

Legislative Background Brief
for the
Law and Justice Interim Committee

December 2011

**Emergency Detention Standards:
Legislative History of HB 365 and Decision Points**

Prepared by Sheri Scurr, Staff Research Analyst

HB 365 - 2011 Session

Rep. Menahan (D-Helena) requested and introduced HB 365 during the 2011 legislative session. The bill provided for two things:

(1) that the right of the respondent to be physically present at an involuntary mental health commitment hearing may be waived if the respondent voluntarily expresses a desire to waive that right; and

(2) that a peace officer may take a person appearing to be substantially unable to provide for the person's own basic needs of food, clothing, shelter, health, or safety into custody only for sufficient time to get the person an emergency mental health evaluation.

The initial fiscal note assumed that the bill would increase emergency detentions at the Montana State Hospital (MSH) and require an additional psychiatrist. It estimated this would cost the state general fund about \$175,000 the first year and \$175,000 the second year. At the sponsor's request, the budget office reviewed the fiscal note and revised it by eliminating the assumption that a new psychiatrist would need to be hired. The revised fiscal note estimated a \$44,000 general fund cost in each year of the biennium. The fiscal note noted that pre-commitment costs were the responsibility of the counties, but assumed that only about 30% of these costs would actually be paid.

HB 365 was initially heard in House Judiciary and passed out of committee on a 17-3 vote. The bill was then re-referred to House Appropriations, where it was tabled and missed the transmittal deadline for appropriation bills.

House Judiciary

Sponsor's testimony

At the initial hearing on HB 365 in House Judiciary, Rep. Menahan explained the

purpose of the bill was to allow for the intervention and treatment of a person with a serious mental illness before the person suffered a serious decompensation that would result in the person being an imminent threat to themselves or others, which is the emergency detention standard in current law. He said he disagreed with the basic assumption of the fiscal note that the bill would increase the number of emergency detentions and commitments and therefore cost more. He stated that the bill would allow people to be treated before they decompensated, rather than afterwards.

With respect to allowing a respondent to voluntarily waive the right to appear personally at a hearing, Rep. Menahan noted that public defenders are often reluctant to waive any of their clients' rights, but sometimes it is medically and psychologically better for the respondent not to have to be transported to the physical location of the hearing. He said the change in his bill would allow public defenders the latitude to waive their clients' right to appear in person if their clients voluntarily expressed a desire to do so.

Proponents

Representatives of the Montana County Attorney's Association (MCAA), the National Association for the Mentally Ill - Montana (NAMI-MT), the National Association of Social Workers - Montana Chapter (NASW-MT), Disability Rights Montana (DRM), Montana Mental Health Centers (MMHC), the Sheriffs' and Peace Officers' Association (MSPOA), Billings Clinic, a consumer of mental health services and who was involuntary committed and at times arrested while in psychosis, and a parent of a mentally ill son.

Larry Epstein, MCAA, testified how the bill would provide greater clarity for attorneys. Matt Kuntz, NAMI-MT, testified how the bill would also provide clarity for mental health professionals so they could intervene before a person killed themselves or someone else. He discussed several examples. Mr. Kuntz also testified he believed the bill would keep mentally ill people for committing serious crimes that escalate costs for forensic treatment, so would actually save money. Quentin Schroeter, a consumer of mental health services, testified he was grateful for his own involuntary commitment and treatment and that he believed it was essential to get treatment before serious crimes are committed. John Wilkinson, NASW-MT and parent of a mentally ill son convicted of a serious crime, testified how powerful mental illness is and how difficult it is for parents to get their loved ones treatment before they decompensate to the point of committing a crime. Anita Roessmann, DRM, expressed support especially because under current law it

is actually easier for law enforcement to make an arrest and jail someone who is mentally ill than to do an emergency detention and get the person a mental health evaluation. She said HB 365 would help fix that. She did express concern about page 1, line 20, striking language about the judge having to make findings supported by facts. Kathy McGowan, MMHC and MSPOA, concurred with previous testimony and reiterated that crisis intervention in the communities is the number one priority of the MSPOA and noted that more community crisis beds would allow emergency detention in the communities and divert people from the MSH. Aimee Grmolijez, Billings Clinic, supported all the previous testimony.

Opponents

No one testified as an opponent to the bill, except Chairman Peterson noted that Anita Roessmann, DRM, was an opponent to the language on page 1, line 20, being stricken.

Informational testimony

Mr. John Glueckert, Administrator of the MSH in Warm Springs, appeared as an informational witness. Mr. Glueckert testified about the treatment challenges, requirements, and expenses associated with emergency detentions at the state hospital. He also noted that state statute allows the MSH to turn away an emergency detention if the MSH does not have enough capacity.

