

HOUSE BILL NO. 304

INTRODUCED BY HANNAH, BENGTSON, HARPER, RAMIREZ, ADDY,  
KIMBERLEY, GLASER, WHALEN, T. NELSON, KILPATRICK, KELLER,  
ROTH, HAGER, RICE, J. BROWN, CRIPPEN, PATTERSON, DRISCOLL,  
SPAETH, MCLANE, SIMON, MCDONOUGH, BACHINI, O'KEEFE,  
NATHE, BLOTKAMP, MAZUREK, RASMUSSEN, BLAYLOCK, GUTHRIE,  
KADAS, DARKO, CAMPBELL, STRIZICH, SQUIRES, MANNING,  
NISBET, HALLIGAN, KEATING, BISHOP, GRADY, SCHYE,  
EUDAILY, ANDERSON, COCCHIARELLA, HANSEN,  
O'CONNELL, WALKER

IN THE HOUSE

JANUARY 19, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 20, 1989	FIRST READING.
FEBRUARY 4, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 6, 1989	PRINTING REPORT.
FEBRUARY 7, 1989	SECOND READING, DO PASS AS AMENDED.  ON MOTION TAKEN FROM ENGROSSING AND REREFERRED TO APPROPRIATIONS.
MARCH 15, 1989	COMMITTEE RECOMMEND BILL DO NOT PASS. REPORT ADOPTED.
MARCH 16, 1989	ON MOTION, TAKEN FROM ADVERSE COMMITTEE AND REREFERRED TO SECOND READING.  PRINTING REPORT.
MARCH 17, 1989	SECOND READING, DO NOT PASS AS AMENDED  SEGREGATED FROM COMMITTEE OF THE WHOLE REPORT.
MARCH 18, 1989	ON MOTION, CONSIDERATION PASSED FOR THE DAY.

MARCH 20, 1989

SECOND READING, DO PASS.

MARCH 21, 1989

ENGROSSING REPORT.

MARCH 23, 1989

THIRD READING, PASSED.  
AYES, 61; NOES, 36.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 27, 1989

INTRODUCED AND REFERRED TO COMMITTEE  
ON FINANCE & CLAIMS.

FIRST READING.

APRIL 5, 1989

ON MOTION, REREFERRED TO COMMITTEE  
ON PUBLIC HEALTH, WELFARE & SAFETY.

APRIL 6, 1989

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

APRIL 8, 1989

SECOND READING, CONCURRED IN.

APRIL 10, 1989

THIRD READING, CONCURRED IN.  
AYES, 42; NOES, 7.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1989

ON MOTION, LATE AMENDMENTS FROM  
SENATE ACCEPTED.

APRIL 11, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 12, 1989

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 304  
2 INTRODUCED BY Harold Burdette Hayden Ramsey  
3 Bill Timberley John Delaney Walter Thayer P. J. Brown  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CODIFY AUTHORIZATION  
5 FOR MEDICAID, INPATIENT PSYCHIATRIC SERVICES; TO DEFINE  
6 "RESIDENTIAL TREATMENT FACILITY"; TO PROVIDE INPATIENT  
7 PSYCHIATRIC SERVICES TO PERSONS UNDER 21 YEARS OF AGE IN A  
8 RESIDENTIAL TREATMENT FACILITY; TO REQUIRE A CERTIFICATE OF  
9 NEED FOR RESIDENTIAL TREATMENT FACILITIES; AMENDING SECTIONS  
10 50-5-101 AND 53-6-101, MCA; AND PROVIDING AN EFFECTIVE  
11 DATE." Walter Anderson Condon  
12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
14 **Section 1.** Section 50-5-101, MCA, is amended to read:  
15 "50-5-101. (Effective July 1, 1989) Definitions. As  
16 used in parts 1 through 4 of this chapter, unless the  
17 context clearly indicates otherwise, the following  
18 definitions apply:  
19 (1) "Accreditation" means a designation of approval.  
20 (2) "Adult day-care center" means a facility,  
21 freestanding or connected to another health care facility,  
22 which provides adults, on an intermittent basis, with the  
23 care necessary to meet the needs of daily living.  
24 (3) "Ambulatory surgical facility" means a facility,  
25 not part of a hospital, which provides surgical treatment to

1 patients not requiring hospitalization. This type of  
2 facility may include observation beds for patient recovery  
3 from surgery or other treatment.

4 (4) "Board" means the board of health and  
5 environmental sciences, provided for in 2-15-2104.

6 (5) "Chemical dependency facility" means a facility  
7 whose function is the treatment, rehabilitation, and  
8 prevention of the use of any chemical substance, including  
9 alcohol, which creates behavioral or health problems and  
10 endangers the health, interpersonal relationships, or  
11 economic function of an individual or the public health,  
12 welfare, or safety.

13 (6) "Clinical laboratory" means a facility for the  
14 microbiological, serological, chemical, hematological,  
15 radiobioassay, cytological, immunohematological,  
16 pathological, or other examination of materials derived from  
17 the human body for the purpose of providing information for  
18 the diagnosis, prevention, or treatment of any disease or  
19 assessment of a medical condition.

20 (7) "College of American pathologists" means the  
21 organization nationally recognized by that name with  
22 headquarters in Traverse City, Michigan, that surveys  
23 clinical laboratories upon their requests and accredits  
24 clinical laboratories that it finds meet its standards and  
25 requirements.

INTRODUCED BILL  
H B 304

(8) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(9) "Federal acts" means federal statutes for the construction of health care facilities.

(10) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(11) "Health care facility" or "facility" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. The term does not include offices of private physicians or dentists. The term includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day-care centers.

(12) "Health maintenance organization" means a public or private organization that provides or arranges for health

care services to enrollees on a prepaid or other financial basis, either directly through provider employees or through contractual or other arrangements with a provider or group of providers.

(13) "Home health agency" means a public agency or private organization or subdivision thereof which is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

(14) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and his family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component.

(15) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick persons. Services provided may or may not include obstetrical care, emergency care, or any other service as allowed by state licensing authority. A hospital

has an organized medical staff which is on call and available within 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally retarded, and tubercular patients.

(16) "Infirmarium" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an "infirmarium--A" provides outpatient and inpatient care;

(b) an "infirmarium--B" provides outpatient care only.

(17) "Joint commission on accreditation of hospitals" means the organization nationally recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their requests and grants accreditation status to any health care facility that it finds meets its standards and requirements.

(18) "Kidney treatment center" means a facility which specializes in treatment of kidney diseases, including freestanding hemodialysis units.

(19) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental

disability care to a total of two or more persons or personal care to more than four persons who are not related to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 53-5-303, community homes for the developmentally disabled licensed under 53-20-305, community homes for physically disabled persons licensed under 53-19-111, youth care facilities licensed under 41-3-1142, hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or persons not requiring institutional health care, or juvenile and adult correctional facilities operating under the authority of the department of institutions.

(b) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

(c) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(d) "Intermediate developmental disability care" means the provision of nursing care services, health-related services, and social services for the developmentally disabled, as defined in 53-20-102(4), or persons with

1 related problems.

2 (e) "Personal care" means the provision of services  
3 and care which do not require nursing skills to residents  
4 needing some assistance in performing the activities of  
5 daily living.

6 (20) "Medical assistance facility" means a facility  
7 that:

8 (a) provides inpatient care to ill or injured persons  
9 prior to their transportation to a hospital or provides  
10 inpatient medical care to persons needing that care for a  
11 period of no longer than 96 hours; and

12 (b) either is located in a county with fewer than six  
13 residents per square mile or is located more than 35 road  
14 miles from the nearest hospital.

15 (21) "Mental health center" means a facility providing  
16 services for the prevention or diagnosis of mental illness,  
17 the care and treatment of mentally ill patients or the  
18 rehabilitation of such persons, or any combination of these  
19 services.

20 (22) "Nonprofit health care facility" means a health  
21 care facility owned or operated by one or more nonprofit  
22 corporations or associations.

23 (23) "Observation bed" means a bed occupied for not  
24 more than 6 hours by a patient recovering from surgery or  
25 other treatment.

1 (24) "Offer" means the holding out by a health care  
2 facility that it can provide specific health services.

3 (25) "Outpatient facility" means a facility, located in  
4 or apart from a hospital, providing, under the direction of  
5 a licensed physician, either diagnosis or treatment, or  
6 both, to ambulatory patients in need of medical, surgical,  
7 or mental care. An outpatient facility may have observation  
8 beds.

9 (26) "Patient" means an individual obtaining services,  
10 including skilled nursing care, from a health care facility.

11 (27) "Person" means any individual, firm, partnership,  
12 association, organization, agency, institution, corporation,  
13 trust, estate, or governmental unit, whether organized for  
14 profit or not.

15 (28) "Public health center" means a publicly owned  
16 facility providing health services, including laboratories,  
17 clinics, and administrative offices.

18 (29) "Rehabilitation facility" means a facility which  
19 is operated for the primary purpose of assisting in the  
20 rehabilitation of disabled persons by providing  
21 comprehensive medical evaluations and services,  
22 psychological and social services, or vocational evaluation  
23 and training or any combination of these services and in  
24 which the major portion of the services is furnished within  
25 the facility.

(30) "Resident" means a person who is in a long-term care facility for intermediate or personal care.

