

LCCF09: Summary of Bill Draft

August 2012

LCCF09 directs the Department of Public Health and Human Services to develop a plan to close the Montana Developmental Center, the institution to which developmentally disabled people are committed or sentenced by a court. The bill draft also directs DPHHS to begin moving people out of DPHHS and into community services as quickly as possible, with the transition to be completed by June 30, 2015.

Following is a summary of the key provisions of the bill.

New Sections

The five new sections on Pages 1 through 9 outline the steps DPHHS is to follow in developing its plan to close MDC and in moving residents out of the facility. Because the Legislature would be delegating the authority to close the facility to DPHHS, the bill provides specific guidance to the agency on the steps it must take to carry out this directive.

- **Section 1:** Outlines the legislative purpose of the bill and directs DPHHS on six specific steps it must take in moving toward closure of MDC.
- **Section 2:** Creates a transition planning advisory committee to advise the department on several specific aspects of the planning process. Provides for disbanding of the committee, to avoid creating an ongoing statutory advisory committee.
- **Section 3:** Specifies the department's responsibilities in the transition planning process and establishes a Sept. 15, 2014, deadline for completion of the transition plan.
- **Section 4:** Establishes the elements that the transition plan must take into consideration.
- **Section 5:** Outlines the steps DPHHS must take to carry out the transition plan. Sets deadlines for moving people out of MDC.

Amendments to Existing MCA Sections

Current law establishes MDC as the facility in which developmentally disabled adults will be placed if a court commits them to a "residential facility" under a civil commitment procedure or sentences them to the custody of DPHHS following a criminal conviction. The civil commitment statutes specifically define the residential facility used for commitment purposes as MDC.

Because LCCF09 would close MDC within about two years of the bill's passage, the bill revises the definition of residential facility to allow for people to eventually be committed to a community facility that meets certain standards. The new definition includes a state-operated facility as well, to recognize that some commitments to MDC may continue during the transition period

and to provide flexibility should the transition plan conclude that a state-operated facility of some type should remain in operation at Boulder or another location.

The new definition is contained in Section 13 on P. 22. Additional changes in Sections 6 through 31 reflect that:

- MDC is no longer the sole residential facility to which people may be committed or sentenced;
- DPHHS may no longer be the sole operator of a residential facility;
- individuals will need to be committed to the custody of DPHHS for placement in a residential facility. DPHHS will then determine the appropriate placement, depending on the status of MDC and the availability of community facilities.
- any residential facility to which people are committed must meet the provisions of existing law relating to the rights of residents, record keeping, experimental treatment, and release of information.

Coordination Instruction

Section 32 on P. 59 contains instructions about changes that must be made to the general appropriations act, House Bill 2, if both HB 2 and LCCF09 are approved by the 2013 Legislature.

LCCF09 directs that funds appropriated for MDC be used to develop community services. This would change the purpose of the HB 2 appropriation. As a result, HB 2 must include language to indicate the legislative intent to change the use of the funds.

Because HB 2 will be drafted based on the budget submitted by the governor, it most likely will not contain language to provide flexibility in the use of the MDC appropriation. Thus LCCF09 must include the coordinating language to ensure that changes are made to HB 2 as needed and a line item exists in HB 2 for the governor's consideration.