Questions from the committee

Committee questions from Rep. Harris and Rep. Hill highlighted the need for earlier intervention before a person who is unable to recognize the person's own mental illness decompensates to the point of an emergency that could result in the person killing themselves or another. One question from Rep. Wagner to Mr. Glueckert asked for an assessment of how much money has been saved from implementation of crisis intervention bills passed by a previous legislature (e.g., HB 130, HB 131, and HB 132 from the 2009 Session). Mr. Glueckert explained he was relatively new to his position, that it was a good question, and that he would work to try to develop that information in the future. Chairman Peterson commented that he supported striking the requirement on page 1, line 20 for a judge to make a finding of fact concerning a respondent not appearing in person. Anita Roessmann responded that not requiring a judge to make a finding of fact and not having a record of those facts could take away a grounds for an appeal.

Sponsor's closing

In closing, Rep. Menahan explained that he struck the language on page 1, line 20 because the judge would inquire about why the respondent was not present and that there would be a record of the public defender explaining why the respondent was not present.

Executive action

Rep. Menahan (a member of House Judiciary) moved a DO PASS on HB 3654 and explained he believed the assumptions in the original fiscal note were erroneous and that he had requested that the budget director review the fiscal note. Rep. Menahan also said he would offer an amendment to fix concerns about page 1, line 20, striking language about a judge making a finding of fact concerning a respondent not appearing at a hearing.

Yes votes: 17

Republican representatives Peterson, Bangerter, Hansen, Harris, Howard, Loney, More, O'Hara, Read, and Regier voted for the bill. Democrat representatives Menahan, Sands, Driscoll, Boldman Hill, MacDonald, Pease-Lopez also voted for the bill.

No votes: 3

Republican representatives Kerns, Skattum, and Warburton voted no.

House Floor - 2nd Reading

On the House floor during the 2nd reading of HB 365, Rep. Menahan noted there was a revised fiscal note. He also proposed an amendment to reinsert current language that was stricken on page 1, line 20, concerning the judge making a finding of fact to support a respondent not appearing in person. The amendment passed 89 -9.

Rep. Menahan explained his bill, emphasizing that the provision allowing a respondent to waive a personal appearance at a hearing would save counties money because they wouldn't have the cost of transporting the respondent from the MSH to the hearing and back. He also explained his disagreement with the fiscal note.

Rep. O'Neill (R) opposed the bill because he believed it would make it too easy to detain anyone acting strange, like the "wino" down the street.

Rep. Gibson (R) stated he agreed there would not be an additional cost to the state, but asked about costs to counties. Rep. Menahan said he agreed there would be additional costs to the counties.

Rep. Peterson (R) stated his support for the bill.

2nd reading floor vote: 67-33

House Appropriations

Opening

Rep. Menahan explained the bill and commented that the fiscal note related to the increased costs to counties, who were responsible for all pre-commitment costs. However, he noted that some counties do not pay their costs, so the MSH assumes it will have increased costs from more emergency detentions prior to commitment.

Proponents

Bob Ross from the South Central Regional Mental Health Center in Billings, which serves 11 counties, supported the bill and testified that the biggest complaint he receives is from family members who complain that mental health professionals did not do enough soon enough. He said he and his mental health center and the mental health professionals he works with strongly supported the bill.

Matt Kuntz, NAMI-MT, testified that the bill would save money by reducing the number of commitments to the forensic unit of the MSH because of earlier intervention. He said the fiscal note failed to recognize the substantial cost savings that would result from earlier treatment.

Quentin Schroeter, consumer, testified in support of the bill because involuntary commitment had helped him.

Beth Brenneman, DRM, testified that the fiscal impact would not be as high as estimated because there would not be substantial change from how the law is currently being interpreted in most counties. However, in counties with a more strict interpretation of imminent danger, there might be an increased cost. She also talked about the incredible increase in the number of community mental health beds, so that would help reduce state costs.

Opponents

None.

Informational testimony

Lou Thompson, Administrator of the Addictive and Mental Disorders Division, Department of Public Health and Human Services, said she was available to answer questions on the fiscal note.

Questions from the committee

Questions were asked about length of stay for emergency detentions at the MSH, the community capacity for emergency detention, and state and county responsibility for costs. Answers provided the following information: the average length of stay for an emergency commitment at the MSH is 3 days; besides hospitals, Billings, Butte, Bozeman and Hamilton have community-based facilities that can handle emergency detentions to divert people from the MSH; precommitment costs are the responsibility of the counties, but only about 30% of these costs actually get paid by the responsible counties.

Executive action

Rep. Hiner moved a DO PASS on HB 365. There was no discussion. On a roll-call vote, the motion failed 9-12. The vote was reversed to table the bill 12-9.