(31) "Residential treatment facility" means a facility of not less than 30 beds that is operated by a nonprofit corporation or association for the primary purpose of providing long-term treatment services for mental illness in a residential setting to persons between 5 and 21 years of age.

~~(31)~~(32) "State health plan" means the plan prepared by the department to project the need for health care facilities within Montana and approved by the statewide health coordinating council and the governor."

**Section 2.** Section 53-6-101, MCA, is amended to read:

"53-6-101. Definition of medical assistance. (1) The definition of medical assistance shall include:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services;

(d) skilled nursing home services;

(e) physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled nursing home, or elsewhere; and

(f) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), but limited to:

(i) inpatient services in a psychiatric hospital exclusively devoted to the care of persons under 21 years of age; or

(ii) services in a residential treatment facility as defined in 50-5-101; and

~~(f)~~(g) services provided by nurse specialists, as specifically listed in 37-8-202(5), within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider.

(2) It may also include, although not necessarily limited to, the following:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy and other related services;

(f) clinic services;

(g) services provided by social workers licensed under Title 37, chapter 22;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) eyeglasses prescribed by a physician skilled in

diseases of the eye or by an optometrist, whichever the individual may select;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) any additional medical service or aid allowable under or provided by the federal Social Security Act."

**NEW SECTION. Section 3.** Certificate of need for residential treatment facility. A person may not operate a residential treatment facility unless he has obtained a certificate of need issued by the department as provided under this part.

**NEW SECTION. Section 4.** Study of residential treatment facility needs -- authorization for change of use -- licensing of existing facilities. (1) In order to determine the need for services provided by a residential treatment facility, the department, together with the department of family services and the department of social and rehabilitation services, shall:

(a) conduct a review of the need for services provided by the residential treatment facility. The review must include a determination of:

(i) the number of persons between 5 and 21 years of age who:

(A) suffer from mental illness in this state; and

(B) are placed in out-of-state facilities by the

department of family services and Montana school districts;

(ii) the appropriate levels of care or treatment for the persons described in subsection (1)(a)(i); and

(iii) the potential number of persons described in subsection (1)(a)(i) eligible for reimbursement of inpatient psychiatric services under 53-6-101;

(b) develop an appropriate methodology for determining the need for residential treatment facility services and beds; and

(c) report their findings to the 52nd legislature.

(2) Except as provided in subsection (3), the department may not issue a certificate of need for a new residential treatment facility or for any change in the capacity of an existing facility seeking a certificate of need as a residential treatment facility until after October 1, 1991.

(3) A person who operates an existing facility that meets the definition of a residential treatment facility on [the effective date of this act] may receive a license to operate the facility as a residential treatment facility and need not obtain a certificate of need as otherwise required under [section 3].

**NEW SECTION. Section 5.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of



1 [this act].

2 NEW SECTION. **Section 6.** Codification instruction.  
3 [Sections 3 and 4] are intended to be codified as an  
4 integral part of Title 50, chapter 5, part 3, and the  
5 provisions of Title 50, chapter 5, part 3, apply to  
6 [sections 3 and 4].

7 NEW SECTION. **Section 7.** Effective date. [This act] is  
8 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB304, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to codify authorization for medicaid inpatient psychiatric services; to define "residential treatment facility"; to provide inpatient psychiatric services to persons under 21 years of age in a residential treatment facility; to require a certificate of need for residential treatment facilities; amending sections 50-5-101 and 53-6-101, MCA; and providing an immediate effective date.

ASSUMPTIONS:

1. It is assumed that there will be only two providers qualifying for residential psychiatric reimbursement in FY90 and FY91.
2. Yellowstone Treatment Center will provide 21,287 days of medicaid-eligible treatment each year of the biennium (58 placements).
3. Intermountain Deaconess will receive accreditation January 1990 and provide 3,548 days of medicaid-eligible treatment in FY90 (10 placements) and 7,096 days in FY91 (19 placements).
4. The number of placements that would be paid for under the proposed law will be 27 higher than would have been paid for by the Department of Family Services without medicaid coverage of residential foster care. It is expected that medicaid-eligible placements will be made that do not come through the DFS system.
5. The estimated rate of reimbursement for YTC is \$79.84 in FY89 and \$168.30 per day in FY90 and \$171.67 per day in FY91. ID is projected to receive \$71.50 in FY89 and \$147.90 per day in FY90 and \$150.86 in FY91.
6. The estimated federal medicaid match is 71.17% in FY90 and 71.28 in FY91.
7. Accreditation review of the facilities by staff from the Department of Health and Environmental Sciences will require six days of staff time and travel expenses. DHES will also publish rules for licensure.
8. The Department of Social and Rehabilitation Services will need 2.0 grade 15 FTE to provide case review and utilization control.
9. It is assumed that the Department of Family Services funded 50 placements in FY88 at YTC and ID that would have qualified for medicaid reimbursement. It is assumed that the same number of placements qualify for medicaid in the coming biennium and that DFS foster care residential costs would be reduced by the amount expended on the 50 placements in FY88. Note that the reduction attributable to ID medicaid foster care in FY90 would be applicable after January 1 when the facility receives accreditation.

 1/27/89  
RAY SHACKLEFORD, BUDGET DIRECTOR      DATE  
OFFICE OF BUDGET AND PROGRAM PLANNING

2/6/89  
TOM HANNAH, PRIMARY SPONSOR      DATE

Fiscal Note for HB304, as introduced

**HB 304**

Fiscal Note Request, HB304 as introduced  
Form BD-15  
Page 2

10. It is assumed that SB 217 extending the certificate of need process will pass. If the bill does not pass, there would be more residential care facilities that would come on line and the number of medicaid placements and payments would rise.
11. General fund revenue is calculated for the cost to facilities for licensure. It is assumed that there is a \$20 fee for a license plus a \$1 per bed charge.

FISCAL IMPACT:

Expenditure Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
SRS						
Personal Services	\$ 1,016,958	\$ 1,073,172	\$ 56,214	\$ 1,018,478	\$ 1,074,692	\$ 56,214
Operating Expenses	2,449,305	2,515,905	66,600	2,433,090	2,508,690	75,600
Equipment	2,700	4,700	2,000	2,700	2,700	0
Benefits	183,020,600	187,127,951	4,107,351	189,972,003	194,696,746	4,724,743
Family Services						
Benefits	1,912,011	790,560	(1,121,451)	1,912,011	525,600	(1,386,411)
DHES						
Operating	0	5,259	5,259	0	4,114	4,114
TOTAL	\$188,401,574	\$191,517,547	\$3,115,973	\$195,338,282	\$198,812,542	\$3,474,260
<u>Funding:</u>						
General Fund	\$ 49,422,407	\$ 49,972,396	\$ 549,989	\$ 51,525,197	\$ 52,088,080	\$ 562,883
County Funds	7,240,646	7,044,952	(195,694)	7,363,646	7,121,717	(241,929)
Federal Funds	131,738,521	134,500,199	2,761,678	136,449,439	139,602,745	3,153,306
TOTAL	\$188,401,574	\$191,517,547	\$3,115,973	\$195,338,282	\$198,812,542	\$3,474,260
<u>Revenue:</u>						
General Fund	0	136	136	0	136	136

NOTE: It is suggested that language be added to allow SRS to transfer general fund authority to DFS if clients are not medicaid eligible.

HB 304

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25 nurse on a 24-hour basis.

(c) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(d) "Intermediate developmental disability care" means the provision of nursing care services, health-related services, and social services for the developmentally disabled, as defined in 53-20-102(4), or persons with related problems.

(e) "Personal care" means the provision of services and care which do not require nursing skills to residents needing some assistance in performing the activities of daily living.

(20) "Medical assistance facility" means a facility that:

(a) provides inpatient care to ill or injured persons prior to their transportation to a hospital or provides inpatient medical care to persons needing that care for a period of no longer than 96 hours; and

(b) either is located in a county with fewer than six residents per square mile or is located more than 35 road miles from the nearest hospital.

(21) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients or the

rehabilitation of such persons, or any combination of these services.

(22) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

(23) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering from surgery or other treatment.

(24) "Offer" means the holding out by a health care facility that it can provide specific health services.

(25) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

(26) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(27) "Person" means any individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(28) "Public health center" means a publicly owned facility providing health services, including laboratories, clinics, and administrative offices.

1 (29) "Rehabilitation facility" means a facility which  
 2 is operated for the primary purpose of assisting in the  
 3 rehabilitation of disabled persons by providing  
 4 comprehensive medical evaluations and services,  
 5 psychological and social services, or vocational evaluation  
 6 and training or any combination of these services and in  
 7 which the major portion of the services is furnished within  
 8 the facility.

9 (30) "Resident" means a person who is in a long-term  
 10 care facility for intermediate or personal care.

11 (31) "Residential treatment facility" means a facility  
 12 ~~of--not--less--than--30--beds--that--is~~ OF NOT LESS THAN 30 BEDS  
 13 ~~THAT IS~~ operated by a nonprofit corporation or association  
 14 ~~for the primary purpose of providing long-term treatment~~  
 15 ~~services for mental illness in a residential setting to~~  
 16 ~~persons between-5-and UNDER 21 years of age.~~

17 ~~{31}{32}~~ "State health plan" means the plan prepared by  
 18 the department to project the need for health care  
 19 facilities within Montana and approved by the statewide  
 20 health coordinating council and the governor."

