
 23 developmental disabilities, such as standards published by
 24 the accreditation council for services for mentally retarded
 25 and other developmentally disabled persons (ACMRDD).

1 standards published in Title XIX of the Social Security Act,
2 and other similar standards.

3 NEW SECTION. Section 4. Codification instruction.

4 Sections 2 and 3 are intended to be codified as an integral
5 part of Title 53, chapter 20, part 1, and the provisions of
6 Title 53, chapter 20, part 1, apply to sections 2 and 3.

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Rereferred and
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1 (3) "Court" means a district court of the state of
2 Montana.
3 (4) "Developmentally disabled" means suffering from
4 disabilities attributable to mental retardation, cerebral
5 palsy, epilepsy, autism, or any other neurologically
6 handicapping condition closely related to mental retardation
7 and requiring treatment similar to that required by mentally
8 retarded individuals, which condition has continued or can
9 be expected to continue indefinitely and constitutes a
10 substantial handicap of such individuals.
11 (5) "Habilitation" means the process by which a person
12 who is developmentally disabled is assisted to acquire and
13 maintain those life skills which enable him to cope more
14 effectively with the demands of his own person and
15 environment and to raise the level of his physical, mental,
16 and social efficiency. Habilitation includes but is not
17 limited to formal, structured education and treatment.
18 (6) "Next of kin" includes but need not be limited to
19 the spouse, parents, adult children, and adult brothers and
20 sisters of a person.
21 (7) "Professional person" means:
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(8) "Resident" means a person admitted to a residential facility for a course of evaluation, treatment, or habilitation.

(9) "Residential facility" or "facility" means any residential hospital or hospital and school which exists for the purpose of evaluating, treating, and habilitating the developmentally disabled on an inpatient basis, including the Boulder River school and hospital and the Eastmont training center. The term does not include a group home, foster home, or halfway house. A correctional facility or a facility for the treatment of the mentally ill shall not be a "residential facility" within the meaning of this part.

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

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

(12) "Seriously developmentally disabled" means developmentally disabled due to developmental or physical disability or a combination of both, rendering a person unable to function in a community-based setting and 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."

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(2) The department of social and rehabilitation services and the department of institutions shall adopt rules governing the certification of professional persons. The rules must establish the appropriate combination of education, skills, and experience necessary for certification and set forth qualifications developed by reference to recognized national standards in the field of developmental disabilities, such as standards published by the accreditation council for services for mentally retarded and other developmentally disabled persons (ACMRDD).

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HOUSE HUMAN SERVICES COMMITTEE

SENATE BILL 395

March 23, 1983

Third reading copy (blue)

STATEMENT OF INTENT

A statement of intent is required for SB 395 because it authorizes the Department of Social and Rehabilitation Services and the Department of Institutions to adopt rules for the certification of professional persons. It is the intent of SB 395 to have professional persons certified by the Department of Social and Rehabilitation Services and the Department of Institutions as qualified to provide those services.

The Legislature contemplates that certification of an individual as a professional person will be determined upon qualifications specified by rule. Those qualifications should be predicated upon education, experience, and skills. The specific qualifications will be those that are appropriate for an individual to carry out the professional person's responsibilities with respect to the developmentally disabled.

The rules should provide for the appropriate higher education degrees and the nature and degree of experience and skills that professional persons must possess. The rules should allow for varying combinations of education, experience, and skills that satisfy the professional person certification requirements. Among those degrees of higher education which are to be considered appropriate are psychology, social work, special education, or similar human service degrees.

The qualifications set forth in the rules should be developed by reference to such nationally recognized standards as those of the Accreditation Council for Services for Mentally Retarded and other Developmentally Disabled persons (ACMRDD), Title XIX of the Social Security Act as amended, and federal regulations implementing that Act, and similar standards.

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