Representatives voting no were: McNutt (R), Beck (R), Brodehl (R), Cook (R), Cuff (R), Edmunds (R), Ehli (R), Esp (R), Gibson (R), Hollandsworth (R), Osmundson (R), Roberts (R). Two Republicans, Rep. Ankney and Rep. Burnett voted in support of the bill along with all of the democrats.

In summary

HB 365 received bipartisan support as a matter of public policy. Although the sponsor and proponents maintained that the fiscal note assumptions were faulty and did not reflect potential cost savings from early intervention, concerns about potential cost increases to the MSH and the counties were not overcome, so the bill died in House Appropriations.

Decision points for the LJIC

1. Does the LJIC want to request a committee bill for the 2013 session that reflects the policy intent of HB 365?
2. If the LJIC wants to proceed with a committee bill, does the committee want to request a fiscal analysis from the Legislative Fiscal Division or direct staff to help answer one or all of the following questions:
 - a. What is the potential for cost savings to counties for not having to transport respondents to personally appear at hearings?
 - b. Could the bill reduce forensic commitments and if so, what is the potential cost savings to the MSH?
 - c. Other questions?

Attachments

- A - HB 365, fiscal note #1, fiscal note #2, and history of bill actions, 2011 Session
- B - 2011 MCA sections related to emergency detention
- C - Legal memo on emergency detention, August 29, 2011, by David Niss
- D - Montana State Hospital Admissions data

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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

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

18

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

21

22 SUPPORTED BY THE FACTS THAT:

23

(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) 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.
2. Emergency detentions are estimate to increase by three individuals per week, or 156 per year, over current levels at MSH.
3. The average length of stay for emergency detention evaluation is 3 days.
4. Additional emergency detention days at MSH would total 468 days annually.
5. Historically, 54% of emergency detentions have resulted in involuntary commitments to MSH.
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

[Print Friendly](#)

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	
Drafter	Burkhardt	Julianne	
Primary Sponsor	Menahan	Mike	

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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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62nd Montana Legislature

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KEN PETERSON

COMMITTEE STAFF
SHERI SCURR, Lead Staff
DAVID NISS, Staff Attorney
DAWN FIELD, Secretary

MEMORANDUM

TO: Law and Justice Interim Committee
FROM: David Niss, Staff Attorney 
RE: Standards for Emergency Detention and Involuntary Commitment
DATE: August 29, 2011

I
INTRODUCTION

At its meeting on June 21, 2011, the Law and Justice Interim Committee (LJIC) decided to examine the standards for emergency detention and involuntary commitment of individuals who may be suffering from mental illness. This memorandum responds to Ms. Sheri Scurr's request for a legal analysis of emergency detention and involuntary commitment standards by comparing the two standards but discusses the procedure involved only insofar as necessary to address those standards. I have also commented, at the request of Ms. Scurr, on the provisions of House Bill No. 365 (62nd Legislative Session).

II
DISCUSSION

A. Statutory Standards

Section 53-21-129(1), MCA, contains the standard that must be met for an emergency detention of an individual who may be mentally ill, and 53-21-126(4), MCA, contains the standard for civil commitment of a person who may be mentally ill. These subsections provide as follows:

(1) When an emergency situation exists, a peace officer may take any person who appears to have a mental disorder and to present an

imminent danger of death or bodily harm to the person or to others into custody only for sufficient time to contact a professional person for emergency evaluation. If possible, a professional person should be called prior to taking the person into custody.

(Note that an "emergency situation", for the purposes of 53-21-129(1), MCA, is defined by 53-21-102(7), MCA, as "a situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment".)

(4) The professional person may testify as to the ultimate issue of whether the respondent is suffering from a mental disorder and requires commitment. This testimony is insufficient unless accompanied by evidence from the professional person or others that:

(a) the respondent, because of a mental disorder, is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety;

(b) the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others;

(c) because of a mental disorder, there is an imminent threat of injury to the respondent or to others because of the respondent's acts or omissions; or

(d) (i) the respondent's mental disorder:

(A) has resulted in recent acts, omissions, or behaviors that create difficulty in protecting the respondent's life or health;

(B) is treatable, with a reasonable prospect of success;

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

(ii) will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. Predictability may be established by the respondent's relevant medical history.

Additionally, subsection (2) of 53-21-126, MCA, provides that the standard of proof with respect to "physical facts or evidence" in any hearing on a petition for commitment is proof beyond a reasonable doubt. For other matters, the standard of proof is clear and convincing evidence, except that the respondent's mental disorder must be proved to "a reasonable medical certainty". No similar standard of proof exists for the purposes of emergency detention pursuant to 53-21-129(1), MCA.