21 **Section 2.** Section 53-6-101, MCA, is amended to read:

22 "53-6-101. Definition of medical assistance. (1) The  
 23 definition of medical assistance shall include:

- 24 (a) inpatient hospital services;  
 25 (b) outpatient hospital services;

1 (c) other laboratory and x-ray services;

2 (d) skilled nursing home services;

3 (e) physicians' services, whether furnished in the  
 4 office, the patient's home, a hospital, a skilled nursing  
 5 home, or elsewhere; and

6 (f) inpatient psychiatric services for persons under  
 7 21 years of age, as provided in 42 U.S.C. 1396d(h), but  
 8 limited to:

9 (i) inpatient services in a psychiatric hospital  
 10 exclusively devoted to the care of persons under 21 years of  
 11 age; or

12 (ii) services in a residential treatment facility as  
 13 defined in 50-5-101; and

14 ~~{f}{g}~~ services provided by nurse specialists, as  
 15 specifically listed in 37-8-202(5), within the scope of  
 16 their practice and that are otherwise directly reimbursed as  
 17 allowed under department rule to an existing provider.

18 (2) It may also include, although not necessarily  
 19 limited to, the following:

20 (a) medical care or any other type of remedial care  
 21 recognized under state law, furnished by licensed  
 22 practitioners within the scope of their practice as defined  
 23 by state law;

24 (b) home health care services;

25 (c) private-duty nursing services;



- 1 (d) dental services;
- 2 (e) physical therapy and other related services;
- 3 (f) clinic services;
- 4 (g) services provided by social workers licensed under
- 5 Title 37, chapter 22;
- 6 (h) prescribed drugs, dentures, and prosthetic
- 7 devices;
- 8 (i) eyeglasses prescribed by a physician skilled in
- 9 diseases of the eye or by an optometrist, whichever the
- 10 individual may select;
- 11 (j) other diagnostic, screening, preventive,
- 12 rehabilitative, chiropractic, and osteopathic services;
- 13 (k) any additional medical service or aid allowable
- 14 under or provided by the federal Social Security Act."

15 **NEW SECTION. Section 3.** Certificate of need for  
 16 residential treatment facility. A person may not operate a  
 17 residential treatment facility unless he has obtained a  
 18 certificate of need issued by the department as provided  
 19 under this part.

20 **NEW SECTION. Section 4.** Study of residential  
 21 treatment facility needs -- authorization for change of use  
 22 -- licensing of existing facilities. (1) In order to  
 23 determine the need for services provided by a residential  
 24 treatment facility, the department, together with the  
 25 department of family services and the department of social

1 and rehabilitation services, shall:

2 (a) conduct a review of the need for services provided  
 3 by the residential treatment facility. The review must  
 4 include a determination of:

5 (i) the number of persons between 5 and 21 years of  
 6 age who:

7 (A) suffer from mental illness in this state; and

8 (B) are placed in out-of-state facilities by the  
 9 department of family services and Montana school districts;

10 (ii) the appropriate levels of care or treatment for  
 11 the persons described in subsection (1)(a)(i); and

12 (iii) the potential number of persons described in  
 13 subsection (1)(a)(i) eligible for reimbursement of inpatient  
 14 psychiatric services under 53-6-101;

15 (b) develop an appropriate methodology for determining  
 16 the need for residential treatment facility services and  
 17 beds; and

18 (c) report their findings to the 52nd legislature.

19 (2) Except as provided in subsection (3), the  
 20 department may not issue a certificate of need for a new  
 21 residential treatment facility or for any change in the  
 22 capacity of an existing facility seeking a certificate of  
 23 need as a residential treatment facility until after October  
 24 1, 1991.

25 (3) A person who operates an existing facility that

1 meets the definition of a residential treatment facility on  
2 [the effective date of this act] may receive a license to  
3 operate the facility as a residential treatment facility and  
4 need not obtain a certificate of need as otherwise required  
5 under [section 3].

6 NEW SECTION. **Section 5.** Extension of authority. Any  
7 existing authority to make rules on the subject of the  
8 provisions of [this act] is extended to the provisions of  
9 [this act].

10 NEW SECTION. **Section 6.** Codification instruction.  
11 [Sections 3 and 4] are intended to be codified as an  
12 integral part of Title 50, chapter 5, part 3, and the  
13 provisions of Title 50, chapter 5, part 3, apply to  
14 [sections 3 and 4].

15 NEW SECTION. **Section 7.** Effective date. [This act] is  
16 effective July 1, 1989.

-End-

## HOUSE BILL NO. 304

INTRODUCED BY HANNAH, BENGTSON, HARPER, RAMIREZ, ADDY,  
KIMBERLEY, GLASER, WHALEN, T. NELSON, KILPATRICK, KELLER,  
ROTH, HAGER, RICE, J. BROWN, CRIPPEN, PATTERSON, DRISCOLL,  
SPAETH, MCLANE, SIMON, MCDONOUGH, BACHINI, O'KEEFE,  
NATHE, BLOTKAMP, MAZUREK, RASMUSSEN, BLAYLOCK, GUTHRIE,  
KADAS, DARKO, CAMPBELL, STRIZICH, SQUIRES, MANNING,  
NISBET, HALLIGAN, KEATING, BISHOP, GRADY, SCHYE,  
EUDAILY, ANDERSON, COCCHIARELLA, HANSEN,  
O'CONNELL, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO CODIFY AUTHORIZATION  
FOR MEDICAID INPATIENT PSYCHIATRIC SERVICES; TO DEFINE  
"RESIDENTIAL TREATMENT FACILITY"; TO PROVIDE INPATIENT  
PSYCHIATRIC SERVICES TO PERSONS UNDER 21 YEARS OF AGE IN A  
RESIDENTIAL TREATMENT FACILITY; TO REQUIRE A CERTIFICATE OF  
NEED FOR RESIDENTIAL TREATMENT FACILITIES; AMENDING SECTIONS  
50-5-101 AND 53-6-101, MCA; AND PROVIDING AN EFFECTIVE  
DATE."

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

**Section 1.** Section 50-5-101, MCA, is amended to read:

**"50-5-101. (Effective July 1, 1989) Definitions.** As  
used in parts 1 through 4 of this chapter, unless the  
context clearly indicates otherwise, the following

definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Adult day-care center" means a facility,  
freestanding or connected to another health care facility,  
which provides adults, on an intermittent basis, with the  
care necessary to meet the needs of daily living.

(3) "Ambulatory surgical facility" means a facility,  
not part of a hospital, which provides surgical treatment to  
patients not requiring hospitalization. This type of  
facility may include observation beds for patient recovery  
from surgery or other treatment.

(4) "Board" means the board of health and  
environmental sciences, provided for in 2-15-2104.

(5) "Chemical dependency facility" means a facility  
whose function is the treatment, rehabilitation, and  
prevention of the use of any chemical substance, including  
alcohol, which creates behavioral or health problems and  
endangers the health, interpersonal relationships, or  
economic function of an individual or the public health,  
welfare, or safety.

(6) "Clinical laboratory" means a facility for the  
microbiological, serological, chemical, hematological,  
radiobioassay, cytological, immunohematological,  
pathological, or other examination of materials derived from  
the human body for the purpose of providing information for

1 the diagnosis, prevention, or treatment of any disease or  
2 assessment of a medical condition.

3 (7) "College of American pathologists" means the  
4 organization nationally recognized by that name with  
5 headquarters in Traverse City, Michigan, that surveys  
6 clinical laboratories upon their requests and accredits  
7 clinical laboratories that it finds meet its standards and  
8 requirements.

9 (8) "Department" means the department of health and  
10 environmental sciences provided for in Title 2, chapter 15,  
11 part 21.

12 (9) "Federal acts" means federal statutes for the  
13 construction of health care facilities.

14 (10) "Governmental unit" means the state, a state  
15 agency, a county, municipality, or political subdivision of  
16 the state, or an agency of a political subdivision.

17 (11) "Health care facility" or "facility" means any  
18 institution, building, or agency or portion thereof, private  
19 or public, excluding federal facilities, whether organized  
20 for profit or not, used, operated, or designed to provide  
21 health services, medical treatment, or nursing,  
22 rehabilitative, or preventive care to any person or persons.  
23 The term does not include offices of private physicians or  
24 dentists. The term includes but is not limited to ambulatory  
25 surgical facilities, health maintenance organizations, home

1 health agencies, hospices, hospitals, infirmaries, kidney  
2 treatment centers, long-term care facilities, medical  
3 assistance facilities, mental health centers, outpatient  
4 facilities, public health centers, rehabilitation  
5 facilities, residential treatment facilities, and adult  
6 day-care centers.

7 (12) "Health maintenance organization" means a public  
8 or private organization that provides or arranges for health  
9 care services to enrollees on a prepaid or other financial  
10 basis, either directly through provider employees or through  
11 contractual or other arrangements with a provider or group  
12 of providers.

13 (13) "Home health agency" means a public agency or  
14 private organization or subdivision thereof which is engaged  
15 in providing home health services to individuals in the  
16 places where they live. Home health services must include  
17 the services of a licensed registered nurse and at least one  
18 other therapeutic service and may include additional support  
19 services.

