

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

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

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

7 (5) "Levels of care" means the continuum of support ranging from nonclinical recovery residences
8 to licensed clinical treatment.

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

10 (7) "Qualified health care provider" means a person licensed as a physician, psychologist, social
11 worker, clinical professional counselor, marriage and family therapist, addiction counselor, or another
12 appropriate licensed health care practitioner.

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

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

19 (10) (a) "Substance use disorder" means the use of any chemical substance, legal or illegal, that
20 creates behavioral or health problems, or both, resulting in operational impairment.

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

23

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

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

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

28 (a) administrative oversight;

- 1 (b) quality standards;
- 2 (c) its residents;
- 3 (d) emergencies, including fire, natural disasters, and health emergencies, including overdose; and
- 4 (e) eviction of a resident, including the return of the resident's personal effects and property.

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

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

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

13 (7) The recovery residence may not limit a resident's duration of stay to an arbitrary or fixed
14 amount of time. Each resident's duration of stay is determined by the resident's needs, progress, and
15 willingness to abide by the recovery residence's protocols in collaboration with the recovery residence's owner
16 and operator and, if appropriate, in consultation with a qualified health care provider.

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

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

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

22

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

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

28 (b) include on a website false information or electronic links, coding, or activation that provides

1 false information or that surreptitiously directs the reader to another website;

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

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

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

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

16

17 **NEW SECTION. Section 4. Powers and duties of department of public health and human**

18 **services.** The department of public health and human services shall:

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

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

22 (3) include on its website a public-facing list of recovery residences in the state that indicates
23 which recovery residences are certified recovery residences.

24

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

26 **residences.** (1) The department of corrections shall establish a preference for certified recovery residences by
27 encouraging and assisting appropriate individuals seeking placements in recovery residences.

28 (2) (a) ~~A qualified health care provider,~~ judge, justice of the peace, or magistrate may not refer an

1 individual to an uncertified recovery residence.

2 ~~(B) A JUDGE, JUSTICE OF THE PEACE, OR MAGISTRATE MAY NOT REFER AN INDIVIDUAL TO A CERTIFIED~~
 3 ~~RECOVERY RESIDENCE THAT DOES NOT PERMIT THE INDIVIDUAL TO RECEIVE TREATMENT OR TAKE MEDICATION~~
 4 ~~PRESCRIBED BY A QUALIFIED HEALTH CARE PROVIDER.~~

5 ~~(b)(C)~~ When referring an individual to a recovery residence, a qualified health care provider, judge,
 6 justice of the peace, or magistrate shall consider the:

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

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

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

14 ~~(iv)(II)~~ geographic area, neighborhood, or external surrounding environment of the recovery
 15 residence;

16 ~~(v)(III)~~ physical living environment of the recovery residence;

17 ~~(vi) use of medication-assisted treatment in the recovery residence, including the:~~

18 ~~(A) operator and other staff support for medication-assisted treatment;~~

19 ~~(B) proper monitoring of the use of medication-assisted treatment;~~

20 ~~(C) other residents' support of medication-assisted treatment; and~~

21 ~~(D) availability of peers with medication-assisted treatment experience for residents with severe~~
 22 ~~opioid use disorder;~~

23 ~~(vii)(IV)~~ level of training and professionalism of residence staff;

24 ~~(viii)(V)~~ recovery residence's reputation regarding ethical business practices, which may include but is
 25 not limited to fraud and abuse of residents;

26 ~~(ix)(VI)~~ recovery residence's relapse policy; and

27 ~~(x)(VII)~~ availability of opioid-overdose reversal drugs.

28 ~~(3) Any qualified health care provider who violates subsection (2)(a) is subject to the suspension or~~

1 ~~revocation of the provider's license or certificate by the appropriate licensing or certification board and the~~
 2 ~~imposition of civil penalties pursuant to the relevant chapter of Title 37.~~

3 ~~(4)(3)~~ Any judge, magistrate, or justice of the peace who violates subsection (2)(a) is subject to
 4 disciplinary action by the judicial standards commission pursuant to Title 3, chapter 1, part 11.

5 ~~(5)(4)~~ Subsection (2)(a) does not otherwise limit the referral options available for a person in recovery
 6 from a substance use disorder to any other appropriate placements or services.

7

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

9 **"46-23-1041. Rental vouchers.** (1) If the department does not approve an offender's parole plan
 10 because the offender is unable to secure suitable living arrangements, the department may provide rental
 11 vouchers to the offender for a period not to exceed 3 months if the rental assistance will result in an approved
 12 parole plan.

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

14 (3)___ The voucher [provided pursuant to subsection (1)] must be provided in conjunction with
 15 additional transition support that enables the offender to participate in programs and services, including but not
 16 limited to substance abuse treatment, mental health treatment, sex offender treatment, educational
 17 programming, or employment programming.

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

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

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

23 (c) PERMIT RESIDENTS TO RECEIVE TREATMENT AND TAKE MEDICATION PRESCRIBED BY A QUALIFIED
 24 HEALTH CARE PROVIDER. (Bracketed language terminates June 30, 2023--sec. 15, Ch. 574, L. 2021.)"

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

1
2 NEW SECTION. SECTION 8. LEGISLATIVE INTENT FOR DEPARTMENT OF JUSTICE ENFORCEMENT. IT IS THE
3 INTENT OF THE LEGISLATURE THAT THE DEPARTMENT OF JUSTICE IMPLEMENT THE PROVISIONS OF [SECTION 3(2)] WITHIN
4 EXISTING RESOURCES.

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

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