



# HJR 1 Interim Committee

## 57<sup>th</sup> Montana Legislature

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**DATE:** September 25, 2002

**TO:** Legislative Finance Committee

**FROM:** Senator Bob Keenan

**RE:** Recommendations of the HJR 1 Study of Public Mental Health Services

The HJR 1 committee met September 17 and 18 to consider draft legislation and review legislation proposed by the Department of Public Health and Human Services (DPHHS) and the Department of Corrections (DOC) relative to the study of public mental health services. The committee approved 5 requests for draft legislation to be recommended to the Legislative Finance Committee (LFC), and made 1 recommendation and 2 requests for information. The draft bills are being finalized for review and approval and will be presented at the November LFC meeting. The following information summarizes those bills and recommendations.

### Draft Legislation

1. In response to the recent K.G.F. decision by the Montana Supreme Court, the subcommittee requested a bill draft to statutorily authorize counsel, after consultation with the client and when determined to be in the client's best interest, to authorize expedited access to treatment in order to reduce the threat of injury to self or others.
2. The subcommittee requested a bill draft to refine the statutory distribution of the alcohol tax allocated to DPHHS. The subcommittee recommended that 20 percent of the proceeds be allocated to the state approved chemical dependency programs and 6.6 percent be used for services to treat persons who have a serious and disabling mental illness and who are chemically dependent. The August 2002 Special Session of the legislature temporarily diverted state approved program share of the alcohol tax to match Medicaid costs for mental health services. Effective June 30, 2002, without changes recommended by the subcommittee, state approved programs would receive alcohol tax proceeds that remained after the legislature had made its appropriations from the proceeds allocated to DPHHS.
3. The subcommittee requested a bill draft for discussion regarding a limit on the period of confinement for those found not guilty by reason of insanity following language from Utah.
4. The subcommittee recommended to the LFC the bill draft regarding an involuntary mental illness commitment to the community. The draft specifies that a community commitment be for a period of 3 months unless there has been a previous involuntary

commitment for inpatient treatment for which a community commitment may be made for no more than 6 months. In order for a previous inpatient treatment to be admissible in a community commitment determination, a judge must find admission of such evidence is relevant to the criteria of predictability and outweighs the potentially prejudicial effects of such evidence.

5. The subcommittee requested a bill draft to adopt an affirmative definition of "mental disease or defect" in response to the Montana Supreme Court case State v. Wooster. In that case, the court adopted the New York definition since Montana statute was silent.

### Recommendations

1. The subcommittee made a recommendation to the Children and Families Interim Committee regarding its committee bill on criminal procedure and the developmentally disabled. It recommends that the provision to prohibit a seriously developmentally disabled person from being found fit to proceed be deleted to ensure that the respondent has full redress to the courts.
2. The subcommittee requested that DPHHS provide the following information: 1) options to control the Montana State Hospital population to the LFC; and 2) options for care of developmentally disabled persons committed to DPHHS and who are a threat or danger to others to the Public Health and Human Services Joint Appropriation Subcommittee.

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