20 (14) "Hospice" means a coordinated program of home and  
21 inpatient health care that provides or coordinates  
22 palliative and supportive care to meet the needs of a  
23 terminally ill patient and his family arising out of  
24 physical, psychological, spiritual, social, and economic  
25 stresses experienced during the final stages of illness and

1 dying and that includes formal bereavement programs as an  
2 essential component.

3 (15) "Hospital" means a facility providing, by or under  
4 the supervision of licensed physicians, services for medical  
5 diagnosis, treatment, rehabilitation, and care of injured,  
6 disabled, or sick persons. Services provided may or may not  
7 include obstetrical care, emergency care, or any other  
8 service as allowed by state licensing authority. A hospital  
9 has an organized medical staff which is on call and  
10 available within 20 minutes, 24 hours per day, 7 days per  
11 week, and provides 24-hour nursing care by licensed  
12 registered nurses. This term includes hospitals specializing  
13 in providing health services for psychiatric, mentally  
14 retarded, and tubercular patients.

15 (16) "Infirmery" means a facility located in a  
16 university, college, government institution, or industry for  
17 the treatment of the sick or injured, with the following  
18 subdefinitions:

19 (a) an "infirmery--A" provides outpatient and  
20 inpatient care;

21 (b) an "infirmery--B" provides outpatient care only.

22 (17) "Joint commission on accreditation of hospitals"  
23 means the organization nationally recognized by that name  
24 with headquarters in Chicago, Illinois, that surveys health  
25 care facilities upon their requests and grants accreditation

1 status to any health care facility that it finds meets its  
2 standards and requirements.

3 (18) "Kidney treatment center" means a facility which  
4 specializes in treatment of kidney diseases, including  
5 freestanding hemodialysis units.

6 (19) (a) "Long-term care facility" means a facility or  
7 part thereof which provides skilled nursing care,  
8 intermediate nursing care, or intermediate developmental  
9 disability care to a total of two or more persons or  
10 personal care to more than four persons who are not related  
11 to the owner or administrator by blood or marriage. The  
12 term does not include adult foster care licensed under  
13 53-5-303, community homes for the developmentally disabled  
14 licensed under 53-20-305, community homes for physically  
15 disabled persons licensed under 53-19-111, youth care  
16 facilities licensed under 41-3-1142, hotels, motels,  
17 boardinghouses, roominghouses, or similar accommodations  
18 providing for transients, students, or persons not requiring  
19 institutional health care, or juvenile and adult  
20 correctional facilities operating under the authority of the  
21 department of institutions.

22 (b) "Skilled nursing care" means the provision of  
23 nursing care services, health-related services, and social  
24 services under the supervision of a licensed registered  
25 nurse on a 24-hour basis.

(c) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(d) "Intermediate developmental disability care" means the provision of nursing care services, health-related services, and social services for the developmentally disabled, as defined in 53-20-102(4), or persons with related problems.

(e) "Personal care" means the provision of services and care which do not require nursing skills to residents needing some assistance in performing the activities of daily living.

(20) "Medical assistance facility" means a facility that:

(a) provides inpatient care to ill or injured persons prior to their transportation to a hospital or provides inpatient medical care to persons needing that care for a period of no longer than 96 hours; and

(b) either is located in a county with fewer than six residents per square mile or is located more than 35 road miles from the nearest hospital.

(21) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients or the

rehabilitation of such persons, or any combination of these services.

(22) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

(23) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering from surgery or other treatment.

(24) "Offer" means the holding out by a health care facility that it can provide specific health services.

(25) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

(26) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(27) "Person" means any individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(28) "Public health center" means a publicly owned facility providing health services, including laboratories, clinics, and administrative offices.

1 (29) "Rehabilitation facility" means a facility which  
 2 is operated for the primary purpose of assisting in the  
 3 rehabilitation of disabled persons by providing  
 4 comprehensive medical evaluations and services,  
 5 psychological and social services, or vocational evaluation  
 6 and training or any combination of these services and in  
 7 which the major portion of the services is furnished within  
 8 the facility.

9 (30) "Resident" means a person who is in a long-term  
 10 care facility for intermediate or personal care.

11 (31) "Residential treatment facility" means a facility  
 12 of--not--less--than--30--beds--that--is OF NOT LESS THAN 30 BEDS  
 13 THAT IS operated by a nonprofit corporation or association  
 14 for the primary purpose of providing long-term treatment  
 15 services for mental illness in a residential setting to  
 16 persons between-5-and UNDER 21 years of age.

17 ~~{31}~~{32} "State health plan" means the plan prepared by  
 18 the department to project the need for health care  
 19 facilities within Montana and approved by the statewide  
 20 health coordinating council and the governor."

21 **Section 2.** Section 53-6-101, MCA, is amended to read:

22 "53-6-101. Definition of medical assistance. (1) The  
 23 definition of medical assistance shall include:

- 24 (a) inpatient hospital services;  
 25 (b) outpatient hospital services;

1 (c) other laboratory and x-ray services;

2 (d) skilled nursing home services;

3 (e) physicians' services, whether furnished in the  
 4 office, the patient's home, a hospital, a skilled nursing  
 5 home, or elsewhere; and

6 (f) inpatient psychiatric services for persons under  
 7 21 years of age, as provided in 42 U.S.C. 1396d(h), but  
 8 limited to:

9 (i) inpatient services in a psychiatric hospital  
 10 exclusively devoted to the care of persons under 21 years of  
 11 age; or

12 (ii) services in a residential treatment facility as  
 13 defined in 50-5-101; and

14 ~~{f}~~{g} services provided by nurse specialists, as  
 15 specifically listed in 37-8-202(5), within the scope of  
 16 their practice and that are otherwise directly reimbursed as  
 17 allowed under department rule to an existing provider.

18 (2) It may also include, although not necessarily  
 19 limited to, the following:

20 (a) medical care or any other type of remedial care  
 21 recognized under state law, furnished by licensed  
 22 practitioners within the scope of their practice as defined  
 23 by state law;

24 (b) home health care services;

25 (c) private-duty nursing services;

1 (d) dental services;  
 2 (e) physical therapy and other related services;  
 3 (f) clinic services;  
 4 (g) services provided by social workers licensed under  
 5 Title 37, chapter 22;  
 6 (h) prescribed drugs, dentures, and prosthetic  
 7 devices;  
 8 (i) eyeglasses prescribed by a physician skilled in  
 9 diseases of the eye or by an optometrist, whichever the  
 10 individual may select;  
 11 (j) other diagnostic, screening, preventive,  
 12 rehabilitative, chiropractic, and osteopathic services;  
 13 (k) any additional medical service or aid allowable  
 14 under or provided by the federal Social Security Act."

15 NEW SECTION. **Section 3.** Certificate of need for  
 16 residential treatment facility. A person may not operate a  
 17 residential treatment facility unless he has obtained a  
 18 certificate of need issued by the department as provided  
 19 under this part.

20 NEW SECTION. **Section 4.** Study of residential  
 21 treatment facility needs -- authorization for change of use  
 22 -- licensing of existing facilities. (1) In order to  
 23 determine the need for services provided by a residential  
 24 treatment facility, the department, together with the  
 25 department of family services and the department of social

1 and rehabilitation services, shall:

2 (a) conduct a review of the need for services provided  
 3 by the residential treatment facility. The review must  
 4 include a determination of:

5 (i) the number of persons between 5 and 21 years of  
 6 age who:

7 (A) suffer from mental illness in this state; and

8 (B) are placed in out-of-state facilities by the  
 9 department of family services and Montana school districts;

10 (ii) the appropriate levels of care or treatment for  
 11 the persons described in subsection (1)(a)(i); and

12 (iii) the potential number of persons described in  
 13 subsection (1)(a)(i) eligible for reimbursement of inpatient  
 14 psychiatric services under 53-6-101;

15 (b) develop an appropriate methodology for determining  
 16 the need for residential treatment facility services and  
 17 beds; and

18 (c) report their findings to the 52nd legislature.

19 (2) Except as provided in subsection (3), the  
 20 department may not issue a certificate of need for a new  
 21 residential treatment facility or for any change in the  
 22 capacity of an existing facility seeking a certificate of  
 23 need as a residential treatment facility until after October  
 24 1, 1991.

25 (3) A person who operates an existing facility that



1 meets the definition of a residential treatment facility on  
2 [the effective date of this act] may receive a license to  
3 operate the facility as a residential treatment facility and  
4 need not obtain a certificate of need as otherwise required  
5 under [section 3].

6 NEW SECTION. **Section 5.** Extension of authority. Any  
7 existing authority to make rules on the subject of the  
8 provisions of [this act] is extended to the provisions of  
9 [this act].

10 NEW SECTION. **Section 6.** Codification instruction.  
11 [Sections 3 and 4] are intended to be codified as an  
12 integral part of Title 50, chapter 5, part 3, and the  
13 provisions of Title 50, chapter 5, part 3, apply to  
14 [sections 3 and 4].

