

HOUSE BILL 733

Introduced by Brooke, et al.

2/15	Introduced
2/16	Referred to Business & Economic Development
2/17	Hearing
2/18	Committee Report--Bill Passed
2/21	2nd Reading Passed
2/22	3rd Reading Passed

Transmitted to Senate

2/28	Referred to State Administration
3/15	Hearing
	Died in Committee

1 *House* BILL NO. *733*
2 INTRODUCED BY *William Brash* *J. NATHAN*
3 *Dave Brown*
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE
5 CERTIFICATION OF LICENSED CLINICAL PSYCHOLOGISTS AS
6 PROFESSIONAL PERSONS FOR PURPOSES OF THE MENTAL HEALTH LAWS;
7 AND AMENDING SECTIONS 53-21-102 AND 53-21-106, MCA."

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

10 **Section 1.** Section 53-21-102, MCA, is amended to read:

11 "53-21-102. (Temporary) Definitions. As used in this
12 part, the following definitions apply:

13 (1) "Board" or "mental disabilities board of visitors"
14 means the mental disabilities board of visitors created by
15 2-15-211.

16 (2) "Court" means any district court of the state of
17 Montana.

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

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

24 (5) "Friend of respondent" means any person willing
25 and able to assist a mentally ill person, a person alleged

1 to be mentally ill, a seriously mentally ill person, or a
2 person alleged to be seriously mentally ill in dealing with
3 legal proceedings, including consultation with legal counsel
4 and others. The friend of respondent may be the next of kin,
5 the person's conservator or legal guardian, if any, a
6 representative of a charitable or religious organization, or
7 any other person appointed by the court to perform the
8 functions of a friend of respondent set out in this part.
9 Only one person may at any one time be the friend of
10 respondent within the meaning of this part. In appointing a
11 friend of respondent, the court shall consider the
12 preference of the respondent. The court may at any time, for
13 good cause shown, change its designation of the friend of
14 respondent.

15 (6) "Mental disorder" means any organic, mental, or
16 emotional impairment which has substantial adverse effects
17 on an individual's cognitive or volitional functions.

18 (7) "Mental health facility" or "facility" means a
19 public hospital or a licensed private hospital which is
20 equipped and staffed to provide treatment for persons with
21 mental disorders or a community mental health center or any
22 mental health clinic or treatment center approved by the
23 department. No correctional institution or facility or jail
24 is a mental health facility within the meaning of this part.

25 (8) "Mentally ill" means suffering from a mental

1 disorder which has not resulted in self-inflicted injury or
2 injury to others or the imminent threat thereof but which:

3 (a) has resulted in behavior that creates serious
4 difficulty in protecting the person's life or health even
5 with the available assistance of family, friends, or others;

6 (b) is treatable, with a reasonable prospect of
7 success and consistent with the least restrictive course of
8 treatment as provided in 53-21-127(3), at or through the
9 facility to which the person is to be committed;

10 (c) has deprived the person of the capacity to make an
11 informed decision concerning treatment;

12 (d) has resulted in the person's refusing or being
13 unable to consent to voluntary admission for treatment; and

14 (e) poses a significant risk of the person's becoming
15 seriously mentally ill, within the meaning of this section,
16 or will, if untreated, predictably result in further serious
17 deterioration in the mental condition of the person.
18 Predictability may be established by the patient's medical
19 history.

20 (9) "Next of kin" shall include but need not be
21 limited to the spouse, parents, adult children, and adult
22 brothers and sisters of a person.

23 (10) "Patient" means a person committed by the court
24 for treatment for any period of time or who is voluntarily
25 admitted for treatment for any period of time.

1 (11) "Peace officer" means any sheriff, deputy sheriff,
2 marshal, policeman, or other peace officer.

3 (12) "Professional person" means:

4 (a) a medical doctor; or

5 (b) a clinical psychologist licensed under Title 37,
6 chapter 17, to practice in this state; or

7 (b)(c) a any other person who has been certified, as
8 provided for in 53-21-106, by the department.

9 (13) "Reasonable medical certainty" means reasonable
10 certainty as judged by the standards of a professional
11 person.

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

15 (15) "Seriously mentally ill" means suffering from a
16 mental disorder which has resulted in self-inflicted injury
17 or injury to others or the imminent threat thereof or which
18 has deprived the person afflicted of the ability to protect
19 his life or health. For this purpose, injury means physical
20 injury. No person may be involuntarily committed to a
21 mental health facility or detained for evaluation and
22 treatment because he is an epileptic or is mentally
23 deficient, mentally retarded, senile, or suffering from a
24 mental disorder unless the condition causes him to be
25 seriously mentally ill within the meaning of this part.

