

## 1 HOUSE BILL NO. 60

2 INTRODUCED BY KASTEN

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING INVOLUNTARY COMMITMENT FOR MENTAL ILLNESS  
6 OR SERIOUS MENTAL ILLNESS TO PERSONS 18 YEARS OF AGE OR OLDER; AND AMENDING SECTIONS  
7 53-21-121 AND 53-21-129, MCA."

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

10  
11 Section 1. Section 53-21-121, MCA, is amended to read:

12 "53-21-121. (Temporary) Petition for commitment -- contents of -- notice of. (1) The county  
13 attorney, upon the written request of any person having direct knowledge of the facts, may file a petition  
14 with the court:

15 (a) alleging that there is a person 18 years of age or older within the county who is seriously  
16 mentally ill and requesting that the person be committed to a mental health facility for a period of no more  
17 than 3 months; or

18 (b) alleging that there is a person 18 years of age or older within the county who is mentally ill and  
19 requesting that the person be committed to a mental health facility for a period of no more than 30 days.

20 (2) The petition ~~shall~~ must contain:

21 (a) the name and address of the person requesting the petition and ~~his~~ that person's interest in the  
22 case;

23 (b) the name of the respondent and, if known, the address, age, sex, marital status, and  
24 occupation of the respondent;

25 (c) the purported facts supporting the allegation of mental illness;

26 (d) the name and address of every person known or believed to be legally responsible for the care,  
27 support, and maintenance of the ~~person for whom evaluation is sought~~ respondent;

28 (e) the name and address of the ~~person's~~ respondent's next of kin to the extent known to the  
29 county attorney and the person requesting the petition;

30 (f) the name and address of any person ~~whom~~ who the county attorney believes might be willing

1 and able to be appointed as a friend of respondent;

2 (g) the name, address, and telephone number of the attorney, if any, who has most recently  
3 represented the ~~person for whom evaluation is sought~~ respondent; if there is no attorney, there ~~shall~~ must  
4 be a statement as to whether to the best knowledge of the person requesting the petition the ~~person for~~  
5 ~~whom evaluation is sought~~ respondent is indigent and ~~therefore~~ unable to afford the services of an  
6 attorney; and

7 (h) a statement of the rights of the respondent ~~which shall~~ that must be in conspicuous print and  
8 identified by a suitable heading.

9 (3) Notice of the petition ~~shall~~ must be hand-delivered to the respondent and to ~~his~~ the  
10 respondent's counsel on or before the initial appearance of the respondent before the judge or justice of  
11 the peace. Notice of the petition and the order setting the date and time of the hearing and the names of  
12 the respondent's counsel, professional person, and friend of respondent ~~shall~~ must be hand-delivered or  
13 mailed to the person or persons legally responsible for care, support, and maintenance of the respondent,  
14 to the next of kin identified in the petition, and to any other person identified by the county attorney as a  
15 possible friend of respondent other than the one named as the friend of respondent. The notice may  
16 provide, other than as to the respondent and ~~his~~ the respondent's counsel, that no further notice will be  
17 given unless written request is filed with the clerk of court. (Terminates July 1, 1997--sec. 1, Ch. 541,  
18 L. 1989.)

19 **53-21-121. (Effective July 1, 1997) Petition for commitment -- contents of -- notice of.** (1) The  
20 county attorney, upon the written request of any person, may file a petition with the court alleging that  
21 there is a person 18 years of age or older within the county who is seriously mentally ill and requesting that  
22 the person be committed to a mental health facility for a period of no more than 3 months.

23 (2) The petition ~~shall~~ must contain:

24 (a) the name and address of the person requesting the petition and ~~his~~ that person's interest in the  
25 case;

26 (b) the name of the respondent and, if known, the address, age, sex, marital status, and  
27 occupation of the respondent;

28 (c) the purported facts supporting the allegation of mental illness;

29 (d) the name and address of every person known or believed to be legally responsible for the care,  
30 support, and maintenance of the ~~person for whom evaluation is sought~~ respondent;

1 (e) the name and address of the person's next of kin to the extent known to the county attorney  
2 and the person requesting the petition;

3 (f) the name and address of any person ~~whom~~ who the county attorney believes might be willing  
4 and able to be appointed as a friend of respondent;

5 (g) the name, address, and telephone number of the attorney, if any, who has most recently  
6 represented the ~~person for whom evaluation is sought~~ respondent; if there is no attorney, there ~~shall~~ must  
7 be a statement as to whether to the best knowledge of the person requesting the petition the ~~person for~~  
8 ~~whom evaluation is sought~~ respondent is indigent and ~~therefore~~ unable to afford the services of an  
9 attorney; and

10 (h) a statement of the rights of the respondent ~~which shall~~ that must be in conspicuous print and  
11 identified by a suitable heading.

12 (3) Notice of the petition ~~shall~~ must be hand-delivered to the respondent and to ~~his~~ the  
13 respondent's counsel on or before the initial appearance of the respondent before the judge or justice of  
14 the peace. Notice of the petition and the order setting the date and time of the hearing and the names of  
15 the respondent's counsel, professional person, and friend of respondent ~~shall~~ must be hand-delivered or  
16 mailed to the person or persons legally responsible for care, support, and maintenance of the respondent,  
17 to the next of kin identified in the petition, and to any other person identified by the county attorney as a  
18 possible friend of respondent other than the one named as the friend of respondent. The notice may  
19 provide, other than as to the respondent and ~~his~~ the respondent's counsel, that no further notice will be  
20 given unless written request is filed with the clerk of court."

21  
22 **Section 2.** Section 53-21-129, MCA, is amended to read:

23 **"53-21-129. Emergency situation -- petition -- detention.** (1) When an emergency situation exists,  
24 a peace officer may take ~~any~~ a person who appears to be seriously mentally ill and as a result of serious  
25 mental illness to be a danger to others or to ~~himself~~ the person into custody only for sufficient time to  
26 contact a professional person for emergency evaluation. If possible, a professional person should be called  
27 prior to taking the person into custody.

28 (2) If the professional person agrees that the person detained appears to be seriously mentally ill  
29 and that an emergency situation exists, ~~then~~ the person may be detained and treated until the next regular  
30 business day. At that time, the professional person shall release the detained person or file ~~his~~ the

1 professional person's findings with the county attorney who, if ~~he~~ the county attorney determines that  
2 probable cause ~~to exist~~ exists and that the detained person is 18 years of age or older, shall file the petition  
3 provided for in 53-21-121 through 53-21-126 in the county of the respondent's residence. In either case,  
4 the professional person shall file a report with the court explaining ~~his~~ the professional person's actions.

5 (3) The county attorney of ~~any~~ a county may make arrangements with any federal, state, regional,  
6 or private mental facility or with a mental health facility in any county for the detention of persons held  
7 pursuant to this section. Whenever an arrangement has been made with a facility that does not, at the  
8 time of the emergency, have a bed available to detain the person at that facility, the person may be  
9 transported to the state hospital for detention and treatment as provided in this part. This determination  
10 must be made on ~~an individual basis in each case~~ a case-by-case basis, and the professional person at the  
11 local facility ~~must~~ shall certify to the county attorney that the facility does not have adequate room at that  
12 time.

13 (4) However, before ~~any~~ a person is transferred to the state hospital under this section, the state  
14 hospital must be notified prior to transfer and ~~must state~~ shall confirm that a bed is available for the  
15 person."

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