

1 SENATE BILL NO. 94
2 INTRODUCED BY B. USHER
3 BY REQUEST OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING REQUIREMENTS AND PROHIBITING CERTAIN
6 PRACTICES FOR RECOVERY RESIDENCES; CREATING A REGISTRY OF RECOVERY RESIDENCES IN
7 MONTANA; REQUIRING CERTIFICATION FOR A RECOVERY RESIDENCE TO RECEIVE RENTAL
8 VOUCHERS AND TRANSITIONAL ASSISTANCE FUNDS FROM THE DEPARTMENT OF CORRECTIONS;
9 PROVIDING DEFINITIONS; AMENDING SECTION 46-23-1041, MCA; AND PROVIDING AN EFFECTIVE
10 DATE."
11

12 WHEREAS, Montanans facing addiction deserve the highest quality of care and support; and
13 WHEREAS, recovery residences can provide a healthy, sober living environment that helps individuals
14 with substance use disorders achieve and maintain sobriety; and

15 WHEREAS, it is crucial that recovery residences implement best practices and sound operating
16 procedures that enable and empower residents to gain access to community support, public services, and
17 therapeutic treatments to advance their recovery and develop independence.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
20

21 NEW SECTION. **Section 1. Definitions.** As used in this part, unless the context clearly indicates
22 otherwise, the following definitions apply:

23 (1) "Alcohol and drug prevention or treatment facility" means a recovery residence, hospital, health
24 or counseling center, or other entity providing alcohol and drug services.

25 (2) "Alcohol and drug services" includes evaluation, treatment, residential personal care,
26 habilitation, rehabilitation, counseling, or supervision of persons with substance use disorders or services to
27 persons designed to prevent substance use disorders that either receive funds from the department of public

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1 health and human services or assess fees for services provided.

2 (3) "Certified recovery residence" means a recovery residence, as defined in subsection ~~(8)~~(9),
3 that has received certification or another form of approval from a certifying organization, as defined in
4 subsection (4).

5 (4) "Certifying organization" means a recovery residence standards organization or an affiliate of a
6 recovery residence standards organization that operates in the state of Montana and is recognized by the
7 department of public health and human services.

8 (5) "Informed consent" means voluntary consent by an individual to a placement in a certified
9 recovery residence only after full disclosure by a judge, justice of the peace, or magistrate of the following
10 information:

11 (a) any limitations or prohibitions against narcotic medication associated with the certified recovery
12 residence; and

13 (b) whether United States food and drug administration-approved medication-assisted treatment of
14 substance use disorders, including the use of buprenorphine and suboxone, is limited or prohibited.

15 ~~(5)~~(6) "Levels of care" means the continuum of support ranging from nonclinical recovery residences
16 to licensed clinical treatment.

17 ~~(6)~~(7) "Minor" means an individual under 18 years of age without regard to sex.

18 ~~(7)~~(8) "Qualified health care provider" means a person licensed as a physician, psychologist, social
19 worker, clinical professional counselor, marriage and family therapist, addiction counselor, or another
20 appropriate licensed health care practitioner.

21 ~~(8)~~(9) "Recovery residence" means a sober living home with a safe, family-like environment that
22 promotes recovery from substance use disorders through services including but not limited to peer support,
23 mutual support groups, and recovery services.

24 ~~(9)~~(10) "Sober" means free of alcohol and drugs, except for prescription medications taken as directed
25 by a licensed prescriber, including medications approved by the United States food and drug administration for
26 the treatment of opioid use disorder.

27 ~~(10)~~(11)(a) "Substance use disorder" means the use of any chemical substance, legal or illegal, that

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1 creates behavioral or health problems, or both, resulting in operational impairment.

2 (b) This term includes alcoholism, drug dependency, or both, that endanger the health,
3 interpersonal relationships, or economic functions of an individual or the public health, safety, or welfare.

4

5 NEW SECTION. Section 2. Recovery residence requirements. (1) A recovery residence must
6 register with the department of public health and human services.

7 (2) A recovery residence may seek certification from a certifying organization.