1 (16) "State hospital" means the Montana state hospital.
 2 (Terminates July 1, 1989--sec. 18, Ch. 376, L. 1987.)

3 53-21-102. (Effective July 1, 1989) Definitions. As
 4 used in this part, the following definitions apply:

5 (1) "Board" or "mental disabilities board of visitors"
 6 means the mental disabilities board of visitors created by
 7 2-15-211.

8 (2) "Court" means any district court of the state of
 9 Montana.

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

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

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

19 (6) "Mental health facility" or "facility" means a
 20 public hospital or a licensed private hospital which is
 21 equipped and staffed to provide treatment for persons with
 22 mental disorders or a community mental health center or any
 23 mental health clinic or treatment center approved by the
 24 department. No correctional institution or facility or jail
 25 is a mental health facility within the meaning of this part.

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

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

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

9 (10) "Professional person" means:

10 (a) a medical doctor; or

11 (b) a clinical psychologist licensed under Title 37,
 12 chapter 17, to practice in this state; or

13 (b)(c) a any other person who has been certified, as
 14 provided for in 53-21-106, by the department.

15 (11) "Reasonable medical certainty" means reasonable
 16 certainty as judged by the standards of a professional
 17 person.

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

20 (13) "Friend of respondent" means any person willing
 21 and able to assist a seriously mentally ill person or person
 22 alleged to be seriously mentally ill in dealing with legal
 23 proceedings, including consultation with legal counsel and
 24 others. The friend of respondent may be the next of kin, the
 25 person's conservator or legal guardian, if any,

1 representatives of a charitable or religious organization,
 2 or any other person appointed by the court to perform the
 3 functions of a friend of respondent set out in this part.
 4 Only one person may at any one time be the friend of
 5 respondent within the meaning of this part. In appointing a
 6 friend of respondent, the court shall consider the
 7 preference of the respondent. The court may at any time, for
 8 good cause shown, change its designation of the friend of
 9 respondent.

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

21 (15) "State hospital" means the Montana state
 22 hospital."

23 **Section 2.** Section 53-21-106, MCA, is amended to read:

24 **"53-21-106. (Temporary) Certification of professional**
 25 **persons. (1)** The department shall certify professional

1 persons as defined in 53-21-102~~(12)~~~~(b)~~ for the purpose of
 2 this part.

3 (2) The department, with reference to recognized
 4 national standards in the field of mental health, shall
 5 adopt standards and rules governing the certification of
 6 professional persons.

7 (3) The rules for certification must address but are
 8 not limited to:

9 (a) the type of education that an individual has
 10 received, including degrees;

11 (b) the type of experience or training received by the
 12 individual;

13 (c) continuing education, training, instruction, and
 14 work experience necessary to maintain certification;

15 (d) an examination instrument to be used to determine
 16 an individual's proficiency and understanding of mental
 17 health laws, diagnosis, and treatment procedures;

18 (e) the procedure for categorical certification
 19 qualifying the level of professional authority and
 20 responsibility of an individual; and

21 (f) specific procedures for certification,
 22 recertification, and revocation of certification.
 23 (Terminates July 1, 1989--sec. 18, Ch. 376, L. 1987.)

24 **53-21-106. (Effective July 1, 1989) Certification of**
 25 **professional persons. (1)** The department shall certify

1 professional persons as defined in 53-21-102(i)(b) for the
2 purpose of this part.

1 [this act].

-End-

3 (2) The department, with reference to recognized
4 national standards in the field of mental health, shall
5 adopt standards and rules governing the certification of
6 professional persons as defined in 53-21-102(i)(b).

7 (3) The rules for certification must address but are
8 not limited to:

9 (a) the type of education that an individual has
10 received, including degrees;

11 (b) the type of experience or training received by the
12 individual;

13 (c) continuing education, training, instruction, and
14 work experience necessary to maintain certification;

15 (d) an examination instrument to be used to determine
16 an individual's proficiency and understanding of mental
17 health laws, diagnosis, and treatment procedures;

18 (e) the procedure for categorical certification
19 qualifying the level of professional authority and
20 responsibility of an individual; and

21 (f) specific procedures for certification,
22 recertification, and revocation of certification."