B. Comparison of Emergency Detention and Involuntary Commitment Statutes

By the text of 53-21-129(1), MCA, and 53-21-126(4), MCA, it's clear that there is a much different standard for emergency detention than there is for involuntary commitment. For emergency detention, 53-21-129(1), MCA, requires only that a person "appear" to have a mental disorder but that the person be in "imminent danger of death or bodily harm", while 53-21-126(4), MCA, requires that the person actually have a mental disorder, in the opinion of the professional person, but that the person suffering from the mental illness need only be, among other alternative reasons for detainment, "substantially" unable to provide for the person's "own basic needs of food, clothing, shelter, health or safety".

Note that the foregoing list of needs appearing in subsections (4)(a) and (4)(d)(ii) is, by use of the word "or", in the alternative. Therefore, if a suspected schizophrenic individual is, because of his mental illness, only unable to find adequate shelter, he may not be involuntarily detained by a peace officer if he is in no danger of self-injury because of that lack of shelter but may be, after the schizophrenia is proven, involuntarily committed to the state hospital even though he is likewise in no danger because of his lack of shelter.

The result of these differing standards is that well-meaning peace officers may sometimes be frustrated that they may not detain an apparently schizophrenic individual who is without adequate shelter but not suffering because of it. However, the Legislature has made the judgment that if that individual is not suffering, then the values of a free and open society require that the individual not be subject to emergency detention pursuant to 53-21-129, MCA (although if definitively determined at a later time to be mentally ill, the same individual may be involuntarily committed).

C. Case Law

For the purposes of this memorandum, I've reviewed opinions of the Montana Supreme Court since the year of enactment of 53-21-129, MCA, (1975) that deal with that statute and that deal with 53-21-126, MCA, for comment by the Court upon the differing standards between those statutes for emergency detention and involuntary commitment. No opinions were found in which the Court commented adversely on the relationship between those two statutes. However, one opinion was found that merits brief mention here. In *In the Matter of the Mental Health of L.R.*, 2010 MT 76, 356 Mont. 20, 231 P.3d 594, the Montana Supreme Court pointed out that 53-21-115(11), MCA, and 53-21-129(2), MCA, were inconsistent in that the former statute allows a respondent to refuse non-life saving medications for up to 24 prior to any hearing but the latter statute allows the respondent to be detained and treated. The Court said:

These statutes are inconsistent because treatment for a person in an emergency situation under [section] 53-21-129(2), MCA, may include medication, and the time period for such treatment could overlap with the 24 hour period a person may refuse medication under

[section] 53-21-115(11), MCA.

The Court resolved this apparent conflict by holding that because 53-21-115(11), MCA, is a general statute and 53-21-129, MCA, is a specific statute, the more specific statute allowing the respondent to be involuntarily medicated applied to the situation before the Court.¹ This inconsistency does not involve the relationship between 53-21-129, MCA, and 53-21-126, MCA, but may nevertheless warrant the Committee's attention.²

D. House Bill No. 365 (62nd Legislative Session)

House Bill No. 365 (missed transmittal deadline for appropriation bills) would have amended 53-21-129, MCA, to allow a peace officer to detain an individual who appears to have a mental disorder if the individual appears "to be substantially unable to provide for the person's own basic needs of food, clothing, shelter, health, or safety". This change would have made the criteria for emergency detention more like the standards for involuntarily commitment (see part B above). However, the bill would have still allowed emergency detention if the person meets that standard only in an "emergency situation", as defined by 53-21-102(7), MCA (see paragraph at bottom of page 1 above). This additional criteria for an emergency detention and the definition of an "emergency situation" are fundamentally incompatible because the definition of "emergency situation" itself contains the requirement for "imminent death or bodily harm". Therefore if an alternative criteria for emergency detention is to be added to subsection (1) of 53-21-129, MCA, any reference to an "emergency situation" in the same subsection must be deleted or the definition of "emergency situation" must be amended.

III CONCLUSION

The statutory standards for emergency detention and involuntary commitment contained in 53-21-129 and 53-21-126, MCA, respectively, are different in that there is

¹ See, 1-2-102, MCA.

² One other Montana Supreme Court opinion was found that may be of interest to the Committee. In *In the Matter of the Mental Health of A.S.B.*, 2008 MT 82, 342 Mont. 169, 180 P.3d 625, the dissenting opinion by then Chief Justice Karla Gray, citing *O'Connor v. Donaldson*, 422 U.S. 563 (1975), and *Suzuki v. Yuen*, 617 F.2d 173 (9th Cir. 1980), noted that she would have held part of 53-21-126, MCA, unconstitutional because it allowed an individual to be involuntarily committed without a finding of imminent danger of injury or death to the individual or anyone else.

a higher standard in some respects for detention than for commitment. This higher standard is likely the result of recognition by the Legislature that emergency detention is the more intrusive of the two procedures, although there appears to be no reason pronounced by the Montana Supreme Court as to why the standards for detention may not be made more like the standards for commitment. There also may be other aspects of the standard for commitment that the Committee may want to address.

