

1 HOUSE BILL NO. 365

2 INTRODUCED BY M. MENAHAN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTES RELATED TO INVOLUNTARY
5 COMMITMENTS; PROVIDING FOR THE WAIVER OF THE RIGHT OF THE RESPONDENT TO BE
6 PHYSICALLY PRESENT AT A HEARING WITH A CONCURRENCE OF THE RESPONDENT'S ATTORNEY
7 AND THE PROFESSIONAL PERSON; ALLOWING EMERGENCY DETENTION OF A PERSON IF THE
8 PERSON IS SUBSTANTIALLY UNABLE TO PROVIDE FOR THE PERSON'S OWN BASIC NEEDS; AND
9 AMENDING SECTIONS 53-21-119 AND 53-21-129, MCA."

10

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

12

13 **Section 1.** Section 53-21-119, MCA, is amended to read:

14 **"53-21-119. Waiver of rights.** (1) A person may waive the person's rights, or if the person is not capable
15 of making an intentional and knowing decision, these rights may be waived by the person's counsel and friend
16 of respondent acting together if a record is made of the reasons for the waiver. The right to counsel may not be
17 waived. The right to treatment provided for in this part may not be waived.

18 (2) The right of the respondent to be physically present at a hearing may also be waived by the
19 respondent's attorney and the friend of respondent, if a friend of respondent is appointed, with the concurrence
20 of the professional person ~~and the judge upon a finding supported by facts that if~~ AND THE JUDGE UPON FINDINGS
21 SUPPORTED BY THE FACTS THAT:

22 (a) (i) the presence of the respondent at the hearing would be likely to seriously adversely affect the
23 respondent's mental condition; and

24 ~~(b)(ii)~~ (ii) an alternative location for the hearing in surroundings familiar to the respondent would not prevent
25 the adverse effects on the respondent's mental condition; or

26 (b) the respondent voluntarily expresses a desire to waive the respondent's presence at the hearing.

27 (3) (a) In the case of a minor, provided that a record is made of the reasons for the waiver, the minor's
28 rights may be waived by the mutual consent of the minor's counsel and parents or guardian or guardian ad litem
29 if there are no parents or guardian.

30 (b) If there is an apparent conflict of interest between a minor and the minor's parents or guardian, the

1 court shall appoint a guardian ad litem for the minor."

2

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

4 **"53-21-129. Emergency situation -- petition -- detention.** (1) When an emergency situation exists, a
5 peace officer may take any person who appears to have a mental disorder and appears to present an imminent
6 danger of death or bodily harm to the person or to others or to be substantially unable to provide for the person's
7 own basic needs of food, clothing, shelter, health, or safety into custody only for sufficient time to contact a
8 professional person for emergency evaluation. If possible, a professional person should be called prior to taking
9 the person into custody.

10 (2) If the professional person agrees that the person detained is a danger to the person or to others or
11 is substantially unable to provide for the person's own basic needs because of a mental disorder and that an
12 emergency situation exists, then the person may be detained and treated until the next regular business day. At
13 that time, the professional person shall release the detained person or file findings with the county attorney who,
14 if the county attorney determines probable cause to exist, shall file the petition provided for in 53-21-121 through
15 53-21-126 in the county of the respondent's residence. In either case, the professional person shall file a report
16 with the court explaining the professional person's actions.

17 (3) The county attorney of a county may make arrangements with a federal, state, regional, or private
18 mental facility or with a mental health facility in a county for the detention of persons held pursuant to this section.
19 If an arrangement has been made with a facility that does not, at the time of the emergency, have a bed available
20 to detain the person at that facility, the person may be transported to the state hospital or to a behavioral health
21 inpatient facility, subject to 53-21-193 and subsection (4) of this section, for detention and treatment as provided
22 in this part. This determination must be made on an individual basis in each case, and the professional person
23 at the local facility shall certify to the county attorney that the facility does not have adequate room at that time.

24 (4) Before a person may be transferred to the state hospital or to a behavioral health inpatient facility
25 under this section, the state hospital or the behavioral health inpatient facility must be notified prior to transfer and
26 shall state whether a bed is available for the person. If the professional person determines that a behavioral
27 health inpatient facility is the appropriate facility for the emergency detention and a bed is available, the county
28 attorney shall direct the person to the appropriate facility to which the person must be transported for emergency
29 detention."

30 - END -



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2013 Biennium

1

Bill # HB0365

Title: Revise laws regarding involuntary commitment

Primary Sponsor: Menahan, Mike

Status: As Introduced

- Significant Local Gov Impact
- Needs to be included in HB 2
- Technical Concerns
- Included in the Executive Budget
- Significant Long-Term Impacts
- Dedicated Revenue Form Attached

	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>
Expenditures:				
General Fund	\$246,227	\$247,585	\$253,050	\$257,935
Revenue:				
General Fund	\$71,283	\$71,676	\$73,258	\$74,672
Net Impact-General Fund Balance:	<u>(\$174,944)</u>	<u>(\$175,909)</u>	<u>(\$179,792)</u>	<u>(\$183,263)</u>

Description of fiscal impact: This bill will increase the number of emergency detentions and admissions to the Montana State Hospital.