23 NEW SECTION. Section 3. Extension of authority. Any
24 existing authority to make rules on the subject of the
25 provisions of [this act] is extended to the provisions of

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

1
2 INTRODUCED BY *House* BILL NO. *733*
3 *Chadwick* *WATKINS*
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE
5 CERTIFICATION OF LICENSED CLINICAL PSYCHOLOGISTS AS
6 PROFESSIONAL PERSONS FOR PURPOSES OF THE MENTAL HEALTH LAWS;
7 AND AMENDING SECTIONS 53-21-102 AND 53-21-106, MCA."
8

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

10 **Section 1.** Section 53-21-102, MCA, is amended to read:

11 "53-21-102. (Temporary) Definitions. As used in this
12 part, the following definitions apply:

13 (1) "Board" or "mental disabilities board of visitors"
14 means the mental disabilities board of visitors created by
15 2-15-211.

16 (2) "Court" means any district court of the state of
17 Montana.

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

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

24 (5) "Friend of respondent" means any person willing
25 and able to assist a mentally ill person, a person alleged

1 to be mentally ill, a seriously mentally ill person, or a
2 person alleged to be seriously mentally ill in dealing with
3 legal proceedings, including consultation with legal counsel
4 and others. The friend of respondent may be the next of kin,
5 the person's conservator or legal guardian, if any, a
6 representative of a charitable or religious organization, or
7 any other person appointed by the court to perform the
8 functions of a friend of respondent set out in this part.
9 Only one person may at any one time be the friend of
10 respondent within the meaning of this part. In appointing a
11 friend of respondent, the court shall consider the
12 preference of the respondent. The court may at any time, for
13 good cause shown, change its designation of the friend of
14 respondent.

15 (6) "Mental disorder" means any organic, mental, or
16 emotional impairment which has substantial adverse effects
17 on an individual's cognitive or volitional functions.

18 (7) "Mental health facility" or "facility" means a
19 public hospital or a licensed private hospital which is
20 equipped and staffed to provide treatment for persons with
21 mental disorders or a community mental health center or any
22 mental health clinic or treatment center approved by the
23 department. No correctional institution or facility or jail
24 is a mental health facility within the meaning of this part.

25 (8) "Mentally ill" means suffering from a mental

disorder which has not resulted in self-inflicted injury or injury to others or the imminent threat thereof but which:

(a) has resulted in behavior that creates serious difficulty in protecting the person's life or health even with the available assistance of family, friends, or others;

(b) is treatable, with a reasonable prospect of success and consistent with the least restrictive course of treatment as provided in 53-21-127(3), at or through the facility to which the person is to be committed;

(c) has deprived the person of the capacity to make an informed decision concerning treatment;

(d) has resulted in the person's refusing or being unable to consent to voluntary admission for treatment; and

(e) poses a significant risk of the person's becoming seriously mentally ill, within the meaning of this section, or will, if untreated, predictably result in further serious deterioration in the mental condition of the person. Predictability may be established by the patient's medical history.

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

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

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

(12) "Professional person" means:

(a) a medical doctor; or

(b) a clinical psychologist licensed under Title 37, chapter 17, to practice in this state; or

~~(b)~~(c) a any other person who has been certified, as provided for in 53-21-106, by the department.

(13) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

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

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

(16) "State hospital" means the Montana state hospital.
(Terminates July 1, 1989--sec. 18, Ch. 376, L. 1987.)

53-21-102. (Effective July 1, 1989) Definitions. As used in this part, the following definitions apply:

(1) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created by 2-15-211.

(2) "Court" means any district court of the state of Montana.

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

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

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

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

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

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

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

(10) "Professional person" means:

(a) a medical doctor; or

(b) a clinical psychologist licensed under Title 37, chapter 17, to practice in this state; or

~~(b)~~(c) a any other person who has been certified, as provided for in 53-21-106, by the department.

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

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

(13) "Friend of respondent" means any person willing and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any,

representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause shown, change its designation of the friend of respondent.

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

(15) "State hospital" means the Montana state hospital."

Section 2. Section 53-21-106, MCA, is amended to read:

"53-21-106. (Temporary) Certification of professional persons. (1) The department shall certify professional

persons as defined in 53-21-102(i2)(b) for the purpose of this part.

(2) The department, with reference to recognized national standards in the field of mental health, shall adopt standards and rules governing the certification of professional persons.

(3) The rules for certification must address but are not limited to:

(a) the type of education that an individual has received, including degrees;

(b) the type of experience or training received by the individual;

(c) continuing education, training, instruction, and work experience necessary to maintain certification;

(d) an examination instrument to be used to determine an individual's proficiency and understanding of mental health laws, diagnosis, and treatment procedures;

(e) the procedure for categorical certification qualifying the level of professional authority and responsibility of an individual; and

(f) specific procedures for certification, recertification, and revocation of certification. (Terminates July 1, 1989--sec. 18, Ch. 376, L. 1987.)