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2011 MCA

Sections Related to Emergency Detention Standards

53-21-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Abuse" means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment or maltreatment or misappropriation of personal property of any person receiving treatment in a mental health facility that insults the psychosocial, physical, or sexual integrity of any person receiving treatment in a mental health facility.

(2) "Behavioral health inpatient facility" means a facility or a distinct part of a facility of 16 beds or less licensed by the department that is capable of providing secure, inpatient psychiatric services, including services to persons with mental illness and co-occurring chemical dependency.

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

(4) "Commitment" means an order by a court requiring an individual to receive treatment for a mental disorder.

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

(6) "Department" means the department of public health and human services provided for in 2-15-2201.

(7) "Emergency situation" means a situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment.

(8) "Friend of respondent" means any person willing and able to assist a person suffering from a mental disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring commitment in dealing with legal proceedings, including consultation with legal counsel and others.

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

(b) The term does not include:

- (i) addiction to drugs or alcohol;
- (ii) drug or alcohol intoxication;
- (iii) mental retardation; or
- (iv) epilepsy.

(c) A mental disorder may co-occur with addiction or chemical dependency.

(10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment facility, or a residential treatment center licensed or certified by the department that provides treatment to children or adults with a mental disorder. A correctional institution or facility or jail is not a mental health facility within the meaning of this part.

(11) "Mental health professional" means:

- (a) a certified professional person;
- (b) a physician licensed under Title 37, chapter 3;
- (c) a professional counselor licensed under Title 37, chapter 23;
- (d) a psychologist licensed under Title 37, chapter 17;
- (e) a social worker licensed under Title 37, chapter 22; or
- (f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing.

(12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory responsibilities to protect patients from abuse and neglect.

(b) The term includes but is not limited to:

- (i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;
- (ii) failure to follow a prescribed plan of care and treatment; or
- (iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.

(13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(14) "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.

(15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

(16) "Professional person" means:

(a) a medical doctor;

(b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing;

(c) a licensed psychologist; or

(d) a person who has been certified, as provided for in 53-21-106, by the department.

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

(18) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering from a mental disorder and requiring commitment.

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

53-21-126. Trial or hearing on petition. (1) The respondent must be present unless the respondent's presence has been waived as provided in 53-21-119(2), and the respondent must be represented by counsel at all stages of the trial. The trial must be limited to the determination of whether or not the respondent is suffering from a mental disorder and requires commitment. At the trial, the court shall consider all the facts relevant to the issues of whether the respondent is suffering from a mental disorder. If the court determines that the respondent is suffering from a mental disorder, the court shall then determine whether the respondent requires commitment. In determining whether the respondent requires commitment and the appropriate disposition under 53-21-127, the court shall consider the following:

(a) whether the respondent, because of a mental disorder, is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety;

(b) whether the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others;

(c) whether, because of a mental disorder, there is an imminent threat of injury to the respondent or to others because of the respondent's acts or omissions; and

(d) whether the respondent's mental disorder, as demonstrated by the respondent's recent acts or omissions, will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. Predictability may be established by the respondent's relevant medical history.

(2) The standard of proof in a hearing held pursuant to this section is proof beyond a reasonable doubt with respect to any physical facts or evidence and clear and convincing evidence as to all other matters. However, the respondent's mental disorder must be proved to a reasonable medical certainty. Imminent threat of self-inflicted injury or injury to others must be proved by overt acts or omissions, sufficiently recent in time as to be material and relevant as to the respondent's present condition.

(3) The professional person appointed by the court must be present for the trial and subject to cross-examination. The trial is governed by the Montana Rules of Civil Procedure. However, if the issues are tried by a jury, at least two-thirds of the jurors shall concur on a finding that the respondent is suffering from a mental disorder and requires commitment. The written report of the professional person that indicates the professional person's diagnosis may be attached to the petition, but any matter otherwise inadmissible, such as hearsay matter, is not admissible merely because it is contained in the report. The court may order the trial closed to the public for the protection of the respondent.

(4) The professional person may testify as to the ultimate issue of whether the respondent is suffering from a mental disorder and requires commitment. This testimony is insufficient unless accompanied by evidence from the professional person or others that:

(a) the respondent, because of a mental disorder, is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety;

(b) the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others;

(c) because of a mental disorder, there is an imminent threat of injury to the respondent or to

others because of the respondent's acts or omissions; or

(d) (i) the respondent's mental disorder:

(A) has resulted in recent acts, omissions, or behaviors that create difficulty in protecting the respondent's life or health;

(B) is treatable, with a reasonable prospect of success;

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

(ii) will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. Predictability may be established by the respondent's relevant medical history.

