

IN THE HOUSE

APRIL 7, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 462
 2 INTRODUCED BY Miles
 3 BY REQUEST OF THE DEPARTMENT OF
 4 SOCIAL AND REHABILITATION SERVICES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE
 7 ELIGIBILITY AND THE SCOPE OF SERVICES FOR SEVERELY DISABLED
 8 PERSONS; TO SUBSTITUTE PROVISIONAL LICENSING FOR
 9 PROBATIONARY LICENSING OF COMMUNITY HOMES FOR SEVERELY
 10 DISABLED PERSONS; AMENDING SECTIONS 53-19-101 THROUGH
 11 53-19-104, 53-19-111, 53-19-112, AND 76-2-411, MCA; AND
 12 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Eligibility for services. (1)
 16 The department, in its discretion and in accordance with
 17 this part and Title VII, Part A, of the federal
 18 Rehabilitation Act of 1973 (29 U.S.C. 796, as amended), may
 19 determine eligibility of persons for services under this
 20 part.

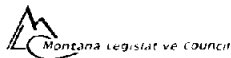
21 (2) To be eligible for services under this part, a
 22 person must have a disability of such severity that, to
 23 secure and maintain employment or to function independently,
 24 he requires more intensive vocational or comprehensive
 25 rehabilitation services than are available through other

1 state and federal programs.

2 (3) Disabled persons not receiving other vocational
 3 and rehabilitation services provided by the department have
 4 priority for services provided under this part.

5 NEW SECTION. Section 2. Eligibility for residential
 6 services in a community home. The department, in its
 7 discretion and in accordance with this part, may determine
 8 eligibility for residential services in a community home for
 9 the severely disabled, based on the residential needs of the
 10 person and on the availability of residential services. Any
 11 severely disabled person may be considered for placement in
 12 a community home, regardless of the source of funding for
 13 his residential services.

14 Section 3. Section 53-19-101, MCA, is amended to read:
 15 "53-19-101. Purpose. The legislature, in recognition
 16 of needs of physically severely disabled persons and of the
 17 desirability of meeting those needs on a community level to
 18 the extent of available funding and in order to reduce the
 19 need for institutional care settings, establishes by this
 20 part a community program to ~~provide-facilities-and-services~~
 21 ~~for-the-training-and-treatment-of-physically~~ assist severely
 22 disabled persons in living and functioning independently.
 23 This program implements Title VII, Part A, of the federal
 24 Rehabilitation Act of 1973 (29 U.S.C. 796, as amended) for
 25 disabled persons in Montana. The legislature further



1 recognizes the need to provide for the licensing of current
2 community homes for physically severely disabled persons."

3 Section 4. Section 53-19-102, MCA, is amended to read:

4 "53-19-102. Definitions. As used in this part, the
5 following definitions apply:

6 (1) "Community home for physically severely disabled
7 persons" means a family-oriented residence that is designed
8 to provide residential services for two to eight eligible
9 physically severely disabled persons and that does not
10 provide skilled or intermediate nursing care. This
11 definition does not preclude the provision of skilled or
12 intermediate nursing care by third-person providers.

13 (2) "Department" means the department of social and
14 rehabilitation services established in 2-15-2201.

15 (3) ~~"Eligible--physically--disabled--person"--means--a~~
16 ~~physically--disabled--person--who--after--an--assessment--of--his~~
17 ~~disabilities--and--needs--is--determined--by--the--department--to--be~~
18 ~~in--need--of--services--and--for--whom--appropriate--services--are~~
19 ~~available--under--this--part--and--who--is--not--eligible--for~~
20 ~~similar--services--provided--under--other--programs~~ "Disability"
21 means a permanent physical or mental condition recognized as
22 a disability by Title VII, Part A, of the federal
23 Rehabilitation Act of 1973 (29 U.S.C. 796, as amended).

24 (4) "Physically Severely disabled person" means a
25 disabled person with a permanent impairment disability that

1 substantially limits major life activity, such as walking,
2 self-care, seeing, hearing, speaking, learning, reasoning,
3 judgment, or memory, and that can be diagnosed by a
4 physician."