8 (3) A recovery residence must have policies and protocols for the following:

9 (a) administrative oversight;

10 (b) quality standards, INCLUDING IF THE RECOVERY RESIDENCE LIMITS OR PROHIBITS THE USE OF

11 NARCOTIC MEDICATION;

12 (c) its residents;

13 (d) emergencies, including fire, natural disasters, and health emergencies, including overdose; and

14 (e) eviction of a resident, including the return of the resident's personal effects and property.

15 (4) A recovery residence must meet state and municipal requirements that apply to a residence's
16 dwelling size and occupancy, including but not limited to safety requirements, building codes, zoning
17 regulations, and local ordinance requirements.

18 (5) A recovery residence must keep opioid-overdose drugs on site in an easily accessible place
19 and train staff and residents on the use of opioid-overdose drugs.

20 (6) Minor children of residents may reside with their parent in a certified recovery residence if
21 allowed in the residence's policies and protocols and if the residence maintains an environment consistent with
22 the welfare of minor residents.

23 (7) The recovery residence may not limit a resident's duration of stay to an arbitrary or fixed
24 amount of time UNLESS ALL TRANSITION AND COMPLETION DATES ARE AGREED ON BY BOTH PARTIES AT THE TIME OF
25 ADMISSION. Each resident's duration of stay is determined by the resident's needs, progress, and willingness to
26 abide by the recovery residence's protocols in collaboration with the recovery residence's owner and operator
27 and, if appropriate, in consultation with a qualified health care provider.

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1 (8) The recovery residence may permit residents to receive medication-assisted treatment.

2 (9) (A) EACH RECOVERY RESIDENCE SHALL PROVIDE AN ANNUAL COMPLIANCE REPORT TO THE CERTIFYING
3 ORGANIZATION.

4 (B) THE CERTIFYING ORGANIZATION SHALL PROVIDE AN ANNUAL COMPLIANCE REPORT, IN ACCORDANCE
5 WITH 5-11-210, TO THE CRIMINAL JUSTICE OVERSIGHT COUNCIL.

6
7 NEW SECTION. Section 3. Recovery residence prohibitions. (1) The operator or staff of a
8 recovery residence may not:

9 (a) make a materially false or misleading statement or provide materially false or misleading
10 information about the residence's identity, products, goods, services, or geographical locations in its marketing
11 and advertising materials, media, and website;

12 (b) include on a website false information or electronic links, coding, or activation that provides
13 false information or that surreptitiously directs the reader to another website;

14 (c) solicit, receive, or make an attempt to solicit or receive a commission, benefit, rebate, kickback,
15 or bribe, directly or indirectly, in cash or in kind, in return for a referral or an acceptance or acknowledgement of
16 treatment from a qualified health care provider, provider of alcohol and drug services, or alcohol and drug
17 prevention or treatment facility;

18 (d) engage or make an attempt to engage in a split-fee arrangement in return for a referral or an
19 acceptance or acknowledgement of treatment from a qualified health care provider, provider of alcohol and
20 drug services, or alcohol and drug prevention or treatment facility; or

21 (e) enter into a contract with a marketing provider who agrees to generate referrals or leads for the
22 placement of patients with a qualified health care provider, provider of alcohol and drug services, or alcohol and
23 drug prevention or treatment facility through a call center or a web-based presence unless this contract is
24 disclosed to the prospective patient or resident.

25 (2) In addition to any other penalty authorized by law, a recovery residence that knowingly violates
26 this section is subject to prosecution and penalties pursuant to the Montana Consumer Protection Act, Title 30,
27 chapter 14, part 1.

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NEW SECTION. Section 4. Powers and duties of department of public health and human services -- ANNUAL COUNTY REPORT. (1) The department of public health and human services shall:

~~(1)~~(A) maintain a registry of recovery residences in the state;

~~(2)~~(B) include on its website a public-facing list of certifying organizations that operate in the state and are recognized by the department;

~~(3)~~(C) include on its website a public-facing list of recovery residences in the state that indicates which recovery residences are certified recovery residences; AND

(D) ENSURE THAT IT SUPPORTS SEVERAL SETS OF CERTIFICATION STANDARDS TO ACCOMMODATE VARIOUS PROGRAM MODELS.