(5) The court, upon the showing of good cause and when it is in the best interests of the respondent, may order a change of venue.

(6) An individual with a primary diagnosis of a mental disorder who also has a co-occurring diagnosis of chemical dependency may satisfy criteria for commitment under this part.

53-21-129. Emergency situation -- petition -- detention. (1) When an emergency situation exists, a peace officer may take any person who appears to have a mental disorder and to present an imminent danger of death or bodily harm to the person or to others into custody only for sufficient time to contact a professional person for emergency evaluation. If possible, a professional person should be called prior to taking the person into custody.

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

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

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

Montana State Hospital Admissions Overview

	<u>Total Admissions FY 2011</u>	<u>Total Admissions FY 2010</u>
	715	762
<u>Commitment Types</u>		
Emergency Detention	251	320
Court Ordered Detention	108	106
Involuntary Commitment	227	199
Tribal Court Involuntary Commitment	38	27
Voluntary	27	41
Inter-Institutional Transfer	18	13
Competency to Stand Trial Evaluation	22	29
Unfit to Proceed	18	18
Guilty but Mentally Ill	5	8
Not Guilty by Reason of Mental Illness	1	1

**Cascade, Flathead and Yellowstone Counties have less than 1% of
Emergency Detention/Court Ordered Admissions*

Montana State Hospital

Emergency and Court Ordered Admissions/Commitments

Fiscal Year 2011

Total Admissions **715**

Emergency Detentions Admitted	251	35%
Court Ordered Detentions Admitted	107	15%

Total Emergency Detentions/Court Ordered Detentions Admitted **358** **50%**

Emergency Detentions Involuntarily Committed	118	47%
Court Ordered Detentions Involuntarily Committed	68	64%

Total Emergency Detentions/Court Ordered Detentions Involuntarily Committed **186** **52%**

Top 5 Counties with Emergency Detentions/Court Ordered Detentions

Missoula County

Total Admissions	145	
ED Admitted	93	64%
COD Admitted	32	22%
ED Committed	40	43%
COD Committed	24	75%

Lewis and Clark County

Total Admissions	98	
ED Admitted	50	51%
COD Admitted	30	31%
ED Committed	23	46%
COD Committed	16	53%

Gallatin County

Total Admissions	41	
ED Admitted	9	21%
COD Admitted	2	< 1%
ED Committed	4	44%
COD Committed	2	100%

Ravalli County

Total Admissions	20	
ED Admitted	16	80%
COD Admitted	2	1%
ED Committed	7	44%
COD Committed	2	100%

Silver Bow County

Total Admissions	44	
ED Admitted	16	36%
COD Admitted	1	< 1%
ED Committed	10	63%
COD Committed	0	0%

Montana State Hospital
Emergency and Court Ordered Admissions/Commitments
Fiscal Year 2010

Total Admissions 762

Emergency Detentions Admitted	321	42%
Court Ordered Detentions Admitted	107	14%

Total Emergency Detentions/Court Ordered Detentions Admitted 428 56%

Emergency Detentions Involuntarily Committed	172	54%
Court Ordered Detentions Involuntarily Committed	75	70%

Total Emergency Detentions/Court Ordered Detentions Involuntarily Committed 247 58%

Top 5 Counties with Emergency Detentions/Court Ordered Detentions

Missoula County

Total Admissions	154	
ED Admitted	102	66%
COD Admitted	36	23%
ED Committed	58	57%
COD Committed	32	89%

Lewis and Clark County

Total Admissions	78	
ED Admitted	34	44%
COD Admitted	21	27%
ED Committed	13	38%
COD Committed	12	57%

Gallatin County

Total Admissions	64	
ED Admitted	61	95%
COD Admitted	0	0%
ED Committed	31	51%
COD Committed	0	0%

Ravalli County

Total Admissions	26	
ED Admitted	14	54%
COD Admitted	9	35%
ED Committed	8	57%
COD Committed	7	78%

Silver Bow County

Total Admissions	61	
ED Admitted	42	69%
COD Admitted	4	< 1%
ED Committed	25	60%
COD Committed	3	75%

Montana State Hospital
Emergency and Court Ordered Admissions by County - Fiscal Year 2010