FISCAL ANALYSIS

Assumptions:

- It is assumed that Montana State Hospital (MSH) will continue to accept all emergency detentions.
- Emergency detentions are estimate to increase by three individuals per week, or 156 per year, over current levels at MSH.
- The average length of stay for emergency detention evaluation is 3 days.
- Additional emergency detention days at MSH would total 468 days annually.
- Historically, 54% of emergency detentions have resulted in involuntary commitments to MSH.
- 85% of the people admitted as emergency detentions would have eventually been admitted as a court order.
- 15% of the 54% of emergency detentions would be new admissions to MSH. This represents 8.1% of the 156 new detentions resulting in new involuntary commitments.
- The average involuntary commitment at MSH totals 97 bed days.
- Total involuntary commitment days at MSH would increase by 1,226 annually. (156 emergency commitments x 54% involuntary commitment x 15% new court ordered commitments x 97 bed days)
- Total bed days at MSH would increase by 1,694 annually. (468 emergency detention bed days + 1,226 involuntary commitment bed days)

11. A 1.00 FTE Psychiatrist would be needed at MSH to accommodate the additional bed days at an estimated salary and benefits costs of \$179,927 for FY 2012 and \$184,385 for FY 2013.
12. Office setup for this FTE would be \$3,100 in FY 2012. *OTO*
13. Ongoing operating costs for the FTE would be \$1,420 annually with inflationary increases of 2% for FY 2014 and FY 2015.
14. Food, clothing, and pharmacy operating costs for each day at MSH are \$36.47 for a total of \$61,769 annually with additional 2% inflationary increases for FY 2014 and FY 2015.
15. Costs associated with the bill are broken down in the following chart:

HB 365 Costs

		2012	2013	2014	2015
Additional Bed days	468 + 1,226	1,694	1,694	1,694	1,694
Operating Costs bed days	\$36.47 per day	\$61,780	\$61,780	\$63,016	\$64,276
Operating Costs FTE		\$1,420	\$1,420	\$1,448	\$1,477
Office/Computer Setup FTE		\$3,100	\$0	\$0	\$0
Total Operating Costs		\$66,300	\$63,200	\$64,464	\$65,753
Psychiatrist Salary and Benefits		\$179,927	\$184,385	\$188,586	\$192,182
Total Personal Services		\$179,927	\$184,385	\$188,586	\$192,182
Total General Fund Expenditures		\$246,227	\$247,585	\$253,050	\$257,935
28.95% County Recovery Revenues to General Fund		\$71,283	\$71,676	\$73,258	\$74,672
Total General Fund Impact		(\$174,944)	(\$175,909)	(\$179,792)	(\$183,263)

16. It is estimated 28.95% operating expenditures will be recovered as General Fund Revenues from counties.

Expenditures:

Personal Services	\$179,927	\$184,385	\$188,586	\$192,182
Operating Expenses	\$66,300	\$63,200	\$64,464	\$65,753
TOTAL Expenditures	\$246,227	\$247,585	\$253,050	\$257,935

Funding of Expenditures:

General Fund (01)	\$246,227	\$247,585	\$253,050	\$257,935
TOTAL Funding of Exp.	\$246,227	\$247,585	\$253,050	\$257,935

Revenues:

General Fund (01)	\$71,283	\$71,676	\$73,258	\$74,672
TOTAL Revenues	\$71,283	\$71,676	\$73,258	\$74,672

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$174,944)	(\$175,909)	(\$179,792)	(\$183,263)
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Effect on County or Other Local Revenues or Expenditures:

1. Pre-commitment expenses are the responsibility of the county of residence (53-21-132, MCA).
2. An increase in emergency detentions will increase costs billed to the counties.

Sponsor's Initials

Date

Budget Director's Initials

Date



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2013 Biennium

2

Bill # HB0365

Title: Revise laws regarding involuntary commitment

Primary Sponsor: Menahan, Mike

Status: As Introduced-Revised

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>
Expenditures:				
General Fund	\$61,780	\$61,780	\$63,016	\$64,276
Revenue:				
General Fund	\$17,885	\$17,885	\$18,243	\$18,608
Net Impact-General Fund Balance:	<u>(\$43,895)</u>	<u>(\$43,895)</u>	<u>(\$44,773)</u>	<u>(\$45,668)</u>

Description of fiscal impact: This bill will increase the number of emergency detentions and admissions to the Montana State Hospital.

