

HOUSE BILL NO. 446  
INTRODUCED BY D. VILLA

A BILL FOR AN ACT ENTITLED: "AN ACT REIMBURSING COUNTIES FOR COSTS INCURRED RELATING TO STATE MENTAL HEALTH FACILITIES; AMENDING SECTIONS 53-21-113, 53-21-128, AND 53-21-132, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 53-21-113, MCA, is amended to read:

**"53-21-113. Costs of committing a patient already voluntarily admitted -- transportation costs for voluntary admission.** (1) The cost of involuntarily committing a patient who is voluntarily admitted to a mental health facility at the time the involuntary proceedings are commenced must be paid by the county of the patient's residence at the time of admission. The county clerk shall make a statement of all costs incurred by the county for the involuntary proceedings and submit the statement to the department for its approval. After approval, the department shall pay the costs out of the money appropriated for mental health facilities to the county treasurer of the county where the proceedings occurred.

(2) The costs of transportation to a mental health facility under 53-21-111 and 53-21-112 must be provided by the local office of public assistance located in the county of the patient's residence. The local public assistance office may seek reimbursement from the department for the costs of transportation using the process described in subsection (1). ~~However, if protective proceedings under Title 72, chapter 5, have been or are initiated with respect to the person, the local office of public assistance may seek reimbursement.~~ If no one else is available to transport the person, the sheriff shall transport the person. The sheriff's office may seek reimbursement from the department for the costs of transportation using the process described in subsection (1)."

**Section 2.** Section 53-21-128, MCA, is amended to read:

**"53-21-128. Petition for extension of commitment period.** (1)(a) Not less than 2 calendar weeks prior to the end of the 3-month period of commitment to the state hospital, a behavioral health inpatient facility, or the Montana mental health nursing care center or the period of commitment to a community facility or program or a course of treatment provided for in 53-21-127, the professional person in charge of the patient at the place of commitment may petition the district court in the county where the patient is committed for extension of the

commitment period unless otherwise ordered by the original committing court. The petition must be accompanied by a written report and evaluation of the patient's mental and physical condition. The report must describe any tests and evaluation devices that have been employed in evaluating the patient, the course of treatment that was undertaken for the patient, and the future course of treatment anticipated by the professional person.

(b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to the patient, the patient's next of kin, if reasonably available, the friend of respondent appointed by the court, and the patient's counsel. If any person notified requests a hearing prior to the termination of the previous commitment authority, the court shall immediately set a time and place for a hearing on a date not more than 10 days, not including Saturdays, Sundays, and holidays, from the receipt of the request and notify the same people, including the professional person in charge of the patient. When a hearing is requested less than 10 days prior to the termination of the previous commitment authority, the previous commitment is considered extended until the hearing is held. The notice of hearing must include a notice of this extension. If a hearing is not requested, the court shall enter an order of commitment for a period not to exceed 6 months.

(c) Procedure on the petition for extension when a hearing has been requested must be the same in all respects as the procedure on the petition for the original 3-month commitment, except that the patient is not entitled to a trial by jury. The hearing must be held in the district court having jurisdiction over the facility in which the patient is detained unless otherwise ordered by the court. ~~Court costs and witness fees, if any, must be paid by the county that paid the same costs in the initial commitment proceedings.~~ The county clerk of the county where the hearing is held shall make a statement of all costs incurred by the county for the hearing and submit the statement to the department for its approval. After approval, the department shall pay the costs out of the money appropriated for mental health facilities to the county treasurer of the county where the hearing occurred.

(d) If upon the hearing the court finds the patient not to be suffering from a mental disorder and requiring commitment within the meaning of this part, the patient must be discharged and the petition dismissed. If the court finds that the patient continues to suffer from a mental disorder and to require commitment, the court shall order commitment as set forth in 53-21-127. However, an order extending the commitment period may not affect the patient's custody for more than 6 months and may not commit the patient to a behavioral health inpatient facility. In its order, the court shall describe what alternatives for treatment of the patient are available, what alternatives were investigated, and why the investigated alternatives were not found suitable. The court may not order continuation of an alternative that does not include a comprehensive, individualized plan of treatment for the patient. A court order for the continuation of an alternative must include a specific finding that a comprehensive, individualized plan of treatment exists.

(2) Prior to the end of the period of commitment to a community facility or program or course of treatment, a respondent may request that the treating provider petition the district court for an extension of the commitment order. The petition must be accompanied by a written report and evaluation of the respondent's mental and physical condition, an updated treatment plan, and a written statement by the respondent that an extension is desired. The extension procedure must follow the procedure required in subsections (1)(b) through (1)(d).

(3) Further extensions under subsection (1) or (2) may be obtained under the same procedure described in subsection (1). However, the patient's custody may not be affected for more than 1 year without a renewal of the commitment under the procedures set forth in subsection (1), including a statement of the findings required by subsection (1)."

**Section 3.** Section 53-21-132, MCA, is amended to read:

**"53-21-132. Cost of examination and commitment.** (1) The cost of psychiatric precommitment examination, detention, treatment, and taking a person who is suffering from a mental disorder and who requires commitment to a mental health facility must be paid pursuant to subsection (2)(a). The sheriff must be allowed the actual expenses incurred in taking a committed person to the facility, as provided by 7-32-2144.

(2) (a) The costs of precommitment psychiatric detention, precommitment psychiatric examination, and precommitment psychiatric treatment of the respondent and any cost associated with testimony during an involuntary commitment proceeding by a professional person acting pursuant to 53-21-123 must be billed to the following entities in the listed order of priority:

(i) the respondent, the parent or guardian of a respondent who is a minor, or the respondent's private insurance carrier, if any;

(ii) a public assistance program, such as medicaid, for a qualifying respondent; ~~or~~

(iii) the department in an amount not to exceed the amount paid for the service by a public assistance program; or

~~(iii)~~(iv) the county of residence of the respondent in an amount not to exceed the amount paid for the service by a public assistance program.

(b) The county of residence is not required to pay costs of treatment and custody of the respondent after the respondent is committed pursuant to this part. Precommitment costs related to the use of two-way electronic audio-video communication in the county of commitment must be paid by the ~~county in which the person resides at the time that the person is committed~~ department. The costs of the use of two-way electronic audio-video

communication from the state hospital for a patient who is under a voluntary or involuntary commitment to the state hospital must be paid by the state. The fact that a person is examined, hospitalized, or receives medical, psychological, or other mental health treatment pursuant to this part does not relieve a third party from a contractual obligation to pay for the cost of the examination, hospitalization, or treatment.

(3) The adult respondent or the parent or guardian of a minor shall pay the cost of treatment and custody ordered pursuant to 53-21-127, except to the extent that the adult or minor is eligible for public mental health program funds.

(4) A community service provider that is a private, nonpublic provider may not be required to treat or treat without compensation a person who has been committed."

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2007.

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