County of Commitment	Total Admissions	Total EDs	EDs committed	EDs not committed	% of EDs committed	% of EDs not committed	Total CODs	CODs committed	CODs not committed	% of total CODs committed	% of total CODs not committed	% of total admissions that are EDs and CODs	Total ED & COD	EDs and COD committed	EDs and CODs not committed	% of EDs & CODs committed	% of EDs & CODs not committed
Beaverhead	8	4	2	2	50%	50%	2	0	2	0%	100%	75%	6	2	4	33%	67%
Big Horn	3	1	1	0	100%	0%	0	0	0	0%	0%	33%	1	1	0	100%	0%
Blaine	8	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Broadwater	4	3	0	3	0%	100%	0	0	0	0%	0%	75%	3	0	3	0%	100%
Cascade	47	3	2	1	67%	33%	5	2	3	40%	60%	17%	8	4	4	50%	50%
Chouteau	1	0	0	0	0%	0%	1	0	1	0%	100%	100%	1	0	1	0%	100%
Custer	19	4	3	1	75%	25%	3	2	1	67%	33%	37%	7	5	2	71%	29%
Daniels	1	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Dawson	6	1	1	0	100%	0%	1	0	1	0%	100%	33%	2	1	1	50%	50%
Deer Lodge	17	9	4	5	44%	56%	4	2	2	50%	50%	76%	13	6	7	46%	54%
Fallon	1	0	0	0	0%	0%	1	1	0	100%	0%	100%	1	1	0	100%	0%
Fergus	11	2	2	0	100%	0%	0	0	0	0%	0%	18%	2	2	0	100%	0%
Flathead	37	1	1	0	100%	0%	0	0	0	0%	0%	3%	1	1	0	100%	0%
Gallatin	64	61	31	30	51%	49%	0	0	0	0%	0%	95%	61	31	30	51%	49%
Glacier	10	0	0	0	0%	0%	1	0	1	0%	100%	10%	1	0	1	0%	100%
Granite	2	2	0	2	0%	100%	0	0	0	0%	0%	100%	2	0	2	0%	100%
Hill	13	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Jefferson	5	3	1	2	33%	67%	2	2	0	100%	0%	100%	5	3	2	60%	40%
Lake	30	9	6	3	67%	33%	3	2	1	67%	33%	40%	12	8	4	67%	33%
Lewis & Clark	78	34	13	21	38%	62%	21	12	9	57%	43%	71%	55	25	30	45%	55%
Lincoln	12	1	1	0	100%	0%	0	0	0	0%	0%	8%	1	1	0	100%	0%
Madison	4	2	1	1	50%	50%	2	2	0	100%	0%	100%	4	3	1	75%	25%
McCone	1	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Mineral	1	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Missoula	154	102	58	44	57%	43%	36	32	4	89%	11%	90%	138	90	48	65%	35%
Park	13	10	8	2	80%	20%	0	0	0	0%	0%	77%	10	8	2	80%	20%

Montana State Hospital
Emergency and Court Ordered Admissions by County - Fiscal Year 2010

County of Commitment	Total Admissions	Total EDs	EDs committed	EDs not committed	% of EDs committed	% of EDs not committed	Total CODs	CODs committed	CODs not committed	% of CODs committed	% of CODs not committed	% of total admissions that are EDs and CODs	Total ED & COD	EDs and COD committed	EDs and CODs not committed	% of EDs & CODs committed	% of EDs & CODs not committed
Phillips	2	0	0	0	0%	0%	1	0	1	0%	100%	50%	1	0	1	0%	100%
Powell	9	3	3	0	100%	0%	0	0	0	0%	0%	33%	3	3	0	100%	0%
Prairie	2	0	0	0	0%	0%	1	1	0	100%	0%	50%	1	1	0	100%	0%
Ravalli	26	14	8	6	57%	43%	9	7	2	78%	22%	88%	23	15	8	65%	35%
Richland	8	0	0	0	0%	0%	5	4	1	80%	20%	63%	5	4	1	80%	20%
Roosevelt	11	5	1	4	20%	80%	0	0	0	0%	0%	45%	5	1	4	20%	80%
Sanders	4	3	0	3	0%	100%	0	0	0	0%	0%	75%	3	0	3	0%	100%
Sheridan	2	1	0	1	0%	100%	0	0	0	0%	0%	50%	1	0	1	0%	100%
Silver Bow	61	42	25	17	60%	40%	4	3	1	75%	25%	75%	46	28	18	61%	39%
Stillwater	2	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Teton	3	1	0	1	0%	100%	2	1	1	50%	50%	100%	3	1	2	33%	67%
Toole	4	0	0	0	0%	0%	3	2	1	67%	33%	75%	3	2	1	67%	33%
Valley	3	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Yellowstone	75	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Total	762	321	172	149	54%	46%	107	75	32	70%	30%	56%	428	247	181	58%	42%

Montana State Hospital
Emergency and Court Ordered Admissions by County - Fiscal Year 2011