53-21-106. (Effective July 1, 1989) Certification of professional persons. (1) The department shall certify

1 professional persons as defined in 53-21-102~~(10)~~(b) for the
2 purpose of this part.

3 (2) The department, with reference to recognized
4 national standards in the field of mental health, shall
5 adopt standards and rules governing the certification of
6 professional persons as defined in 53-21-102~~(10)~~(b).

7 (3) The rules for certification must address but are
8 not limited to:

9 (a) the type of education that an individual has
10 received, including degrees;

11 (b) the type of experience or training received by the
12 individual;

13 (c) continuing education, training, instruction, and
14 work experience necessary to maintain certification;

15 (d) an examination instrument to be used to determine
16 an individual's proficiency and understanding of mental
17 health laws, diagnosis, and treatment procedures;

18 (e) the procedure for categorical certification
19 qualifying the level of professional authority and
20 responsibility of an individual; and

21 (f) specific procedures for certification,
22 recertification, and revocation of certification."

23 NEW SECTION. **Section 3.** Extension of authority. Any
24 existing authority to make rules on the subject of the
25 provisions of [this act] is extended to the provisions of

1 [this act].

-End-

1 *House* BILL NO. *733*
2 INTRODUCED BY *Timothy D. Smith* *W. NATA*
3 *Dave Rasmussen*
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE
5 CERTIFICATION OF LICENSED CLINICAL PSYCHOLOGISTS AS
6 PROFESSIONAL PERSONS FOR PURPOSES OF THE MENTAL HEALTH LAWS;
7 AND AMENDING SECTIONS 53-21-102 AND 53-21-106, MCA."

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

10 **Section 1.** Section 53-21-102, MCA, is amended to read:

11 "53-21-102. (Temporary) Definitions. As used in this
12 part, the following definitions apply:

13 (1) "Board" or "mental disabilities board of visitors"
14 means the mental disabilities board of visitors created by
15 2-15-211.

16 (2) "Court" means any district court of the state of
17 Montana.

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

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

24 (5) "Friend of respondent" means any person willing
25 and able to assist a mentally ill person, a person alleged

1 to be mentally ill, a seriously mentally ill person, or a
2 person alleged to be seriously mentally ill in dealing with
3 legal proceedings, including consultation with legal counsel
4 and others. The friend of respondent may be the next of kin,
5 the person's conservator or legal guardian, if any, a
6 representative of a charitable or religious organization, or
7 any other person appointed by the court to perform the
8 functions of a friend of respondent set out in this part.
9 Only one person may at any one time be the friend of
10 respondent within the meaning of this part. In appointing a
11 friend of respondent, the court shall consider the
12 preference of the respondent. The court may at any time, for
13 good cause shown, change its designation of the friend of
14 respondent.

15 (6) "Mental disorder" means any organic, mental, or
16 emotional impairment which has substantial adverse effects
17 on an individual's cognitive or volitional functions.

18 (7) "Mental health facility" or "facility" means a
19 public hospital or a licensed private hospital which is
20 equipped and staffed to provide treatment for persons with
21 mental disorders or a community mental health center or any
22 mental health clinic or treatment center approved by the
23 department. No correctional institution or facility or jail
24 is a mental health facility within the meaning of this part.

25 (8) "Mentally ill" means suffering from a mental

1 disorder which has not resulted in self-inflicted injury or
2 injury to others or the imminent threat thereof but which:

3 (a) has resulted in behavior that creates serious
4 difficulty in protecting the person's life or health even
5 with the available assistance of family, friends, or others;

6 (b) is treatable, with a reasonable prospect of
7 success and consistent with the least restrictive course of
8 treatment as provided in 53-21-127(3), at or through the
9 facility to which the person is to be committed;

10 (c) has deprived the person of the capacity to make an
11 informed decision concerning treatment;

12 (d) has resulted in the person's refusing or being
13 unable to consent to voluntary admission for treatment; and

14 (e) poses a significant risk of the person's becoming
15 seriously mentally ill, within the meaning of this section,
16 or will, if untreated, predictably result in further serious
17 deterioration in the mental condition of the person.
18 Predictability may be established by the patient's medical
19 history.

20 (9) "Next of kin" shall include but need not be
21 limited to the spouse, parents, adult children, and adult
22 brothers and sisters of a person.

23 (10) "Patient" means a person committed by the court
24 for treatment for any period of time or who is voluntarily
25 admitted for treatment for any period of time.

1 (11) "Peace officer" means any sheriff, deputy sheriff,
2 marshal, policeman, or other peace officer.

