

Overview of Proposed Amendments

HB 43 - Create jail suicide prevention program in DPHHS

Introduced by S. Lavin

Section 1. Legislative Intent:

- Renumbered internal section references

Section 2. Definitions:

- Renumbered internal section references
- Amended definition of "Inmate".
 - Definition is already in statute and it would be redundant to create another definition in this section.

Section 3: Department to establish detention center behavioral health triage system:

- Added "to partner with local communities".
- Subsection (a) Added "and recommended response protocols".
 - This clarifies the triage system will contain both a screening instrument and recommended response protocols.
 - (a) (line 3) - strike "protocols" as it is being added into the first sentence.
- (d) add Montana State Hospital as defined in MCA 53-21-601
 - As MSH will be part of the response protocols, this will include them in the discussion upon creation of the triage system.
- Renumber following subsections.

Section 4. NEW SECTION - Suicide prevention training, protocols, and technical assistance – no private right of action:

- Incorporated language from Section 3 of HB 69, regarding the development of a suicide prevention training course and protocols, and no private right of action.

Section 5. Detention center participation -- cost-sharing -- grant program.

- Section Renumbered.

Section 6. NEW SECTION: Amending Section 7-6-2541 – County detention center inmate medical costs

- Incorporated and amended language from Section 5 of HB 69, and included the costs of suicide prevention services as indicated by use of suicide prevention screening instruments.
 - This allows the Board of County Commissioners to include the costs of suicide prevention tools and programs into their detention center budgets.

Section 7. NEW SECTION: Amending Section 7-32-2224. Payment of medical costs by entities other than inmate.

- Incorporated and amended language from Section 6 of HB 69 and included the costs of suicide prevention services as indicated by use of suicide prevention screening instruments.
 - This allows the county detention center to bill the costs of suicide prevention and intervention to the appropriate arresting agency.

Section 8. Data Collection

- Section renumbered

Section 9. Report to Committee

- (a) Changed “degree of success” to utilization.
 - Degree of success cannot be measured, but utilization can be tracked and monitored, which will provide better data regarding the use of the triage system.
- Section renumbered
- Renumbered internal section references

Section 10. Rulemaking.

- Section renumbered
- Incorporated and amended language from Section 3(2) of HB 43 and Section 5 (2) of HB 60 (2009 – Rep. Ebinger), regarding consulting with stakeholders for rule development and implementation.

Section 11. Appropriation

- Section renumbered

Section 12. Codification instruction

- Section renumbered

Section 13. Effective date.

- Section renumbered

HOUSE BILL NO. 43

INTRODUCED BY S. LAVIN

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES ESTABLISH A BEHAVIORAL HEALTH TRIAGE SYSTEM FOR PARTICIPATING DETENTION CENTERS; PROVIDING A GRANT PROGRAM FOR PARTICIPATING DETENTION CENTERS; REQUIRING THE DEPARTMENT TO ADOPT RULES; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Legislative intent. The intent of the legislature in enacting [sections 1 through 9] is to create a program based on nationally recognized methodologies to identify and reduce the risk of jail suicide and to manage other behavioral health risks in detention centers. In implementing the grant program established in [section 5] and in the adoption of rules pursuant to [section 10], it is the intent of the legislature that the department allow detention centers maximum flexibility to the extent allowable within accepted clinical standards.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 9], the following definitions apply:

- (1) "Community mental health center" has the meaning provided in 53-21-1001.
- (2) "Department" means the department of public health and human services established in 2-15-2201.
- (3) "Detention center" means a detention center, as defined in 7-32-2120, that is operated by a local government.

(4) "Inmate" means an individual who is confined in or being processed for intake into a detention center INMATE AS DEFINED IN 7-32-2241.

(5) "Mental health professional" has the meaning provided in 53-21-102.

(6) "Screening instrument" means a series of questions designed to determine behavioral health risks, including the risk of suicide.

NEW SECTION. Section 3 Department to partner with local communities to establish detention center behavioral health triage system. (1) The department shall contract with one or more community mental health centers for a behavioral health triage system to assist participating detention centers in screening inmates for behavioral risks due to a mental disorder, a developmental disability, a brain injury, suicidal thoughts, or other mental health concerns. The behavioral health triage system must consist of:

(a) a screening instrument and recommended response protocols to be used by detention center staff to identify behavioral health risks, the level of risk, and the appropriate housing, supervision, and care protocols that should be implemented within the detention center to mitigate the risks or to identify whether an inmate should be transferred to an appropriate mental health facility; and

(b) a 24-hour toll-free telephonic or video hotline staffed by a qualified mental health professional that detention center staff may use if the screening instrument indicates that an inmate may present a behavioral health risk necessitating further assessment by a mental health professional.

(2) In creating and maintaining the behavioral health triage system, the department shall consult with:

(a) detention centers;

(b) the Montana sheriffs and peace officers association;

(c) community mental health centers;

(d) the Montana State Hospital as defined in MCA 53-21-601;

~~(d)~~ (e) the Montana chapter of the national alliance on mental illness;

~~(e)~~ (f) regional mental health service area authorities created pursuant to Title 53, chapter 21, part 10; and

(f) (g) the Montana association of counties.

(3) Records generated pursuant to this section must be treated in the same manner and with the same degree of confidentiality as other medical records of the inmate.

NEW SECTION. Section 4. Suicide prevention training, protocols, and technical assistance - no private right of action. (1) The department shall develop or contract for the development of a suicide prevention training course for use in detention centers by detention center personnel.