County of Commitment	Total Admissions	Total EDs	EDs committed	EDs not committed	% of EDs committed	% of EDs not committed	Total CODs	CODs committed	CODs not committed	% of CODs committed	% of CODs not committed	% of total admissions that are EDs and CODs	Total ED & COD	EDs and COD committed	EDs and CODs not committed	% of EDs & CODs committed	% of EDs & CODs not committed
Beaverhead	4	2	2	0	100%	0%	0	0	0	0%	0%	50%	2	2	0	100%	0%
Big Horn	1	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Blaine	7	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Broadwater	1	0	0	0	0%	0%	1	0	1	0%	100%	100%	1	0	1	0%	100%
Carbon	1	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Cascade	31	2	1	1	50%	50%	3	1	2	33%	67%	16%	5	2	3	40%	60%
Custer	12	0	0	0	0%	0%	4	3	1	75%	25%	33%	4	3	1	75%	25%
Dawson	5	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Deer Lodge	17	13	6	7	46%	54%	3	1	2	33%	67%	94%	16	7	9	44%	56%
Fergus	17	1	0	1	0%	100%	5	5	0	100%	0%	35%	6	5	1	83%	17%
Flathead	49	0	0	0	0%	0%	4	2	2	50%	50%	8%	4	2	2	50%	50%
Gallatin	41	9	4	5	44%	56%	2	2	0	100%	0%	27%	11	6	5	55%	45%
Glacier	10	0	0	0	0%	0%	1	0	1	0%	100%	10%	1	0	1	0%	100%
Granite	1	1	0	1	0%	100%	0	0	0	0%	0%	100%	1	0	1	0%	100%
Hill	15	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Jefferson	14	5	1	4	20%	80%	2	2	0	100%	0%	50%	7	3	4	43%	57%
Judith Basin	1	0	0	0	0%	0%	1	0	1	0%	100%	100%	1	0	1	0%	0%
Lake	32	12	9	3	75%	25%	2	0	2	0%	100%	44%	14	9	5	64%	36%
Lewis & Clark	98	50	23	27	46%	54%	30	16	14	53%	47%	82%	80	39	41	49%	51%
Lincoln	12	5	4	1	80%	20%	1	1	0	100%	0%	50%	6	5	1	83%	17%
Madison	1	0	0	0	0%	0%	1	1	0	100%	0%	100%	1	1	0	100%	0%
McCone	2	0	0	0	0%	0%	1	1	0	100%	0%	50%	1	1	0	100%	0%
Mineral	4	3	1	2	33%	67%	1	0	1	0%	100%	100%	4	1	3	25%	75%

Montana State Hospital
Emergency and Court Ordered Admissions by County - Fiscal Year 2011

County of Commitment	Total Admissions	Total EDs	EDs committed	EDs not committed	% of EDs committed	% of EDs not committed	Total CODs	CODs committed	CODs not committed	% of CODs committed	% of CODs not committed	% of total admissions that are EDs and CODs	Total ED & COD	EDs and COD committed	EDs and CODs not committed	% of EDs & CODs committed	% of EDs & CODs not committed
Missoula	145	93	40	53	43%	57%	32	24	8	75%	25%	86%	125	64	61	51%	49%
Musselshell	1	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Park	9	3	2	1	67%	33%	1	1	0	100%	0%	44%	4	3	1	75%	25%
Phillips	2	1	1	0	100%	0%	0	0	0	0%	0%	50%	1	1	0	0%	0%
Pondera	1	1	0	1	0%	100%	0	0	0	0%	0%	100%	1	0	1	0%	100%
Powell	7	4	1	3	25%	75%	2	2	0	100%	0%	86%	6	3	3	50%	50%
Prairie	1	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Ravalli	20	16	7	9	44%	56%	2	2	0	100%	0%	90%	18	9	9	50%	50%
Richland	7	0	0	0	0%	0%	3	3	0	100%	0%	43%	3	3	0	100%	0%
Roosevelt	10	2	1	1	50%	50%	0	0	0	0%	0%	20%	2	1	1	50%	50%
Rosebud	2	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Sanders	9	9	3	6	33%	67%	0	0	0	0%	0%	100%	9	3	6	0%	0%
Silver Bow	44	16	10	6	63%	38%	1	0	1	0%	100%	39%	17	10	7	59%	41%
Teton	2	0	0	0	0%	0%	1	0	1	0%	100%	50%	1	0	1	0%	100%
Toole	1	0	0	0	0%	0%	1	0	1	0%	100%	100%	1	0	1	0%	0%
Valley	6	1	0	1	0%	100%	2	1	1	50%	50%	50%	3	1	2	0%	0%
Wheatland	2	1	1	0	100%	0%	0	0	0	0%	0%	50%	1	1	0	100%	0%
Wibaux	1	0	0	0	0%	0%	0	0	0	0%	0%	0%	0	0	0	0%	0%
Yellowstone	69	1	1	0	100%	0%	0	0	0	0%	0%	1%	1	1	0	100%	0%
Total	715	251	118	133	47%	53%	107	68	39	64%	36%	50%	358	186	172	52%	48%