

1 HOUSE BILL NO. 495

2 INTRODUCED BY M. DUNWELL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS CONCERNING THE DISCHARGE OF PATIENTS
5 FROM MENTAL HEALTH FACILITIES; CLARIFYING THAT PATIENTS NO LONGER IN NEED OF
6 COMMITMENT MAY BE DISCHARGED BY ORDER OF PROFESSIONAL PERSONS WITHOUT FURTHER
7 COURT ORDERS; CLARIFYING THAT NOTICE REQUIREMENTS MAY NOT DELAY THE DISCHARGE OF
8 PATIENTS; AND AMENDING SECTIONS 53-21-163, 53-21-181, AND 53-21-183, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 53-21-163, MCA, is amended to read:
13 **"53-21-163. Examination following commitment.** Within 30 days after a patient is committed to a
14 mental health facility, the professional person in charge of the facility or the professional person's appointed,
15 professionally qualified agent shall reexamine the committed patient and shall determine whether the patient
16 continues to require commitment to the facility and whether a treatment plan complying with this part has been
17 implemented. If the patient no longer requires commitment to the facility in accordance with the standards for
18 commitment, the patient must be released immediately without further order of the court unless the patient agrees
19 to continue with treatment on a voluntary basis. If for sound professional reasons a treatment plan has not been
20 implemented, this fact must be reported immediately to the professional person in charge of the facility, the
21 director of the department, the mental disabilities board of visitors, and the patient's counsel."

22
23 **Section 2.** Section 53-21-181, MCA, is amended to read:
24 **"53-21-181. Discharge during or at end of initial commitment period -- patient's right to referral.**
25 (1) At any time within the period of commitment provided for in 53-21-127, the patient may be discharged on the
26 written order of the professional person in charge of the patient without further order of the court. If the patient
27 is not discharged within the period of commitment and if the term is not extended as provided for in 53-21-128,
28 the patient must be discharged by the facility at the end of the period of commitment without further order of the
29 court. Notice of the discharge must be filed with the court and the county attorney at least 5 days prior to the
30 discharge. Failure to comply with the notice requirement may not delay the discharge of the patient.

1 (2) Upon being discharged, each patient has a right to be referred, as appropriate, to other providers of
2 mental health services."

3

4 **Section 3.** Section 53-21-183, MCA, is amended to read:

5 **"53-21-183. Release conditioned on receipt of outpatient care.** (1) When, in the opinion of the
6 professional person in charge of a mental health facility providing involuntary treatment, the committed person
7 can be appropriately served by outpatient care prior to the expiration of the period of commitment, then outpatient
8 care may be required as a condition for early release for a period that, when added to the inpatient treatment
9 period, except as provided in 53-21-198, may not exceed the period of commitment. If the mental health facility
10 designated to provide outpatient care is other than the facility providing involuntary treatment, the designated
11 outpatient facility shall agree in writing to assume the responsibility.

12 (2) The mental health facility designated to provide outpatient care or the professional person in charge
13 of the patient's case may modify the conditions for continued release when the modification is in the best interest
14 of the patient. This includes the authorization to transfer the patient to another mental health facility designated
15 to provide outpatient care, if the transfer is in the best interest of the patient and the designated outpatient facility
16 agrees in writing to assume responsibility. Notice of an intended transfer must be given to the professional person
17 in charge of the mental health facility that provided the involuntary treatment.

18 (3) Notice in writing to the court that committed the patient for treatment and the county attorney who
19 initiated the action must be provided by the professional person in charge of the patient at least 5 days prior to
20 the patient's release from commitment or outpatient care. Failure to comply with the notice requirement may not
21 delay the release of the patient from commitment or outpatient care.

22 (4) Sections 53-21-195 through 53-21-198 and this section do not apply to a temporary release, certified
23 by the professional person in charge of the mental health facility, from the facility for the purposes of a home visit
24 not exceeding 30 days."

25

- END -