

EXHIBIT 12
DATE 1-24-05
HB HB 255

Amendments to House Bill No. 255
1st Reading Copy

Requested by Representative Don Roberts

For the House Human Services Committee ✓

Prepared by Susan Byorth Fox
January 24, 2005 (5:46pm)

1. Title, lines 5 and 6.
Following: "SPECIFYING THAT"
Strike: remainder of line 5 through "DISORDER" on line 6
Insert: "A MENTAL DISORDER MAY CO-OCCUR WITH ADDICTION OR
CHEMICAL DEPENDENCY"

2. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "53-21-102"
Insert: "AND 53-21-126"

3. Page 2, line 14.
Following: "alcohol"
Strike: remainder of line 14 through "disorder"

4. Page 2, line 15.
Following: "intoxication"
Strike: remainder of line 15 through "disorder"

5. Page 1, line 18.
Following: line 17
Insert: "(c) A mental disorder may co-occur with addiction or
chemical dependency."

6. Page 3, line 23.
Following: line 22
Insert: "**Section 2.** Section 53-21-126, MCA, is amended to read:
"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."

{ Internal References to 53-21-126:

41-5-1504 x	41-5-1504 x	41-5-1504 x	41-5-1512x
53-21-114 x	53-21-127 x	53-21-127 x	53-21-127x
53-21-129 x	53-21-140 x	53-21-151x }	

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