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 2 INTRODUCED BY Menahon Smith Bank Lynch ^{House} BILL NO. 442
 3 Dea Mc Carthy Carlwick

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A STATE EMPLOYEE WHO IS INJURED BY
 5 A CLIENT OR OTHER PERSON UNDER STATE SUPERVISION AS A RESULT OF AGGRESSIVE BEHAVIOR
 6 BY THE CLIENT OR PERSON IS ELIGIBLE TO RECEIVE WORKERS' COMPENSATION BENEFITS FROM THE
 7 DATE OF THE INJURY; AMENDING SECTION 39-71-736, MCA; AND PROVIDING AN EFFECTIVE DATE."
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9 WHEREAS, certain state employees are required on a daily basis to work with clients or persons
 10 under state supervision who are dangerous and violent; and

11 WHEREAS, the inmate population at the Montana State Prison has increased beyond prison
 12 capacity, creating a dangerous atmosphere for inmates and employees; and

13 WHEREAS, there has been an increase in violence among residents and inmates at state institutions,
 14 including the Montana State Hospital, the Swan River Boot Camp, and the Montana State Prison; and

15 WHEREAS, violence by an inmate at the Swan River Boot Camp resulted in severe and permanent
 16 injury to a department of corrections employee; and

17 WHEREAS, the employees working at state institutions are increasingly faced with violent situations
 18 while performing their jobs; and

19 WHEREAS, current state law requires a 5-day waiting period before an employee is eligible to file
 20 a workers' compensation claim; and

21 WHEREAS, state employees, who are already suffering psychologically as a result of dealing daily
 22 with aggressive clients and violent inmates, suffer additional injury when they are forced to wait for
 23 compensation for injuries that occurred while working as an employee in a state institution.
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25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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 27 **Section 1.** Section 39-71-736, MCA, is amended to read:
 28 "**39-71-736. Compensation -- from what date paid.** (1) (a) ~~No~~ Except as provided in subsection
 29 (5), compensation may not be paid for the first 48 hours or 6 days' loss of wages, whichever is less, that
 30 the claimant is totally disabled and unable to work due to an injury. A claimant is eligible for compensation

1 starting with the 7th day.

2 (b) However, separate benefits of medical and hospital services must be furnished from the date
3 of injury.

4 (2) For the purpose of this section, except as provided in subsection (3), an injured worker is not
5 considered to be entitled to compensation benefits if the worker is receiving sick leave benefits, except that
6 each day for which the worker elects to receive sick leave counts 1 day toward the 6-day waiting period.

7 (3) Augmentation of temporary total disability benefits with sick leave by an employer pursuant
8 to a collective bargaining agreement may not disqualify a worker from receiving temporary total disability
9 benefits.

10 (4) Receipt of vacation leave by an injured worker may not affect the worker's eligibility for
11 temporary total disability benefits.

12 (5) An employee of a state agency who is injured by a client or other person under state
13 supervision as a result of aggressive behavior by the client or other person is eligible to receive
14 compensation from the date of the injury."

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16 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 1997.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0442, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing that a state employee who is injured by a client or other person under state supervision as a result of aggressive behavior by the client or other person is eligible to receive workers' compensation benefits from the date of the injury.

ASSUMPTIONS:

- 1 Current law provides that no compensation may be paid for 48 hours or six days' loss of wages, whichever is less, that the claimant is totally disabled and unable to work due to injury.
1. This proposal provides that an employee of a state agency who is injured as a result of aggressive behavior by a client or other person under state supervision will not be required to wait 48 hours or six days, whichever is less, before receiving indemnity compensation.
- 2 Each claim under this legislation would have an additional six days of compensation to pay.
3. Using the maximum compensation rate, this legislation would cost the State Fund \$384 for each claim under the specified circumstances in FY97. Applying an average weekly wage increase of 3% per year to this benefit payment correlates to \$396 in FY98 and \$407 for FY99.
4. Based upon State Fund staff interpretation of 'aggressive behavior', the Department of Corrections has had 57 claims which were the result of 'aggressive behavior' from 7/1/91 to 1/31/97. This is an average of approximately one per month.
5. Based upon State Fund staff interpretation of 'aggressive behavior', the Department of Public Health and Human Services has had 19 claims which were the result of 'aggressive behavior' from 7/1/95 to 1/31/97. This is an average of one per month.
6. There would be the potential for claims as a result of 'aggressive behavior' of clients or other persons under state supervision to arise from any state agency. This fiscal impact cannot be determined.
7. The State Fund is funded primarily through premium income. All benefit payments are used when calculating rates.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Benefit Payments	\$9,504	\$9,768

TECHNICAL NOTES:

1. The terms 'aggressive behavior'; 'client'; and 'under state supervision' are not defined in statute. Definition of these terms would clarify future interpretations.
2. The statement of intent focuses this legislation the Montana State Hospital, the Swan River Boot Camp, and the Montana State Prison. As the proposed legislation is written, it appears to encompass all state agencies.

Dave Lewis 2.8.97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

WILLIAM "RED" MENAHAN, PRIMARY SPONSOR DATE