(2) The course must include the use of evidence-based screening instruments for use by detention center personnel and the mental health professionals available to the detention center to determine the risk of suicide for each inmate at the detention center and the use of appropriate management protocols for an inmate identified as a suicide risk. The suicide prevention officer appointed pursuant to 53-21-1101 shall provide assistance for the purposes of this section.

(3) Nothing in [sections 1 or 2] or this section creates a right of action against the state or a local government in any individual or other person to require by civil action the duties imposed by those sections, but nothing in those sections extinguishes or limits a right under other law.

NEW SECTION. Section 4 5. Detention center participation -- cost-sharing -- grant program. (1) A detention center may apply to the department to participate in the behavioral health triage system established pursuant to [section 3].

(2) The cost for maintaining the 24-hour hotline must be shared between the state and participating detention centers. However, the state may not charge a detention center more than 50% of the cost.

(3) (a) The department shall establish a grant program for participating detention centers.

(b) A participating detention center may apply for grants to help cover detention center costs associated with implementing risk management protocols within the detention center as indicated by the behavioral health triage system.

(c) Grants may be provided for but are not limited to the following:

(i) special housing needs, such as suicide smocks and special bedding;

(ii) special supervision requirements, such as 24-hour video monitoring equipment; and

(iii) aftercare, such as providing the inmate with followup consultations or visits with a mental health professional.

(d) A grant may not be used to pay for transportation of an inmate to a mental health facility unless the department provides an exception for special circumstances.

NEW SECTION. Section 6. Section 7-6-2541, MCA, is amended to read:

"7-6-2541. County detention center inmate medical costs. The board of county commissioners shall budget and expend funds for inmate medical care, including but not limited to costs of providing direct medical care, medication, medical services, suicide prevention and intervention services as indicated by use of suicide prevention screening instruments, hospitalization, insurance premiums, self-insured coverage, or contracted services for expenses that must be borne by the county for inmates confined in a county detention center as provided for in 7-32-2224."

NEW SECTION Section 7. Section 7-32-2224, MCA, is amended to read:

"7-32-2224. Payment of medical costs by entities other than inmate. (1) The detention center administrator shall forward to the appropriate arresting agency all charges for medical treatment for which the agency is responsible, including the costs of suicide prevention and intervention as indicated by the use of suicide prevention screening instruments.

(2) When the inmate is in the custody of a county detention center and the detention center administrator determines that the inmate requires medical treatment, the county or the arresting agency is responsible for medical costs associated with:

(a) conditions that are not preexisting;

(b) injuries incurred by the inmate:

(i) while in the custody of the detention center if the injuries are the result of an accident, an assault by another inmate, or negligent or intentionally torturous acts committed by the detention center administrator or the administrator's staff;

(ii) during the arrest of the inmate by the sheriff or the sheriff's staff if the injuries were not incurred while unlawfully resisting arrest; or

(iii) while on a work program or while the inmate is performing duties assigned by the detention center administrator or the administrator's staff;

(c) infections or contagious or communicable diseases that the inmate contracts while in the custody of the detention center; or

(d) medical examinations that are required by law or court order unless the order provides otherwise.

(3) In order to determine which entity is responsible for medical charges that are not the responsibility of the inmate, the following applies:

(a) If the arresting agency is a law enforcement agency whose jurisdiction is limited to the county boundaries of the county or a municipality in the county where the detention center is located, then the county is responsible.

(b) If the arresting agency is a law enforcement agency with statewide jurisdiction or whose jurisdiction is a county or municipality in a county other than the county where the detention center is located, then the arresting agency is responsible.

(c) If a municipality commits a person to the detention center of the county in which the municipality is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that municipality, then the county in which the municipality is located is responsible.

(4) For the purposes of 7-32-2245 and this section, "preexisting condition" means an illness or condition that began or injuries that were sustained before a person was in the custody of county officers."

NEW SECTION. Section 5 8. Data collection. The department shall collect data concerning the participating detention centers and inmates, risks identified, protocols implemented, and outcomes. Participating detention center personnel shall cooperate in providing detention center data to the department as requested.

NEW SECTION. Section 6 9. Report to committee. (1) Upon request, the department shall provide to the law and justice interim committee, provided for in 5-5-226, a report on the system provided for in [sections 1 through 8].

(2) The report must include but is not limited to an assessment of:

(a) the behavioral health triage system's ~~degree of success~~ utilization;

(b) collateral impacts, such as whether the system places unacceptable pressure on other parts of the state or local mental health treatment system;

(c) whether the system causes or should require additional diversions to community crisis centers;

(d) whether the system causes or should require additional transportation operations to the Montana state hospital; and

(e) whether further legislation is needed to clarify or enhance the system.

NEW SECTION. Section 7 10. Rulemaking. The department shall adopt rules to implement the provisions of [sections 1 through 8]. In creating and maintaining the program

provided for in [sections 1 through 9] and in adopting rules to implement [sections 1 through 8], the department shall consult with the suicide prevention officer appointed pursuant to 53-21-1101, and the partners identified in [section 3, subsection 21-2g] and may consult with other appropriate groups and individuals.

NEW SECTION. Section 8 11. Appropriation. There is appropriated from the general fund to the department of public health and human services \$250,000 for the biennium ending June 30, 2015, to be used for the purposes of [sections 1 through 7].

NEW SECTION. Section 9 12. Codification instruction. [Sections 1 through 10] are intended to be codified as an integral part of Title 53, chapter 30, and the provisions of Title 53, chapter 30, apply to [sections 1 through 10].

NEW SECTION. Section 10 13. Effective date. [This act] is effective July 1, 2013.

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