(2) (A) BY THE DATE AND ON A FORM PRESCRIBED BY THE DEPARTMENT, EACH COUNTY SHALL SUBMIT TO THE DEPARTMENT AN ANNUAL REPORT OF KNOWN RECOVERY RESIDENCES IN THE COUNTY.

(B) A REPORT MUST CONTAIN THE FOLLOWING INFORMATION FOR EACH KNOWN RECOVERY RESIDENCE:

(I) THE NAME OF THE RECOVERY RESIDENCE;

(II) THE PHYSICAL AND MAILING ADDRESSES OF THE RECOVERY RESIDENCE;

(III) THE NAME AND CONTACT INFORMATION OF THE OWNER OF THE RECOVERY RESIDENCE; AND

(IV) ADDITIONAL INFORMATION WHEN AVAILABLE, INCLUDING:

(A) THE NAME AND CONTACT INFORMATION OF THE RECOVERY RESIDENCE MANAGER OR OTHER LEADERSHIP STAFF;

(B) THE POPULATION SERVED BY THE RECOVERY RESIDENCE;

(C) WHETHER THE RECOVERY RESIDENCE LIMITS OR PROHIBITS THE USE OF NARCOTIC MEDICATION; AND

~~(C)~~(D) OTHER INFORMATION THE COUNTY CONSIDERS PERTINENT.

(3) AS PERMITTED BY FEDERAL AND STATE LAW, THE DEPARTMENT SHALL POST THE LOCATION OR PHYSICAL ADDRESS OF A RECOVERY RESIDENCE ON THE DEPARTMENT'S WEBSITE.

NEW SECTION. Section 5. Preferential placement at and referral to certified recovery

residences -- informed consent required for placement in certain certified recovery residences. (1) The

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1 department of corrections shall establish a preference for certified recovery residences by encouraging and
2 assisting appropriate individuals seeking placements in recovery residences.

3 (2) (a) ~~A qualified health care provider~~, judge, justice of the peace, or magistrate may not refer an
4 individual to an uncertified recovery residence.

5 (B) (i) A judge, justice of the peace, or magistrate shall refer an individual to at least two recovery
6 residences, one of which must support United States food and drug administration-approved medication-
7 assisted treatment of substance use disorders.

8 (ii) A JUDGE, JUSTICE OF THE PEACE, OR MAGISTRATE MAY NOT REFER AN INDIVIDUAL TO A CERTIFIED
9 RECOVERY RESIDENCE THAT DOES NOT PERMIT THE INDIVIDUAL TO RECEIVE TREATMENT OR TAKE MEDICATION
10 PRESCRIBED BY A QUALIFIED HEALTH CARE PROVIDER without the informed consent of the individual who is subject
11 to the referral. THE PROVISIONS OF THIS SUBSECTION (2)(B) DO NOT INCLUDE A RECOVERY RESIDENCE OR PROGRAM
12 THAT LIMITS OR PROHIBITS THE USE OF NARCOTIC MEDICATION IN ORDER TO PROVIDE A SAFE RECOVERY ENVIRONMENT
13 TO INDIVIDUALS WHO MAY BE ADDICTED TO LEGAL MEDICATION. THE RECOVERY RESIDENCE OR PROGRAM SHALL
14 REPORT THIS PRACTICE AS REQUIRED IN [SECTIONS 2(3)(B) AND 4].

15 ~~(b)(c)~~ WhenIn addition to the requirements of subsection (2)(b), when referring an individual to a
16 recovery residence, a qualified health care provider, judge, justice of the peace, or magistrate shall consider
17 the:

18 (i) culture of the recovery residence, including but not limited to the permissiveness of unhealthy
19 behaviors, current residents' commitment to recovery and support of other residents, requirements and support
20 to attend and seek clinical treatment and outside nonclinical sobriety support, and the general living
21 environment;

22 ~~(ii) levels of care the recovery residence provides, including the type, nature, and intensity of the~~
23 ~~therapeutic services and recovery supports provided, and the ability to meet the referee's specific needs;~~

24 ~~(iii) utilization of certified or appropriately trained peers with relevant lived experience;~~

25 ~~(iv)(ii)~~ geographic area, neighborhood, or external surrounding environment of the recovery
26 residence;

27 ~~(v)(iii)~~ physical living environment of the recovery residence;