15 NEW SECTION. **Section 7.** Effective date. [This act] is  
16 effective July 1, 1989.

-End-

## HOUSE BILL NO. 304

INTRODUCED BY HANNAH, BENGTSON, HARPER, RAMIREZ, ADDY,  
KIMBERLEY, GLASER, WHALEN, T. NELSON, KILPATRICK, KELLER,  
ROTH, HAGER, RICE, J. BROWN, CRIPPEN, PATTERSON, DRISCOLL,  
SPAETH, MCLANE, SIMON, MCDONOUGH, BACHINI, O'KEEFE,  
NATHE, BLOTKAMP, MAZUREK, RASMUSSEN, BLAYLOCK, GUTHRIE,  
KADAS, DARKO, CAMPBELL, STRIZICH, SQUIRES, MANNING,  
NISBET, HALLIGAN, KEATING, BISHOP, GRADY, SCHYE,  
EUDAILY, ANDERSON, COCCHIARELLA, HANSEN,  
O'CONNELL, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO CODIFY AUTHORIZATION  
FOR MEDICAID INPATIENT PSYCHIATRIC SERVICES; TO DEFINE  
"RESIDENTIAL TREATMENT FACILITY"; TO PROVIDE INPATIENT  
PSYCHIATRIC SERVICES TO PERSONS UNDER 21 YEARS OF AGE IN A  
RESIDENTIAL TREATMENT FACILITY; TO REQUIRE A CERTIFICATE OF  
NEED FOR RESIDENTIAL TREATMENT FACILITIES; AMENDING SECTIONS  
50-5-101 AND 53-6-101, MCA; AND PROVIDING AN EFFECTIVE  
DATE."

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

**Section 1.** Section 50-5-101, MCA, is amended to read:

"50-5-101. (Effective July 1, 1989) Definitions. As  
used in parts 1 through 4 of this chapter, unless the  
context clearly indicates otherwise, the following

definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Adult day-care center" means a facility,  
freestanding or connected to another health care facility,  
which provides adults, on an intermittent basis, with the  
care necessary to meet the needs of daily living.

(3) "Ambulatory surgical facility" means a facility,  
not part of a hospital, which provides surgical treatment to  
patients not requiring hospitalization. This type of  
facility may include observation beds for patient recovery  
from surgery or other treatment.

(4) "Board" means the board of health and  
environmental sciences, provided for in 2-15-2104.

(5) "Chemical dependency facility" means a facility  
whose function is the treatment, rehabilitation, and  
prevention of the use of any chemical substance, including  
alcohol, which creates behavioral or health problems and  
endangers the health, interpersonal relationships, or  
economic function of an individual or the public health,  
welfare, or safety.

(6) "Clinical laboratory" means a facility for the  
microbiological, serological, chemical, hematological,  
radiobioassay, cytological, immunoheamatological,  
pathological, or other examination of materials derived from  
the human body for the purpose of providing information for

1 the diagnosis, prevention, or treatment of any disease or  
2 assessment of a medical condition.

3 (7) "College of American pathologists" means the  
4 organization nationally recognized by that name with  
5 headquarters in Traverse City, Michigan, that surveys  
6 clinical laboratories upon their requests and accredits  
7 clinical laboratories that it finds meet its standards and  
8 requirements.

9 (8) "Department" means the department of health and  
10 environmental sciences provided for in Title 2, chapter 15,  
11 part 21.

12 (9) "Federal acts" means federal statutes for the  
13 construction of health care facilities.

14 (10) "Governmental unit" means the state, a state  
15 agency, a county, municipality, or political subdivision of  
16 the state, or an agency of a political subdivision.

17 (11) "Health care facility" or "facility" means any  
18 institution, building, or agency or portion thereof, private  
19 or public, excluding federal facilities, whether organized  
20 for profit or not, used, operated, or designed to provide  
21 health services, medical treatment, or nursing,  
22 rehabilitative, or preventive care to any person or persons.  
23 The term does not include offices of private physicians or  
24 dentists. The term includes but is not limited to ambulatory  
25 surgical facilities, health maintenance organizations, home

1 health agencies, hospices, hospitals, infirmaries, kidney  
2 treatment centers, long-term care facilities, medical  
3 assistance facilities, mental health centers, outpatient  
4 facilities, public health centers, rehabilitation  
5 facilities, residential treatment facilities, and adult  
6 day-care centers.

7 (12) "Health maintenance organization" means a public  
8 or private organization that provides or arranges for health  
9 care services to enrollees on a prepaid or other financial  
10 basis, either directly through provider employees or through  
11 contractual or other arrangements with a provider or group  
12 of providers.

13 (13) "Home health agency" means a public agency or  
14 private organization or subdivision thereof which is engaged  
15 in providing home health services to individuals in the  
16 places where they live. Home health services must include  
17 the services of a licensed registered nurse and at least one  
18 other therapeutic service and may include additional support  
19 services.

20 (14) "Hospice" means a coordinated program of home and  
21 inpatient health care that provides or coordinates  
22 palliative and supportive care to meet the needs of a  
23 terminally ill patient and his family arising out of  
24 physical, psychological, spiritual, social, and economic  
25 stresses experienced during the final stages of illness and

1 dying and that includes formal bereavement programs as an  
2 essential component.

3 (15) "Hospital" means a facility providing, by or under  
4 the supervision of licensed physicians, services for medical  
5 diagnosis, treatment, rehabilitation, and care of injured,  
6 disabled, or sick persons. Services provided may or may not  
7 include obstetrical care, emergency care, or any other  
8 service as allowed by state licensing authority. A hospital  
9 has an organized medical staff which is on call and  
10 available within 20 minutes, 24 hours per day, 7 days per  
11 week, and provides 24-hour nursing care by licensed  
12 registered nurses. This term includes hospitals specializing  
13 in providing health services for psychiatric, mentally  
14 retarded, and tubercular patients.

15 (16) "Infirmary" means a facility located in a  
16 university, college, government institution, or industry for  
17 the treatment of the sick or injured, with the following  
18 subdefinitions:

19 (a) an "infirmary--A" provides outpatient and  
20 inpatient care;

21 (b) an "infirmary--B" provides outpatient care only.

22 (17) "Joint commission on accreditation of hospitals"  
23 means the organization nationally recognized by that name  
24 with headquarters in Chicago, Illinois, that surveys health  
25 care facilities upon their requests and grants accreditation

1 status to any health care facility that it finds meets its  
2 standards and requirements.

3 (18) "Kidney treatment center" means a facility which  
4 specializes in treatment of kidney diseases, including  
5 freestanding hemodialysis units.

6 (19) (a) "Long-term care facility" means a facility or  
7 part thereof which provides skilled nursing care,  
8 intermediate nursing care, or intermediate developmental  
9 disability care to a total of two or more persons or  
10 personal care to more than four persons who are not related  
11 to the owner or administrator by blood or marriage. The  
12 term does not include adult foster care licensed under  
13 53-5-303, community homes for the developmentally disabled  
14 licensed under 53-20-305, community homes for physically  
15 disabled persons licensed under 53-19-111, youth care  
16 facilities licensed under 41-3-1142, hotels, motels,  
17 boardinghouses, roominghouses, or similar accommodations  
18 providing for transients, students, or persons not requiring  
19 institutional health care, or juvenile and adult  
20 correctional facilities operating under the authority of the  
21 department of institutions.

22 (b) "Skilled nursing care" means the provision of  
23 nursing care services, health-related services, and social  
24 services under the supervision of a licensed registered  
25 nurse on a 24-hour basis.

1 (c) "Intermediate nursing care" means the provision of  
2 nursing care services, health-related services, and social  
3 services under the supervision of a licensed nurse to  
4 patients not requiring 24-hour nursing care.

5 (d) "Intermediate developmental disability care" means  
6 the provision of nursing care services, health-related  
7 services, and social services for the developmentally  
8 disabled, as defined in 53-20-102(4), or persons with  
9 related problems.

10 (e) "Personal care" means the provision of services  
11 and care which do not require nursing skills to residents  
12 needing some assistance in performing the activities of  
13 daily living.

14 (20) "Medical assistance facility" means a facility  
15 that:

16 (a) provides inpatient care to ill or injured persons  
17 prior to their transportation to a hospital or provides  
18 inpatient medical care to persons needing that care for a  
19 period of no longer than 96 hours; and

20 (b) either is located in a county with fewer than six  
21 residents per square mile or is located more than 35 road  
22 miles from the nearest hospital.

23 (21) "Mental health center" means a facility providing  
24 services for the prevention or diagnosis of mental illness,  
25 the care and treatment of mentally ill patients or the

1 rehabilitation of such persons, or any combination of these  
2 services.

3 (22) "Nonprofit health care facility" means a health  
4 care facility owned or operated by one or more nonprofit  
5 corporations or associations.

6 (23) "Observation bed" means a bed occupied for not  
7 more than 6 hours by a patient recovering from surgery or  
8 other treatment.

9 (24) "Offer" means the holding out by a health care  
10 facility that it can provide specific health services.

11 (25) "Outpatient facility" means a facility, located in  
12 or apart from a hospital, providing, under the direction of  
13 a licensed physician, either diagnosis or treatment, or  
14 both, to ambulatory patients in need of medical, surgical,  
15 or mental care. An outpatient facility may have observation  
16 beds.

17 (26) "Patient" means an individual obtaining services,  
18 including skilled nursing care, from a health care facility.

19 (27) "Person" means any individual, firm, partnership,  
20 association, organization, agency, institution, corporation,  
21 trust, estate, or governmental unit, whether organized for  
22 profit or not.

23 (28) "Public health center" means a publicly owned  
24 facility providing health services, including laboratories,  
25 clinics, and administrative offices.