5 Section 5. Section 53-19-103, MCA, is amended to read:

6 "53-19-103. Department authorized to provide services.
7 ~~The--department--may--establish--and--provide--services--for~~
8 ~~eligible--physically--disabled--persons--and--receive--services,~~
9 ~~facilities,--and--funds--as--the--department--and--other~~
10 ~~governmental--units--may--be--authorized--by--law--to--receive--or~~
11 ~~provide:~~ (1) Services provided under this part include:

12 (a) vocational and other rehabilitation services that
13 enhance the ability of a severely disabled person to live
14 and function independently and to secure and maintain
15 appropriate employment; and

16 (b) any services specified in Title VII, Part A, of
17 the federal Rehabilitation Act of 1973 (29 U.S.C. 796, as
18 amended).

19 (2) To the extent that funds are appropriated and
20 allocated for the purpose of providing services to severely
21 disabled persons, the department may establish the
22 facilities and services it determines are in the best
23 interest of severely disabled persons.

24 (3) The scope, amount, and duration of services made
25 available to severely disabled persons under this part are

1 within the discretion of the department to determine."

2 Section 6. Section 53-19-104, MCA, is amended to read:

3 "53-19-104. Department contracts for services --
4 governmental units providing for community homes. (1) The
5 department may expend money appropriated or available for
6 the purposes of this part and may contract for services for
7 eligible physically severely disabled persons with any
8 person or entity providing such services.

9 (2) Governmental units, including but not limited to
10 counties, municipalities, school districts, or state
11 institutions of higher learning, may at their own expense
12 provide services, funds, materials, and facilities for
13 services to community homes for physically severely disabled
14 persons."

15 Section 7. Section 53-19-111, MCA, is amended to read:

16 "53-19-111. Departmental licensing. (1) A community
17 home for ~~the-physically~~ severely disabled persons must be
18 licensed annually by the department.

19 (2) In accordance with rules established for such
20 purposes, the department also may issue temporary and
21 probationary provisional licenses."

22 Section 8. Section 53-19-112, MCA, is amended to read:

23 "53-19-112. Rulemaking. (1) For the purposes of
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7 privileges, client grievance procedures, provider grievance
8 procedures, and accounting procedures which include
9 accounting of client financial resources.

10 (2) (a) The department shall, for the purpose of
11 licensing, adopt rules to govern administration, operation,
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13 community homes for physically severely disabled persons in
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18 sciences shall provide advice and recommendations to the
19 department ~~of-social-and-rehabilitation-services~~ concerning
20 ~~the-standards~~ licensing requirements for health and safety
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22 (3) The department shall, in cooperation with the
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24 staff member of a facility providing services to physically
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1 assist a client of a facility in taking a medication if the
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4 Section 9. Section 76-2-411, MCA, is amended to read:
 5 "76-2-411. Definition of community residential
 6 facility. "Community residential facility" means:

7 (1) a community group home for developmentally,
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 9 not provide skilled or intermediate nursing care;

10 (2) a youth foster home or youth group home as defined
 11 in 41-3-1102;

12 (3) a halfway house operated in accordance with
 13 regulations of the department of health and environmental
 14 sciences for the rehabilitation of alcoholics or drug
 15 dependent persons; or

16 (4) a licensed adult foster family care home."

17 NEW SECTION. Section 10. Codification instruction.
 18 Sections 1 and 2 are intended to be codified as an integral
 19 part of Title 53, chapter 19, part 1, and the provisions of
 20 Title 53, chapter 19, apply to sections 1 and 2.

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 22 existing authority of the department of social and
 23 rehabilitation services to make rules on the subject of the
 24 provisions of this act is extended to the provisions of this
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1 NEW SECTION. Section 12. Effective date. This act is
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 6 services in a community home. (1) The department, in its
 7 discretion and in accordance with this part, may determine
 8 eligibility for residential services in a community home for
 9 the severely disabled, based on the residential needs of the
 10 person and on the availability of residential services. Any
 11 severely disabled person may be considered for placement in
 12 a community home, regardless of the source of funding for
 13 his residential services.

