

HOUSE BILL NO. 267

INTRODUCED BY MERCER, MAZUREK, HANSEN

IN THE HOUSE

JANUARY 17, 1987           INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

JANUARY 29, 1987           COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

JANUARY 30, 1987           PRINTING REPORT.

JANUARY 31, 1987           SECOND READING, DO PASS.

FEBRUARY 2, 1987           ENGROSSING REPORT.

                              THIRD READING, PASSED.  
                              AYES, 93; NOES, 5.

                              TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 3, 1987           INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

MARCH 5, 1987             COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 9, 1987             SECOND READING, CONCURRED IN.

MARCH 11, 1987            THIRD READING, CONCURRED IN.  
                              AYES, 46; NOES, 4.

                              RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 14, 1987            RECEIVED FROM SENATE.

                              SECOND READING, AMENDMENTS  
                              CONCURRED IN.

MARCH 17, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 INTROSUCED BY House BILL NO. 267  
 2 MERCER Montana State Legislature

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A DUTY TO WARN  
 5 POTENTIAL VICTIMS OF A PATIENT'S VIOLENT BEHAVIOR AND  
 6 GRANTING IMMUNITY FROM LIABILITY UNDER CERTAIN CIRCUMSTANCES  
 7 TO MENTAL HEALTH PROFESSIONALS."

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

10 Section 1. Definition. As used in [sections 1 through  
 11 3], "mental health professional" means:

- 12 (1) a certified professional person as defined in  
 13 53-21-106;
- 14 (2) a physician licensed under Title 37, chapter 3;
- 15 (3) a professional counselor licensed under Title 37,  
 16 chapter 23;
- 17 (4) a psychologist licensed under Title 37, chapter  
 18 17; or
- 19 (5) a social worker licensed under Title 37, chapter  
 20 22.

21 Section 2. Duty to warn of violent behavior. A mental  
 22 health professional has a duty to warn of or take reasonable  
 23 precautions to provide protection from violent behavior only  
 24 if the patient has communicated to the mental health  
 25 professional an actual threat of physical violence by

1 specific means against a clearly identified or reasonably  
 2 identifiable victim. The duty is discharged by a mental  
 3 health professional if he has:

- 4 (1) made reasonable efforts to communicate the threat  
 5 to the victim or notify the law enforcement agency closest  
 6 to the patient's or the victim's residence of the threat of  
 7 violence; and
- 8 (2) supplied a requesting law enforcement agency with  
 9 any information he has concerning the threat of violence.

10 Section 3. Immunity from liability. (1) No monetary  
 11 liability and no cause of action may arise against any  
 12 mental health professional for failing to predict, warn of,  
 13 or take precautions to provide protection from a patient's  
 14 threatened violent behavior unless he has a duty to warn of  
 15 violent behavior, as provided in [section 2].

16 (2) No monetary liability and no cause of action may  
 17 arise against any mental health professional for disclosing  
 18 confidential or privileged information in an effort to  
 19 discharge a duty arising under [section 2].

20 Section 4. Codification instruction. Sections 1  
 21 through 3 are intended to be codified as an integral part of  
 22 Title 27, chapter 1, and the provisions of Title 27, chapter  
 23 1, apply to sections 1 through 3.

-End-



-2- INTRODUCED BILL  
 HB-267

APPROVED BY COMMITTEE  
ON JUDICIARY

1 INTRODUCTION BY House BILL NO. 267  
2 MERCER Morgan Steelgoude  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A DUTY TO WARN  
5 POTENTIAL VICTIMS OF A PATIENT'S VIOLENT BEHAVIOR AND  
6 GRANTING IMMUNITY FROM LIABILITY UNDER CERTAIN CIRCUMSTANCES  
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16 chapter 23;

17 (4) a psychologist licensed under Title 37, chapter  
18 17; or

19 (5) a social worker licensed under Title 37, chapter  
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22 health professional has a duty to warn of or take reasonable  
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2 identifiable victim. The duty is discharged by a mental  
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7 violence; and

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16 (2) No monetary liability and no cause of action may  
17 arise against any mental health professional for disclosing  
18 confidential or privileged information in an effort to  
19 discharge a duty arising under [section 2].

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21 through 3 are intended to be codified as an integral part of  
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23 1, apply to sections 1 through 3.

-End-





HOUSE BILL NO. 267

INTRODUCED BY MERCER, MAZUREK, HANSEN

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A DUTY TO WARN POTENTIAL VICTIMS OF A PATIENT'S VIOLENT BEHAVIOR AND GRANTING IMMUNITY FROM LIABILITY UNDER CERTAIN CIRCUMSTANCES TO MENTAL HEALTH PROFESSIONALS."

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

Section 1. Definition. As used in [sections 1 through 3], "mental health professional" means:

- (1) a certified professional person as defined in 53-21-106;
(2) a physician licensed under Title 37, chapter 3;
(3) a professional counselor licensed under Title 37, chapter 23;
(4) a psychologist licensed under Title 37, chapter 17; or
(5) a social worker licensed under Title 37, chapter 22.

Section 2. Duty to warn of violent behavior. A mental health professional has a duty to warn of or take reasonable precautions to provide protection from violent behavior only if the patient has communicated to the mental health professional an actual threat of physical violence by

specific means against a clearly identified or reasonably identifiable victim. The duty is discharged by a mental health professional if he has:

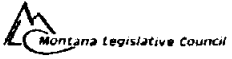
- (1) made reasonable efforts to communicate the threat to the victim or AND notify the law enforcement agency closest to the patient's or the victim's residence of the threat of violence; and
(2) supplied a requesting law enforcement agency with any information he has concerning the threat of violence.

Section 3. Immunity from liability. (1) No monetary liability and no cause of action may arise against any mental health professional for failing to predict, warn of, or take precautions to provide protection from a patient's threatened violent behavior unless he has a duty to warn of violent behavior, as provided in [section 2].

(2) No monetary liability and no cause of action may arise against any mental health professional for disclosing confidential or privileged information in an effort to discharge a duty arising under [section 2].

Section 4. Codification instruction. Sections 1 through 3 are intended to be codified as an integral part of Title 27, chapter 1, and the provisions of Title 27, chapter 1, apply to sections 1 through 3.

-End-



# STANDING COMMITTEE REPORT

March 4 ..... 19 87

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on .....

having had under consideration..... HOUSE BILL No. 267

Third reading copy ( blue )  
color

Duty of mental health professionals to warn of violent patients.  
Mercer (Mazurek)

Respectfully report as follows: That..... HOUSE BILL No. 267

be amended as follows:

~~XXXXPAGEXXXXXXXI.~~

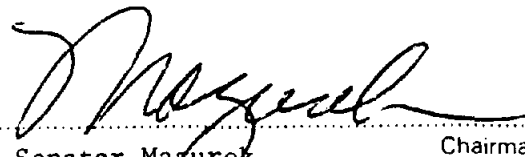
- 1. Page 2, line 5.  
Following: "victim"  
Strike: "or"  
Insert: "and"

KMC

~~XXXXXX~~

BE CONCURRED IN

~~XXXXXXXXXXXXXXXXXXXX~~



Senator Mazurek

Chairman.