

EXHIBIT NO. 1DATE: 1/11/13BILL NO. SB 43

Amendment to Senate Bill 43:

Drafted by Disability Rights Montana for January 11, 2013 hearing in the Senate Public Health Welfare and Safety Committee.

1. Page 1, Line 28

Following "by 42 U.S.C. 15043(a)(2)."

"within 5 business days of the incident. The residential facility shall not redact this information."

Explanation:

The current version of the bill strikes "monthly" on page 1, line 27 as the time period during which the reports must be provided to the mental disabilities board of visitors. The amendments do not replace this with a time certain that the reports must be provided.

MDC is required to conduct an investigation and provide a written report within five business days of the incident pursuant to federal regulations at 42 CFR 483.420(d). This amendment would set this deadline as the time in which these reports be sent to the mental disabilities board of visitors and Disability Rights Montana so MDC would be sending them all at the same time.

In addition, this would establish that these reports would be unredacted. The current version of the bill already provides that these reports must be kept confidential by the mental disabilities board of visitors and the state protection and advocacy program.

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING THE INVESTIGATION OF ALLEGED MISTREATMENT, NEGLECT, OR ABUSE OF RESIDENTS AT A RESIDENTIAL FACILITY; REQUIRING THAT REPORTS BE SUBMITTED TO THE STATE PROTECTION AND ADVOCACY PROGRAM; PROVIDING THAT INVESTIGATORS ARE EMPLOYEES OF THE DEPARTMENT OF JUSTICE; AND AMENDING SECTION 53-20-163, MCA."

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

Section 1. Section 53-20-163, MCA, is amended to read:

"53-20-163. Abuse of residents prohibited. (1) ~~Every residential facility shall prohibit mistreatment, neglect, or abuse in any form of any resident~~ Any form of mistreatment, neglect, or abuse of a resident is prohibited.

(2) A residential facility shall publish in each cottage and building and circulate to staff a written policy statement that defines the facility's requirements for reporting and investigating

allegations of mistreatment, neglect, or abuse.

(3) ~~Alleged violations~~ Each allegation of mistreatment, neglect, or abuse must be reported immediately to the superintendent of the facility, and there must be a written record that:

- (a) each ~~alleged violation~~ allegation has been thoroughly investigated and findings stated; and
- (b) the investigation into the ~~alleged violation~~ allegation was initiated within 24 hours of the report of the incident and the results were reported to the director of the department of public health and human services.

(2)(4) ~~The reports~~ The residential facility shall report the details of each reported allegation, including providing the written record created pursuant to this section, ~~must also be made to the mental disabilities board of visitors monthly and the state protection and advocacy program for individuals with developmental disabilities, as authorized by 42 U.S.C. 15043(a)(2)~~ **WITHIN 5 BUSINESS DAYS OF THE INCIDENT. THE RESIDENTIAL FACILITY SHALL NOT REDACT THIS INFORMATION.** The mental disabilities board of visitors and the state protection and advocacy program shall maintain the confidentiality of any report received under this section. Each facility shall cause a written statement of this policy to be posted in each cottage and building and circulated to all staff members.

- (5) The person responsible for conducting an investigation into an allegation under this section is an employee of the department of justice and is under the supervision and control of the attorney general."