14 (2) A PERSON WHO HAS A PRIMARY DIAGNOSIS OF MENTAL
 15 ILLNESS OR WHO RECEIVES MENTAL HEALTH SERVICES UNDER TITLE
 16 53, CHAPTER 21, IS NOT ELIGIBLE FOR PLACEMENT IN RESIDENTIAL
 17 SERVICES UNLESS HE IS ELIGIBLE FOR AND RECEIVING SERVICES
 18 UNDER THIS PART AND TITLE VII, PART A, OF THE FEDERAL
 19 REHABILITATION ACT OF 1973 (29 U.S.C. 796, AS AMENDED).

20 Section 3. Section 53-19-101, MCA, is amended to read:
 21 "53-19-101. Purpose. The legislature, in recognition
 22 of needs of physically severely disabled persons and of the
 23 desirability of meeting those needs on a community level to
 24 the extent of available funding and in order to reduce the
 25 need for institutional care settings, establishes by this

1 part a community program to ~~provide-facilities-and-services~~
 2 ~~for-the-training-and-treatment-of-physically~~ assist severely
 3 disabled persons in living and functioning independently.
 4 This program implements Title VII, Part A, of the federal
 5 Rehabilitation Act of 1973 (29 U.S.C. 796, as amended) for
 6 disabled persons in Montana. The legislature further
 7 recognizes the need to provide for the licensing of current
 8 community homes for physically severely disabled persons."

9 Section 4. Section 53-19-102, MCA, is amended to read:
 10 "53-19-102. Definitions. As used in this part, the
 11 following definitions apply:

12 (1) "Community home for physically severely disabled
 13 persons" means a family-oriented residence that is designed
 14 to provide residential services for two to eight eligible
 15 physically severely disabled persons and that does not
 16 provide skilled or intermediate nursing care. This
 17 definition does not preclude the provision of skilled or
 18 intermediate nursing care by third-person providers.

19 (2) "Department" means the department of social and
 20 rehabilitation services established in 2-15-2201.

21 (3) ~~"Eligible--physically--disabled--person"--means--a~~
 22 ~~physically--disabled--person--who--after--an--assessment--of--his~~
 23 ~~disabilities--and--needs--is--determined--by--the--department--to--be~~
 24 ~~in--need--of--services--and--for--whom--appropriate--services--are~~
 25 ~~available--under--this--part--and--who--is--not--eligible--for~~

1 ~~similar-services-provided-under-other-programs~~ "Disability"
 2 means a permanent physical or mental condition recognized as
 3 a disability by Title VII, Part A, of the federal
 4 Rehabilitation Act of 1973 (29 U.S.C. 796, as amended).

5 (4) "Physically Severely disabled person" means a
 6 disabled person with a permanent impairment disability that
 7 substantially limits major life activity, such as walking,
 8 self-care, seeing, hearing, speaking, learning, reasoning,
 9 judgment, or memory, and that can be diagnosed by a
 10 physician."

11 Section 5. Section 53-19-103, MCA, is amended to read:

12 "53-19-103. Department authorized to provide services.
 13 ~~The--department--may--establish--and--provide--services--for~~
 14 ~~eligible-physically-disabled-persons-and--receive--services,~~
 15 ~~facilities,--and--funds--as--the--department--and--other~~
 16 ~~governmental-units-may-be-authorized-by-law--to--receive--or~~
 17 ~~provide: (1) Services SUBJECT TO AVAILABLE APPROPRIATED~~
 18 ~~FUNDS, SERVICES provided under this part include:~~

19 (a) vocational and other rehabilitation services that
 20 enhance the ability of a severely disabled person to live
 21 and function independently and to secure and maintain
 22 appropriate employment; and

23 (b) any services specified in Title VII, Part A, of
 24 the federal Rehabilitation Act of 1973 (29 U.S.C. 796, as
 25 amended).

1 (2) To the extent that funds are appropriated and
 2 allocated for the purpose of providing services to severely
 3 disabled persons, the department may establish the
 4 facilities and services it determines are in the best
 5 interest of severely disabled persons.

6 (3) The scope, amount, and duration of services made
 7 available to severely disabled persons under this part are
 8 within the discretion of the department to determine."

9 Section 6. Section 53-19-104, MCA, is amended to read:

10 "53-19-104. Department contracts for services --
 11 governmental units providing for community homes. (1) The
 12 department may expend money appropriated or available for
 13 the purposes of this part and may contract for services for
 14 eligible physically severely disabled persons with any
 15 person or entity providing such services.