1 (29) "Rehabilitation facility" means a facility which  
 2 is operated for the primary purpose of assisting in the  
 3 rehabilitation of disabled persons by providing  
 4 comprehensive medical evaluations and services,  
 5 psychological and social services, or vocational evaluation  
 6 and training or any combination of these services and in  
 7 which the major portion of the services is furnished within  
 8 the facility.

9 (30) "Resident" means a person who is in a long-term  
 10 care facility for intermediate or personal care.

11 (31) "Residential treatment facility" means a facility  
 12 of--not--less--than--30--beds--that--is OF NOT LESS THAN 30 BEDS  
 13 THAT IS operated by a nonprofit corporation or association  
 14 for the primary purpose of providing long-term treatment  
 15 services for mental illness in a residential setting to  
 16 persons between-5-and UNDER 21 years of age.

17 ~~{31}~~{32} "State health plan" means the plan prepared by  
 18 the department to project the need for health care  
 19 facilities within Montana and approved by the statewide  
 20 health coordinating council and the governor."

21 **Section 2.** Section 53-6-101, MCA, is amended to read:

22 "53-6-101. Definition of medical assistance. (1) The  
 23 definition of medical assistance shall include:

- 24 (a) inpatient hospital services;  
 25 (b) outpatient hospital services;

1 (c) other laboratory and x-ray services;

2 (d) skilled nursing home services;

3 (e) physicians' services, whether furnished in the  
 4 office, the patient's home, a hospital, a skilled nursing  
 5 home, or elsewhere; and

6 (f) inpatient psychiatric services for persons under  
 7 21 years of age, as provided in 42 U.S.C. 1396d(h), but  
 8 limited to:

9 (i) inpatient services in a psychiatric hospital  
 10 exclusively devoted to the care of persons under 21 years of  
 11 age; or

12 (ii) services in a residential treatment facility as  
 13 defined in 50-5-101; and

14 ~~{f}~~{g} services provided by nurse specialists, as  
 15 specifically listed in 37-8-202(5), within the scope of  
 16 their practice and that are otherwise directly reimbursed as  
 17 allowed under department rule to an existing provider.

18 (2) It may also include, although not necessarily  
 19 limited to, the following:

20 (a) medical care or any other type of remedial care  
 21 recognized under state law, furnished by licensed  
 22 practitioners within the scope of their practice as defined  
 23 by state law;

24 (b) home health care services;

25 (c) private-duty nursing services;

1 (d) dental services;  
 2 (e) physical therapy and other related services;  
 3 (f) clinic services;  
 4 (g) services provided by social workers licensed under  
 5 Title 37, chapter 22;  
 6 (h) prescribed drugs, dentures, and prosthetic  
 7 devices;  
 8 (i) eyeglasses prescribed by a physician skilled in  
 9 diseases of the eye or by an optometrist, whichever the  
 10 individual may select;  
 11 (j) other diagnostic, screening, preventive,  
 12 rehabilitative, chiropractic, and osteopathic services;  
 13 (k) any additional medical service or aid allowable  
 14 under or provided by the federal Social Security Act."

15 **NEW SECTION. Section 3.** Certificate of need for  
 16 residential treatment facility. A person may not operate a  
 17 residential treatment facility unless he has obtained a  
 18 certificate of need issued by the department as provided  
 19 under this part.

20 **NEW SECTION. Section 4.** Study of residential  
 21 treatment facility needs -- authorization for change of use  
 22 -- licensing of existing facilities. (1) In order to  
 23 determine the need for services provided by a residential  
 24 treatment facility, the department, together with the  
 25 department of family services and the department of social

1 and rehabilitation services, shall:

2 (a) conduct a review of the need for services provided  
 3 by the residential treatment facility. The review must  
 4 include a determination of:

5 (i) the number of persons between 5 and 21 years of  
 6 age who:

7 (A) suffer from mental illness in this state; and

8 (B) are placed in out-of-state facilities by the  
 9 department of family services and Montana school districts;

10 (ii) the appropriate levels of care or treatment for  
 11 the persons described in subsection (1)(a)(i); and

12 (iii) the potential number of persons described in  
 13 subsection (1)(a)(i) eligible for reimbursement of inpatient  
 14 psychiatric services under 53-6-101;

15 (b) develop an appropriate methodology for determining  
 16 the need for residential treatment facility services and  
 17 beds; and

18 (c) report their findings to the 52nd legislature.

19 (2) Except as provided in subsection (3), the  
 20 department may not issue a certificate of need for a new  
 21 residential treatment facility or for any change in the  
 22 capacity of an existing facility seeking a certificate of  
 23 need as a residential treatment facility until after October  
 24 1, 1991.

25 (3) A person who operates an existing facility that

1 meets the definition of a residential treatment facility on  
2 [the effective date of this act] may receive a license to  
3 operate the facility as a residential treatment facility and  
4 need not obtain a certificate of need as otherwise required  
5 under [section 3].

6 NEW SECTION. **Section 5.** Extension of authority. Any  
7 existing authority to make rules on the subject of the  
8 provisions of [this act] is extended to the provisions of  
9 [this act].

10 NEW SECTION. **Section 6.** Codification instruction.  
11 [Sections 3 and 4] are intended to be codified as an  
12 integral part of Title 50, chapter 5, part 3, and the  
13 provisions of Title 50, chapter 5, part 3, apply to  
14 [sections 3 and 4].

15 NEW SECTION. **Section 7.** Effective date. [This act] is  
16 effective July 1, 1989.

-End-



SENATE STANDING COMMITTEE REPORT

April 6, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 304 (third reading copy -- blue), respectfully report that HB 304 be amended and as so amended be concurred in:

Sponsor: Hannah (Hager)

1. Title, line 19.  
Following: "FACILITIES;"  
Insert: "TO APPROPRIATE FUNDS;"

2. Page 11, line 19.  
Following: "SERVICES."  
Insert: "(1)"

3. Page 11, line 20.  
Following: "53-6-101"  
Strike: "INCLUDES"  
Insert: "may include"

4. Page 11, line 25.  
Following: line 24  
Insert: "(2) To the extent allowed by federal law, the department shall by rule limit eligibility for medicaid reimbursement for residential treatment facility services to those persons under 18 years of age committed to the department of family services by a youth court under 41-5-523 or placed in the legal custody of the department of family services under 41-3-406."

5. Page 17, line 23.  
Following: line 22  
Insert: NEW SECTION. Section 6. Appropriation. The following money is appropriated to the department of social and rehabilitation services to provide inpatient psychiatric services for persons under 21 years of age, as provided in [section 2]:

Fund	FY 90	FY 91
General fund	\$ 17,027	\$ 17,027
Federal special revenue	51,080	51,080
	-----	-----
Total	\$ 68,107	\$ 68,107"

Renumber: subsequent sections

AND AS AMENDED BE CONCURRED IN

Signed: \_\_\_\_\_

Thomas O. Hager, Chairman

SENATE  
HB 304

## HOUSE BILL NO. 304

INTRODUCED BY HANNAH, BENGTSON, HARPER, RAMIREZ, ADDY,  
KIMBERLEY, GLASER, WHALEN, T. NELSON, KILPATRICK, KELLER,  
ROTH, HAGER, RICE, J. BROWN, CRIPPEN, PATTERSON, DRISCOLL,  
SPAETH, MCLANE, SIMON, MCDONOUGH, BACHINI, O'KEEFE,  
NATHE, BLOTKAMP, MAZUREK, RASMUSSEN, BLAYLOCK, GUTHRIE,  
KADAS, DARKO, CAMPBELL, STRIZICH, SQUIRES, MANNING,  
NISBET, HALLIGAN, KEATING, BISHOP, GRADY, SCHYE,  
EUDAILY, ANDERSON, COCCHIARELLA, HANSEN,  
O'CONNELL, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~COPIFY-AUTHORIZATION~~  
~~FOR-MEDICAID~~ ESTABLISH A 2-YEAR PILOT PROJECT FOR MEDICAID  
REIMBURSEMENT OF INPATIENT PSYCHIATRIC SERVICES IN A  
RESIDENTIAL TREATMENT FACILITY; TO DEFINE "RESIDENTIAL  
TREATMENT FACILITY"; TO PROVIDE INPATIENT PSYCHIATRIC  
SERVICES TO PERSONS UNDER 21 YEARS OF AGE IN A RESIDENTIAL  
TREATMENT FACILITY; TO REQUIRE A CERTIFICATE OF NEED FOR  
RESIDENTIAL TREATMENT FACILITIES; TO APPROPRIATE FUNDS;  
AMENDING SECTIONS 41-5-523 AND 50-5-101 AND 53-6-101, MCA;  
AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION  
PROVISION."

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

**Section 1.** Section 50-5-101, MCA, is amended to read:

"50-5-101. (Effective July 1, 1989) Definitions. As  
used in parts 1 through 4 of this chapter, unless the  
context clearly indicates otherwise, the following  
definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Adult day-care center" means a facility,  
freestanding or connected to another health care facility,  
which provides adults, on an intermittent basis, with the  
care necessary to meet the needs of daily living.

(3) "Ambulatory surgical facility" means a facility,  
not part of a hospital, which provides surgical treatment to  
patients not requiring hospitalization. This type of  
facility may include observation beds for patient recovery  
from surgery or other treatment.

(4) "Board" means the board of health and  
environmental sciences, provided for in 2-15-2104.