3 (12) "Professional person" means:

4 (a) a medical doctor; or

5 (b) a clinical psychologist licensed under Title 37,
6 chapter 17, to practice in this state; or

7 (b)(c) a any other person who has been certified, as
8 provided for in 53-21-106, by the department.

9 (13) "Reasonable medical certainty" means reasonable
10 certainty as judged by the standards of a professional
11 person.

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

15 (15) "Seriously mentally ill" means suffering from a
16 mental disorder which has resulted in self-inflicted injury
17 or injury to others or the imminent threat thereof or which
18 has deprived the person afflicted of the ability to protect
19 his life or health. For this purpose, injury means physical
20 injury. No person may be involuntarily committed to a
21 mental health facility or detained for evaluation and
22 treatment because he is an epileptic or is mentally
23 deficient, mentally retarded, senile, or suffering from a
24 mental disorder unless the condition causes him to be
25 seriously mentally ill within the meaning of this part.

(16) "State hospital" means the Montana state hospital.
(Terminates July 1, 1989--sec. 18, Ch. 376, L. 1987.)

53-21-102. (Effective July 1, 1989) Definitions. As
used in this part, the following definitions apply:

(1) "Board" or "mental disabilities board of visitors"
means the mental disabilities board of visitors created by
2-15-211.

(2) "Court" means any district court of the state of
Montana.

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

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

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

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

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

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

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

(10) "Professional person" means:

(a) a medical doctor; or

(b) a clinical psychologist licensed under Title 37,
chapter 17, to practice in this state; or

~~(b)(c)~~ a any other person who has been certified, as
provided for in 53-21-106, by the department.

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

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

(13) "Friend of respondent" means any person willing
and able to assist a seriously mentally ill person or person
alleged to be seriously mentally ill in dealing with legal
proceedings, including consultation with legal counsel and
others. The friend of respondent may be the next of kin, the
person's conservator or legal guardian, if any,

1 representatives of a charitable or religious organization,
 2 or any other person appointed by the court to perform the
 3 functions of a friend of respondent set out in this part.
 4 Only one person may at any one time be the friend of
 5 respondent within the meaning of this part. In appointing a
 6 friend of respondent, the court shall consider the
 7 preference of the respondent. The court may at any time, for
 8 good cause shown, change its designation of the friend of
 9 respondent.

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

21 (15) "State hospital" means the Montana state
 22 hospital."

23 **Section 2.** Section 53-21-106, MCA, is amended to read:

24 **"53-21-106. (Temporary) Certification of professional**
 25 **persons. (1) The department shall certify professional**

1 persons as defined in 53-21-102~~(12)~~(b) for the purpose of
 2 this part.

3 (2) The department, with reference to recognized
 4 national standards in the field of mental health, shall
 5 adopt standards and rules governing the certification of
 6 professional persons.

7 (3) The rules for certification must address but are
 8 not limited to:

9 (a) the type of education that an individual has
 10 received, including degrees;

11 (b) the type of experience or training received by the
 12 individual;

13 (c) continuing education, training, instruction, and
 14 work experience necessary to maintain certification;

15 (d) an examination instrument to be used to determine
 16 an individual's proficiency and understanding of mental
 17 health laws, diagnosis, and treatment procedures;

18 (e) the procedure for categorical certification
 19 qualifying the level of professional authority and
 20 responsibility of an individual; and

21 (f) specific procedures for certification,
 22 recertification, and revocation of certification.
 23 (Terminates July 1, 1989--sec. 18, Ch. 376, L. 1987.)

24 **53-21-106. (Effective July 1, 1989) Certification of**
 25 **professional persons. (1) The department shall certify**

1 professional persons as defined in 53-21-102~~(10)~~(b) for the
2 purpose of this part.

3 (2) The department, with reference to recognized
4 national standards in the field of mental health, shall
5 adopt standards and rules governing the certification of
6 professional persons as defined in 53-21-102~~(10)~~(b).

7 (3) The rules for certification must address but are
8 not limited to:

9 (a) the type of education that an individual has
10 received, including degrees;

11 (b) the type of experience or training received by the
12 individual;

13 (c) continuing education, training, instruction, and
14 work experience necessary to maintain certification;

15 (d) an examination instrument to be used to determine
16 an individual's proficiency and understanding of mental
17 health laws, diagnosis, and treatment procedures;

18 (e) the procedure for categorical certification
19 qualifying the level of professional authority and
20 responsibility of an individual; and

21 (f) specific procedures for certification,
22 recertification, and revocation of certification."

23 NEW SECTION. **Section 3.** Extension of authority. Any
24 existing authority to make rules on the subject of the
25 provisions of [this act] is extended to the provisions of

1 [this act].

-End-