16 (2) Governmental units, including but not limited to
 17 counties, municipalities, school districts, or state
 18 institutions of higher learning, may at their own expense
 19 provide services, funds, materials, and facilities for
 20 services to community homes for physically severely disabled
 21 persons."

22 Section 7. Section 53-19-111, MCA, is amended to read:

23 "53-19-111. Departmental licensing. (1) A community
 24 home for ~~the~~ physically severely disabled persons must be
 25 licensed annually by the department.

1 (2) In accordance with rules established for such
 2 purposes, the department also may issue temporary and
 3 probationary provisional licenses."

4 Section 8. Section 53-19-112, MCA, is amended to read:

5 "53-19-112. Rulemaking. (1) For the purposes of
 6 providing services to physically severely disabled persons,
 7 the department may adopt rules necessary for the
 8 administration of the services provided to physically
 9 severely disabled persons under this part. Rules adopted may
 10 include but are not limited to eligibility for services,
 11 licensing, facility design and acquisition, program
 12 staffing, staff training, service goals and design, quality
 13 of services, client placement procedures, client rights and
 14 privileges, client grievance procedures, provider grievance
 15 procedures, and accounting procedures which include
 16 accounting of client financial resources.

17 (2) (a) The department shall, for the purpose of
 18 licensing, adopt rules to govern administration, operation,
 19 and health and safety ~~standards~~ of requirements for
 20 community homes for physically severely disabled persons in
 21 order to protect residents' rights. The department shall
 22 provide for temporary and probationary provisional
 23 licensing.

24 (b) The department of health and environmental
 25 sciences shall provide advice and recommendations to the

1 department ~~of social and rehabilitation services~~ concerning
2 the ~~standards~~ licensing requirements for health and safety
3 to be adopted.

4 (3) The department shall, in cooperation with the
5 board of nursing, adopt rules under which a properly trained
6 staff member of a facility providing services to physically
7 severely disabled persons under this part may supervise and
8 assist a client of a facility in taking a medication if the
9 medication is usually self-administered and if a physician
10 has prescribed the assistance."

11 Section 9. Section 76-2-411, MCA, is amended to read:

12 "76-2-411. Definition of community residential
13 facility. "Community residential facility" means:

14 (1) a community group home for developmentally,
15 mentally, or physically severely disabled persons which does
16 not provide skilled or intermediate nursing care;

17 (2) a youth foster home or youth group home as defined
18 in 41-3-1102;

19 (3) a halfway house operated in accordance with
20 regulations of the department of health and environmental
21 sciences for the rehabilitation of alcoholics or drug
22 dependent persons; or

23 (4) a licensed adult foster family care home."

24 NEW SECTION. Section 10. Codification instruction.

25 Sections 1 and 2 are intended to be codified as an integral

1 part of Title 53, chapter 19, part 1, and the provisions of
2 Title 53, chapter 19, apply to sections 1 and 2.

3 NEW SECTION. Section 11. Extension of authority. Any
4 existing authority of the department of social and
5 rehabilitation services to make rules on the subject of the
6 provisions of this act is extended to the provisions of this
7 act.

8 NEW SECTION. Section 12. Effective date. This act is
9 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

SCRHB462

SENATE

March 20, 1987

MR. PRESIDENT

PUBLIC HEALTH, WELFARE, AND SAFETY

We, your committee on

House Bill 462

having had under consideration No.

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CLARIFYING PROVISIONS FOR SEVERELY DISABLED PERSONS

MILES (MCLANE)

Respectfully report as follows: That House Bill No. 462

BE AMENDED AS FOLLOWS:

1. Page 2, line 6.
Following: "home."
Insert: "(1)"

2. Page 2, following line 13.
Insert: "(2) A person who has a primary diagnosis of
mental illness or who receives mental health services
under Title 53, chapter 21, is not eligible for
placement in residential services unless he is eligible
for and receiving services under this part and Title
VII, Part A, of the federal Rehabilitation Act of 1973
(29 U.S.C. 796, as amended)."

AND AS AMENDED,
BE CONCURRED IN

KMK

XXXXXXXX

XXXXXXXXXXXX

Signature of Senator Eck

Chairman.

Senator Eck

Handwritten notes: 3-21-87, 9:50