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- 1 ~~(vi) — use of medication-assisted treatment in the recovery residence, including the:~~
2 ~~(A) — operator and other staff support for medication-assisted treatment;~~
3 ~~(B) — proper monitoring of the use of medication-assisted treatment;~~
4 ~~(C) — other residents' support of medication-assisted treatment; and~~
5 ~~(D) — availability of peers with medication-assisted treatment experience for residents with severe~~
6 ~~opioid use disorder;~~
7 ~~(vii)(iv)~~ level of training and professionalism of residence staff;
8 ~~(viii)(v)~~ recovery residence's reputation regarding ethical business practices, which may include but is
9 not limited to fraud and abuse of residents;
10 ~~(ix)(vi)~~ recovery residence's relapse policy; and
11 ~~(x)(vii)~~ availability of opioid-overdose reversal drugs.
12 ~~(3) — Any qualified health care provider who violates subsection (2)(a) is subject to the suspension or~~
13 ~~revocation of the provider's license or certificate by the appropriate licensing or certification board and the~~
14 ~~imposition of civil penalties pursuant to the relevant chapter of Title 37.~~
15 ~~(4)(3)~~ Any judge, magistrate, or justice of the peace who violates subsection (2)(a) is subject to
16 disciplinary action by the judicial standards commission pursuant to Title 3, chapter 1, part 11.
17 ~~(5)(4)~~ Subsection (2)(a) does not otherwise limit the referral options available for a person in recovery
18 from a substance use disorder to any other appropriate placements or services.
19

20 **Section 6.** Section 46-23-1041, MCA, is amended to read:

21 **"46-23-1041. Rental vouchers.** (1) If the department does not approve an offender's parole plan
22 because the offender is unable to secure suitable living arrangements, the department may provide rental
23 vouchers to the offender for a period not to exceed 3 months if the rental assistance will result in an approved
24 parole plan.

25 [(2)___The department shall provide a rental voucher to a claimant if required by 46-32-106(7).]

26 (3)___The voucher [provided pursuant to subsection (1)] must be provided in conjunction with
27 additional transition support that enables the offender to participate in programs and services, including but not

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1 limited to substance abuse treatment, mental health treatment, sex offender treatment, educational
2 programming, or employment programming.

3 (4) To receive rental vouchers and transitional assistance funds from the department of
4 corrections, a recovery residence must:

5 (a) be a certified recovery residence, as defined in [section 1(3)]; and

6 (b) notify a resident's probation or parole officer within 24 hours of the resident moving out, if a
7 resident is on probation or parole when the resident moves out of the recovery residence; AND

8 (C) PERMIT RESIDENTS TO RECEIVE TREATMENT AND TAKE MEDICATION PRESCRIBED BY A QUALIFIED
9 HEALTH CARE PROVIDER. THE PROVISIONS OF THIS SUBSECTION (4)(C) DO NOT INCLUDE A RECOVERY RESIDENCE OR
10 PROGRAM THAT LIMITS OR PROHIBITS THE USE OF NARCOTIC MEDICATION IN ORDER TO PROVIDE A SAFE RECOVERY
11 ENVIRONMENT TO INDIVIDUALS WHO MAY BE ADDICTED TO LEGAL MEDICATION. THE RECOVERY RESIDENCE OR PROGRAM
12 SHALL REPORT THIS PRACTICE AS REQUIRED IN [SECTIONS 2(3)(B) AND 4]. (Bracketed language terminates June 30,
13 2023--sec. 15, Ch. 574, L. 2021.)"

14
15 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 5] are intended to be
16 codified as an integral part of Title 53, chapter 24, part 3, and the provisions of Title 53, chapter 24, part 3,
17 apply to [sections 1 through 5].

18
19 NEW SECTION. SECTION 8. LEGISLATIVE INTENT FOR DEPARTMENT OF JUSTICE ENFORCEMENT. IT IS THE
20 INTENT OF THE LEGISLATURE THAT THE DEPARTMENT OF JUSTICE IMPLEMENT THE PROVISIONS OF [SECTION 3(2)] WITHIN
21 EXISTING RESOURCES.

22
23 NEW SECTION. Section 9. Effective date. [This act] is effective October 1, 2023.

24 - END -