

Unofficial Draft Copy

As of: October 21, 2008 (9:38am)

LC0516

**** Bill No. ****

Introduced By *****

By Request of the Law and Justice Interim Committee

A Bill for an Act entitled: "An Act requiring the department of public health and human services to contract for dedicated crisis beds and emergency and court-ordered detention beds for the mentally ill; requiring rulemaking; providing an appropriation; providing target implementation dates; requiring a report; and providing an effective date."

WHEREAS, House Joint Resolution No. 26 requested an interim legislative study to examine diversion of mentally ill adults from the justice system and House Joint Resolution No. 50 requested an interim legislative study to examine county precommitment costs related to involuntary commitment proceedings; and

WHEREAS, these studies were assigned to the Law and Justice Interim Committee; and

WHEREAS, this bill is one in a package of bills recommended by the Law and Justice Interim Committee to address diversion of mentally ill adults from the justice system to appropriate treatment.

WHEREAS, the Law and Justice Interim Committee found that one of the biggest challenges to diverting mentally ill individuals from the justice system is a lack of community-based mental health treatment beds; and

Unofficial Draft Copy

As of: October 21, 2008 (9:38am)

LC0516

WHEREAS, 63% of admissions the Montana State Hospital, whose daily census routinely exceeds its licensed capacity of 189, are for emergency and court-ordered detention and evaluation; and

WHEREAS, 38% of emergency and court-ordered admissions to the Montana State Hospital do not result in commitments;

WHEREAS, it is preferable for these psychiatric services to be provided locally and without fiscal pressure driving treatment decisions or decisions about whether to file an involuntary commitment petition;

WHEREAS, the costs for local hospitals to provide psychiatric treatment services is very high and counties help pay some of these costs only after an involuntary commitment petition has been filed and only in an amount that would have been paid by a public assistance program; and

WHEREAS, these high unrecoverable costs can deter hospitals from providing community-based psychiatric treatment beds; and

WHEREAS, current involuntary commitment laws and funding mechanisms create tensions between mental health professionals concerned about the medical necessity for treatment, hospitals concerned that county funding is only after an involuntary commitment petition is filed, county attorneys concerned that medical necessity is not necessarily legal sufficiency for an involuntary commitment petition, and county commissioners concerned about county costs after a commitment petition is filed; and

WHEREAS, some mental health facilities may be able to provide inpatient psychiatric services at lower cost by providing

Unofficial Draft Copy

As of: October 21, 2008 (9:38am)

LC0516

services in a nonhospital mental health facility or through a telepsychiatry linkage with a psychiatric unit at a community hospital or with the Montana State Hospital;

WHEREAS, by contracting with private providers for dedicated local or regional psychiatric treatment beds at rates that would help subsidize county funding and reduce the risks to private providers, the state can become a partner in fostering creative local solutions that reduce emergency admissions to the Montana State Hospital.

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Department to contract for detention beds -- rulemaking.** (1) To the extent funding is appropriated for the purposes of this section, for each service area, as defined in 53-21-1001, the department shall contract with a mental health facility for up to three dedicated psychiatric treatment beds for crisis intervention and for emergency detention under 53-21-129 and court-ordered detention under 53-21-124.

(2) Each contract shall provide that costs will be billed by the department as follows in the listed order of priority:

(i) to the individual, or the individual's parent or guardian if the individual is a minor, or the individual's private insurance carrier, if any;

(ii) to a public assistance program, such as medicaid, for a qualifying individual; or

(iii) the county of the individual's residence in an amount not to exceed the amount paid for the service by a public assistance program.

(3) Each contract shall require the collection and reporting of fiscal and program data in the time and manner prescribed by the department to support thorough short- and long-term evaluation. The department shall establish baseline data on emergency and court-ordered detention admissions to the state hospital from each county and analyze the effect of contracting under this section on state hospital admissions.

(4) The department shall adopt rules to implement this section.

NEW SECTION. **Section 2. Appropriation.** (1) There is appropriated from the general fund to the department of public health and human services:

(a) for fiscal year 2010, \$_____;

(b) for fiscal year 2011, \$_____.

(2) The money appropriated in this section may be used only for the purposes of [section 1].

NEW SECTION. **Section 3. Implementation -- report.** (1) The provisions of [section 1] may be implemented in phases. However, it is the legislature's intent that contracted beds be operational in at least one service area by no later than July 1, 2010, and that full implementation be completed by no later than July 1, 2011.

Unofficial Draft Copy

As of: October 21, 2008 (9:38am)

LC0516

(2) As soon as possible after July 1, 2010, the department shall report to the law and justice interim committee established in 5-5-226 on the implementation status of contracting under [section 1].

NEW SECTION. **Section 4. {standard} Codification**

instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [section 1].

NEW SECTION. **Section 5. {standard} Effective date.** [This act] is effective July 1, 2009.

- END -

{Name : Sheri S. Heffelfinger
Title : Research Analyst
Agency : Legislative Services Division
Phone : 444-3596
E-Mail : sheffelfinger@mt.gov}