FISCAL ANALYSIS

Assumptions:

1. It is assumed that Montana State Hospital (MSH) will continue to accept all emergency detentions.
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3. The average length of stay for emergency detention evaluation is 3 days.
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6. 85% of the people admitted as emergency detentions would have eventually been admitted as a court order.
7. 15% of the 54% of emergency detentions would be new admissions to MSH. This represents 8.1% of the 156 new detentions resulting in new involuntary commitments.
8. The average involuntary commitment at MSH totals 97 bed days.
9. Total involuntary commitment days at MSH would increase by 1,226 annually. (156 emergency commitments x 54% involuntary commitment x 15% new court ordered commitments x 97 bed days)
10. Total bed days at MSH would increase by 1,694 annually. (468 emergency detention bed days + 1,226 involuntary commitment bed days)

Fiscal Note Request – As Introduced - Revised

(continued)

11. Food, clothing, and pharmacy operating costs for each day at MSH are \$36.47 for a total of \$61,769 annually (\$36.47 cost/day x 1694 days) with additional 2% inflationary increases for FY 2014 and FY 2015.
12. It is estimated 28.95% operating expenditures will be recovered as general fund revenues from counties.

Expenditures:

Operating Expenses	\$61,780	\$61,780	\$63,016	\$64,276
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Funding of Expenditures:

General Fund (01)	\$61,780	\$61,780	\$63,016	\$64,276
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Revenues:

General Fund (01)	\$17,885	\$17,885	\$18,243	\$18,608
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Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$43,895)	(\$43,895)	(\$44,773)	(\$45,668)
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Effect on County or Other Local Revenues or Expenditures:

1. Pre-commitment expenses are the responsibility of the county of residence (53-21-132, MCA).
2. An increase in emergency detentions will increase costs billed to the counties.

Sponsor's Initials

Date

Budget Director's Initials

Date

Montana
Legislative
Branch

Montana Legislature

Detailed Bill Information



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Bill Draft Number: LC0804 **Current Bill Text:** [HTML](#) [PDF](#) **Previous Version(s)**

Bill Type - Number: HB 365 [Fiscal Note](#)

Short Title: Revise laws regarding involuntary commitment

Primary Sponsor: Mike Menahan


[All Available Audio for this Bill](#)

Bill Actions - Current Bill Progress: Probably Dead

Bill Action Count: 34

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Action - Most Recent First	Date	Votes Yes	Votes No	Committee <i>(What's New?)</i>
(H) Died in Standing Committee	04/28/2011			
(H) Missed Deadline for Appropriation Bill Transmittal	03/25/2011			
(H) Tabled in Committee	03/23/2011			(H) Appropriations
(H) Hearing	02/17/2011			(H) Appropriations (Audio)
(H) Revised Fiscal Note Printed	02/14/2011			
(C) Printed - New Version Available	02/12/2011			
(H) Rereferred to Committee	02/12/2011			(H) Appropriations
(H) 2nd Reading Passed as Amended	02/12/2011	67	33	Audio
(H) 2nd Reading Motion to Amend Carried	02/12/2011	89	9	
(H) Revised Fiscal Note Received	02/12/2011			
(H) Scheduled for 2nd Reading	02/12/2011			
(H) Committee Report--Bill Passed	02/08/2011			(H) Judiciary
(H) Committee Executive Action--Bill Passed	02/08/2011	17	3	(H) Judiciary
(H) Fiscal Note Printed	02/08/2011			
(H) Fiscal Note Received	02/04/2011			
(H) Hearing	02/04/2011			(H) Judiciary (Audio)

(C) Introduced Bill Text Available Electronically 	01/28/2011			
(H) Fiscal Note Requested	01/28/2011			
(H) Referred to Committee	01/28/2011			(H) Judiciary
(H) First Reading	01/28/2011			
(H) Introduced	01/28/2011			
(C) Draft Delivered to Requester	01/26/2011			
(C) Draft Ready for Delivery	01/25/2011			
(C) Fiscal Note Probable	01/25/2011			
(C) Draft in Assembly/Executive Director Review	01/25/2011			
(C) Draft in Final Drafter Review	01/25/2011			
(C) Bill Draft Text Available Electronically	01/25/2011			
(C) Draft in Input/Proofing	01/25/2011			
(C) Draft to Drafter - Edit Review [CMD]	01/25/2011			
(C) Draft in Legal Review	01/21/2011			
(C) Draft to Requester for Review	01/20/2011			
(C) Draft On Hold	01/13/2011			
(C) Draft to Requester for Review	12/28/2010			
(C) Draft Request Received	11/18/2010			

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Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Menahan	Mike	<input type="checkbox"/>
Drafter	Burkhardt	Julianne	<input type="checkbox"/>
Primary Sponsor	Menahan	Mike	<input type="checkbox"/>

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Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Mental Illness or Incapacity (see also:		Simple	MENT

Institutions)			
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Additional Bill Information

Fiscal Note Probable: Yes

Preintroduction Required: N

Session Law Ch. Number:

DEADLINE

Category: Appropriation Bills

Transmittal Date: 03/25/2011

Return (with 2nd house amendments) Date: 04/11/2011

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11/25/2011 11:33 AM Mountain Time

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