(5) "Chemical dependency facility" means a facility  
whose function is the treatment, rehabilitation, and  
prevention of the use of any chemical substance, including  
alcohol, which creates behavioral or health problems and  
endangers the health, interpersonal relationships, or  
economic function of an individual or the public health,  
welfare, or safety.

(6) "Clinical laboratory" means a facility for the  
microbiological, serological, chemical, hematological,

1 radiobioassay, cytological, immuno-hematological,  
2 pathological, or other examination of materials derived from  
3 the human body for the purpose of providing information for  
4 the diagnosis, prevention, or treatment of any disease or  
5 assessment of a medical condition.

6 (7) "College of American pathologists" means the  
7 organization nationally recognized by that name with  
8 headquarters in Traverse City, Michigan, that surveys  
9 clinical laboratories upon their requests and accredits  
10 clinical laboratories that it finds meet its standards and  
11 requirements.

12 (8) "Department" means the department of health and  
13 environmental sciences provided for in Title 2, chapter 15,  
14 part 21.

15 (9) "Federal acts" means federal statutes for the  
16 construction of health care facilities.

17 (10) "Governmental unit" means the state, a state  
18 agency, a county, municipality, or political subdivision of  
19 the state, or an agency of a political subdivision.

20 (11) "Health care facility" or "facility" means any  
21 institution, building, or agency or portion thereof, private  
22 or public, excluding federal facilities, whether organized  
23 for profit or not, used, operated, or designed to provide  
24 health services, medical treatment, or nursing,  
25 rehabilitative, or preventive care to any person or persons.

1 The term does not include offices of private physicians or  
2 dentists. The term includes but is not limited to ambulatory  
3 surgical facilities, health maintenance organizations, home  
4 health agencies, hospices, hospitals, infirmaries, kidney  
5 treatment centers, long-term care facilities, medical  
6 assistance facilities, mental health centers, outpatient  
7 facilities, public health centers, rehabilitation  
8 facilities, residential treatment facilities, and adult  
9 day-care centers.

10 (12) "Health maintenance organization" means a public  
11 or private organization that provides or arranges for health  
12 care services to enrollees on a prepaid or other financial  
13 basis, either directly through provider employees or through  
14 contractual or other arrangements with a provider or group  
15 of providers.

16 (13) "Home health agency" means a public agency or  
17 private organization or subdivision thereof which is engaged  
18 in providing home health services to individuals in the  
19 places where they live. Home health services must include  
20 the services of a licensed registered nurse and at least one  
21 other therapeutic service and may include additional support  
22 services.

23 (14) "Hospice" means a coordinated program of home and  
24 inpatient health care that provides or coordinates  
25 palliative and supportive care to meet the needs of a

1 terminally ill patient and his family arising out of  
2 physical, psychological, spiritual, social, and economic  
3 stresses experienced during the final stages of illness and  
4 dying and that includes formal bereavement programs as an  
5 essential component.

6 (15) "Hospital" means a facility providing, by or under  
7 the supervision of licensed physicians, services for medical  
8 diagnosis, treatment, rehabilitation, and care of injured,  
9 disabled, or sick persons. Services provided may or may not  
10 include obstetrical care, emergency care, or any other  
11 service as allowed by state licensing authority. A hospital  
12 has an organized medical staff which is on call and  
13 available within 20 minutes, 24 hours per day, 7 days per  
14 week, and provides 24-hour nursing care by licensed  
15 registered nurses. This term includes hospitals specializing  
16 in providing health services for psychiatric, mentally  
17 retarded, and tubercular patients.

18 (16) "Infirmity" means a facility located in a  
19 university, college, government institution, or industry for  
20 the treatment of the sick or injured, with the following  
21 subdefinitions:

22 (a) an "infirmity--A" provides outpatient and  
23 inpatient care;

24 (b) an "infirmity--B" provides outpatient care only.

25 (17) "Joint commission on accreditation of hospitals"

1 means the organization nationally recognized by that name  
2 with headquarters in Chicago, Illinois, that surveys health  
3 care facilities upon their requests and grants accreditation  
4 status to any health care facility that it finds meets its  
5 standards and requirements.

6 (18) "Kidney treatment center" means a facility which  
7 specializes in treatment of kidney diseases, including  
8 freestanding hemodialysis units.

9 (19) (a) "Long-term care facility" means a facility or  
10 part thereof which provides skilled nursing care,  
11 intermediate nursing care, or intermediate developmental  
12 disability care to a total of two or more persons or  
13 personal care to more than four persons who are not related  
14 to the owner or administrator by blood or marriage. The  
15 term does not include adult foster care licensed under  
16 53-5-303, community homes for the developmentally disabled  
17 licensed under 53-20-305, community homes for physically  
18 disabled persons licensed under 53-19-111, youth care  
19 facilities licensed under 41-3-1142, hotels, motels,  
20 boardinghouses, roominghouses, or similar accommodations  
21 providing for transients, students, or persons not requiring  
22 institutional health care, or juvenile and adult  
23 correctional facilities operating under the authority of the  
24 department of institutions.

25 (b) "Skilled nursing care" means the provision of

1 nursing care services, health-related services, and social  
2 services under the supervision of a licensed registered  
3 nurse on a 24-hour basis.

4 (c) "Intermediate nursing care" means the provision of  
5 nursing care services, health-related services, and social  
6 services under the supervision of a licensed nurse to  
7 patients not requiring 24-hour nursing care.

8 (d) "Intermediate developmental disability care" means  
9 the provision of nursing care services, health-related  
10 services, and social services for the developmentally  
11 disabled, as defined in 53-20-102(4), or persons with  
12 related problems.

13 (e) "Personal care" means the provision of services  
14 and care which do not require nursing skills to residents  
15 needing some assistance in performing the activities of  
16 daily living.

17 (20) "Medical assistance facility" means a facility  
18 that:

19 (a) provides inpatient care to ill or injured persons  
20 prior to their transportation to a hospital or provides  
21 inpatient medical care to persons needing that care for a  
22 period of no longer than 96 hours; and

23 (b) either is located in a county with fewer than six  
24 residents per square mile or is located more than 35 road  
25 miles from the nearest hospital.

1 (21) "Mental health center" means a facility providing  
2 services for the prevention or diagnosis of mental illness,  
3 the care and treatment of mentally ill patients or the  
4 rehabilitation of such persons, or any combination of these  
5 services.

6 (22) "Nonprofit health care facility" means a health  
7 care facility owned or operated by one or more nonprofit  
8 corporations or associations.

9 (23) "Observation bed" means a bed occupied for not  
10 more than 6 hours by a patient recovering from surgery or  
11 other treatment.

12 (24) "Offer" means the holding out by a health care  
13 facility that it can provide specific health services.

14 (25) "Outpatient facility" means a facility, located in  
15 or apart from a hospital, providing, under the direction of  
16 a licensed physician, either diagnosis or treatment, or  
17 both, to ambulatory patients in need of medical, surgical,  
18 or mental care. An outpatient facility may have observation  
19 beds.

20 (26) "Patient" means an individual obtaining services,  
21 including skilled nursing care, from a health care facility.

22 (27) "Person" means any individual, firm, partnership,  
23 association, organization, agency, institution, corporation,  
24 trust, estate, or governmental unit, whether organized for  
25 profit or not.

(28) "Public health center" means a publicly owned facility providing health services, including laboratories, clinics, and administrative offices.

(29) "Rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(30) "Resident" means a person who is in a long-term care facility for intermediate or personal care.

(31) "Residential treatment facility" means a facility of--not--less--than--30--beds--that--is OF NOT LESS THAN 30 BEDS THAT IS operated by a nonprofit corporation or association for the primary purpose of providing long-term treatment services for mental illness in a NONHOSPITAL-BASED residential setting to persons between--5--and UNDER 21 years of age.

(32) (32) "State health plan" means the plan prepared by the department to project the need for health care facilities within Montana and approved by the statewide health coordinating council and the governor."

**Section 2.** ~~Section 53-6-101, MCA, is amended to read:~~

~~"53-6-101.---Definition--of--medical--assistance.---(1)---The definition--of--medical--assistance--shall--include:~~

~~(a)---inpatient--hospital--services;~~

~~(b)---outpatient--hospital--services;~~

~~(c)---other--laboratory--and--x-ray--services;~~

~~(d)---skilled--nursing--home--services;~~

~~(e)---physicians'--services,--whether--furnished--in--the office,--the--patient's--home,--a--hospital,--a--skilled--nursing home,--or--elsewhere;--and~~

~~(f)---inpatient--psychiatric--services--for--persons--under 21--years--of--age,--as--provided--in--42--U.S.C.--1396(d)(1),--but limited--to:~~

~~(i)---inpatient--services--in--a--psychiatric--hospital exclusively--devoted--to--the--care--of--persons--under--21--years--of age;--or~~

~~(ii)---services--in--a--residential--treatment--facility--as defined--in--50-5-101;--and~~

~~(f)(g)---services--provided--by--nurse--specialists,--as specifically--listed--in--37-8-202(5),--within--the--scope--of their--practice--and--that--are--otherwise--directly--reimbursed--as allowed--under--department--rule--to--an--existing--provider;~~

~~(2)---it--may--also--include,--although--not--necessarily limited--to,--the--following:~~

~~(a)---medical--care--or--any--other--type--of--remedial--care recognized--under--state--law,--furnished--by--licensed~~

1 practitioners--within-the-scope-of-their-practice-as-defined  
2 by-state-law;

3 (b)--home-health-care-services;

4 (c)--private-duty-nursing-services;

5 (d)--dental-services;

6 (e)--physical-therapy-and-other-related-services;

7 (f)--clinic-services;

8 (g)--services-provided-by-social-workers-licensed-under  
9 Title-37, chapter-22;

10 (h)--prescribed---drugs,---dentures,---and---prosthetic  
11 devices;

12 (i)--eyeglasses--prescribed--by--a-physician-skilled-in  
13 diseases-of-the-eye-or--by--an--optometrist,--whichever--the  
14 individual-may-select;

15 (j)--other-----diagnostic,----screening,----preventive,  
16 rehabilitative, chiropractic, and osteopathic services;

17 (k)--any-additional-medical-service--or--aid--allowable  
18 under-or-provided-by-the-federal-Social-Security-Act;"

19 NEW SECTION. SECTION 2. RESIDENTIAL TREATMENT  
20 SERVICES. (1) THE DEFINITION OF MEDICAL ASSISTANCE CONTAINED  
21 IN 53-6-101 INCLUDES MAY INCLUDE INPATIENT PSYCHIATRIC  
22 SERVICES FOR PERSONS UNDER 21 YEARS OF AGE, AS PROVIDED IN  
23 42 U.S.C. 1396D(H), IN A RESIDENTIAL TREATMENT FACILITY AS  
24 DEFINED IN 50-5-101(31) AND THAT IS ACCREDITED BY THE JOINT  
25 COMMISSION ON ACCREDITATION OF HEALTH CARE ORGANIZATIONS.

1 (2) TO THE EXTENT ALLOWED BY FEDERAL LAW, THE  
2 DEPARTMENT SHALL BY RULE LIMIT ELIGIBILITY FOR MEDICAID  
3 REIMBURSEMENT FOR RESIDENTIAL TREATMENT FACILITY SERVICES TO  
4 THOSE PERSONS UNDER 18 YEARS OF AGE COMMITTED TO THE  
5 DEPARTMENT OF FAMILY SERVICES BY A YOUTH COURT UNDER  
6 41-5-523 OR PLACED IN THE LEGAL CUSTODY OF THE DEPARTMENT OF  
7 FAMILY SERVICES UNDER 41-3-406.

8 NEW SECTION. Section 3. Certificate of need for  
9 residential treatment facility. A person may not operate a  
10 residential treatment facility unless he has obtained a  
11 certificate of need issued by the department as provided  
12 under this part.

13 NEW SECTION. Section 4. Study of residential  
14 treatment facility needs -- authorization for change of use  
15 -- licensing of existing facilities. (1) In order to  
16 determine the need for services provided by a residential  
17 treatment facility, the department, together with the  
18 department of family services and the department of social  
19 and rehabilitation services, shall:

20 (a) conduct a review of the need for services provided  
21 by the residential treatment facility. The review must  
22 include a determination of:

23 (i) the number of persons between 5 and 21 years of  
24 age who:

25 (A) suffer from mental illness in this state; and

(B) are placed in out-of-state facilities by the department of family services and Montana school districts;

(ii) the appropriate levels of care or treatment for the persons described in subsection (1)(a)(i); and

(iii) the potential number of persons described in subsection (1)(a)(i) eligible for reimbursement of inpatient psychiatric services under 53-6-101;

(b) develop an appropriate methodology for determining the need for residential treatment facility services and beds; and

(c) report their findings to the 52nd legislature.

(2) Except as provided in subsection (3), the department may not issue a certificate of need for a new residential treatment facility or for any change in the capacity of an existing facility seeking a certificate of need as a residential treatment facility until after October 1, 1991.

(3) A person who operates an existing facility that meets the definition of a residential treatment facility on ~~{the--effective--date--of--this--act}~~ JANUARY 1, 1989, may receive a license to operate the facility as a residential treatment facility and need not obtain a certificate of need as otherwise required under [section 3].

**SECTION 5. SECTION 41-5-523, MCA, IS AMENDED TO READ:**

**"41-5-523. Disposition of delinquent youth and youth**

**in need of supervision. (1) If a youth is found to be delinquent or in need of supervision, the youth court may enter its judgment making any of the following dispositions:**

**(a) place the youth on probation;**

**(b) commit the youth to the department. The department shall thereafter determine the appropriate placement, supervision, and rehabilitation program for the youth after considering the recommendation of the youth placement committee as provided in 41-5-527; provided, however, that:**

**(i) in the case of a youth in need of supervision, such commitment does not authorize the department to place the youth in a state youth correctional facility. The court shall determine whether continuation in the home would be contrary to the welfare of the child and whether reasonable efforts have been made to prevent or eliminate the need for removal of the child from his home. The court shall include such determination in the order committing the youth to the department.**

**(ii) in the case of a delinquent youth who is a serious juvenile offender, the judge may specify that the youth be placed in physical confinement in an appropriate facility only if the judge finds that such confinement is necessary for the protection of the public;**

**(iii) a youth may not be held in physical confinement for a period of time in excess of the maximum period of**



1 imprisonment that could be imposed on an adult convicted of  
2 the offense or offenses that brought the youth under the  
3 jurisdiction of the youth court. Nothing in this section  
4 limits the power of the department to enter into an  
5 aftercare agreement with the youth pursuant to 53-30-226.

6 (iv) a youth is under the supervision of a youth  
7 probation officer, except that a youth placed in a youth  
8 correctional facility is supervised by the department;

9 (c) order such further care and treatment or  
10 evaluation that does not obligate funding from the  
11 department without the department's approval, except that a  
12 youth may not be placed by a youth court in a residential  
13 treatment facility as defined in 50-5-101. Only the  
14 department may, pursuant to subsection (1)(b), place a youth  
15 in a residential treatment facility;

16 (d) order restitution by the youth or his parents;

17 (e) impose a fine as authorized by law if the  
18 violation alleged would constitute a criminal offense if  
19 committed by an adult;

20 (f) require the performance of community service;

21 (g) require the youth, his parents, his guardians, or  
22 the persons having legal custody of the youth to receive  
23 counseling services;

24 (h) require the medical and psychological evaluation  
25 of the youth, his parents, his guardians, or the persons

1 having legal custody of the youth;

2 (i) require the parents, guardians, or other persons  
3 having legal custody of the youth to furnish such services  
4 as the court may designate; or

5 (j) such further care, treatment, evaluation, or  
6 relief that the court considers beneficial to the youth and  
7 the community.

8 (2) At any time after the youth has been taken into  
9 custody, the court may, with the consent of the youth in the  
10 manner provided in 41-5-303 for consent by a youth to a  
11 waiver of his constitutional rights or after the youth has  
12 been adjudicated delinquent or in need of supervision, order  
13 the youth to be evaluated by the department for a period not  
14 to exceed 45 days. The department shall determine the place  
15 and manner of evaluation.

16 (3) No evaluation of a youth may be performed at the  
17 Montana state hospital unless such youth is transferred to  
18 the district court under 41-5-206.

19 (4) No youth may be committed or transferred to a  
20 penal institution or other facility used for the execution  
21 of sentence of adult persons convicted of crimes.

22 (5) Any order of the court may be modified at any  
23 time. In the case of a youth committed to the department, an  
24 order pertaining to the youth may be modified only upon  
25 notice to the department and subsequent hearing.

(6) Whenever the court vests legal custody in an agency, institution, or department, it must transmit with the dispositional judgment copies of a medical report and such other clinical, predisposition, or other reports and information pertinent to the care and treatment of the youth.

(7) The order of commitment to the department shall read as follows:

ORDER OF COMMITMENT

State of Montana )

) ss.

County of ..... )

In the district court for the .... Judicial District.

On the .... day of ....., 19.., ....., a minor of this county, .... years of age, was brought before me charged with ....., Upon due proof I find that .... is a suitable person to be committed to the department of family services.

It is ordered that .... be committed to the department of family services until .....

The names, addresses, and occupations of the parents are:

Name	Address	Occupation
.....	.....	.....
.....	.....	.....

.....

.....

The names and addresses of their nearest relatives are:

Witness my hand this .... day of ....., A.D. 19...

Judge"

**NEW SECTION. SECTION 6. APPROPRIATION. THE FOLLOWING MONEY IS APPROPRIATED TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO PROVIDE INPATIENT PSYCHIATRIC SERVICES FOR PERSONS UNDER 21 YEARS OF AGE, AS PROVIDED IN [SECTION 2]:**

FUND	FY 90	FY 91
GENERAL FUND	\$17,027	\$17,027
FEDERAL SPECIAL REVENUE	51,080	51,080
TOTAL	\$68,107	\$68,107

**NEW SECTION. Section 7. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 8. Codification instruction. (1)** [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 53, CHAPTER 6, PART 1, AND THE PROVISIONS OF TITLE 53, CHAPTER 6, PART 1, APPLY TO [SECTION 2].

(2) [Sections 3 and 4] are intended to be codified as an integral part of Title 50, chapter 5, part 3, and the

HB 0304/05

1 provisions of Title 50, chapter 5, part 3, apply to  
2 [sections 3 and 4].

3 NEW SECTION. **Section 9.** Effective date --

4 TERMINATION. (1) [This act] is effective July 1, 1989.

5 (2) [SECTION 2] TERMINATES JULY 1, 1991.

-End-