

**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING THE INVOLUNTARY COMMITMENT OF INDIVIDUALS WITH ALZHEIMER'S DISEASE, OTHER DEMENTIAS, AND TRAUMATIC BRAIN INJURIES; ENDING INVOLUNTARY COMMITMENT OF THE INDIVIDUALS AFTER JUNE 30, 2025; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO TRANSITION MONTANA STATE HOSPITAL PATIENTS WITH THOSE DIAGNOSES TO COMMUNITY SERVICES; ESTABLISHING A TEMPORARY TRANSITION REVIEW COMMITTEE; AMENDING SECTIONS 53-21-127, 53-21-401, AND 53-21-402, MCA; PROVIDING EFFECTIVE DATES; AND PROVIDING A TERMINATION DATE."

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

Section 1. Section 53-21-127, MCA, is amended to read:

"53-21-127. Posttrial disposition. (1) ~~If, A respondent must be discharged and the petition dismissed if,~~ upon trial, it is determined that the respondent:

~~(a) is not suffering from a mental disorder or does not require commitment within the meaning of this part, the respondent must be discharged and the petition dismissed; or~~

~~(b) is suffering from a mental disorder but the respondent's primary diagnosis involves Alzheimer's disease, dementia, or traumatic brain injury.~~

(2) If it is determined that the respondent is suffering from a mental disorder and requires commitment within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing must be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent.

(3) At the conclusion of the disposition hearing and pursuant to the provisions in subsection (7), the court shall:

1 (a) subject to the provisions of 53-21-193, commit the respondent to the state hospital or to a
2 behavioral health inpatient facility for a period of not more than 3 months;

3 (b) commit the respondent to a community facility, which may include a category D assisted living
4 facility, or a community program or to any appropriate course of treatment, which may include housing or
5 residential requirements or conditions as provided in 53-21-149, for a period of:

6 (i) not more than 3 months; or

7 (ii) not more than 6 months in order to provide the respondent with a less restrictive commitment in the
8 community rather than a more restrictive placement in the state hospital if a respondent has been previously
9 involuntarily committed for inpatient treatment in a mental health facility and the court determines that the
10 admission of evidence of the previous involuntary commitment is relevant to the criterion of predictability, as
11 provided in 53-21-126(1)(d), and outweighs the prejudicial effect of its admission, as provided in 53-21-190; or

12 (c) commit the respondent to the Montana mental health nursing care center for a period of not more
13 than 3 months if the following conditions are met:

14 (i) the respondent meets the admission criteria of the center as described in 53-21-411 and
15 established in administrative rules of the department; and

16 (ii) the superintendent of the center has issued a written authorization specifying a date and time for
17 admission.

18 (4) Except as provided in subsection (3)(b)(ii), a treatment ordered pursuant to this section may not
19 affect the respondent's custody or course of treatment for a period of more than 3 months.

20 (5) In determining which of the alternatives in subsection (3) to order, the court shall choose the least
21 restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment.

22 (6) The court may authorize the chief medical officer of a facility or a physician designated by the
23 court to administer appropriate medication involuntarily if the court finds that involuntary medication is
24 necessary to protect the respondent or the public or to facilitate effective treatment. Medication may not be
25 involuntarily administered to a patient unless the chief medical officer of the facility or a physician designated by
26 the court approves it prior to the beginning of the involuntary administration and unless, if possible, a
27 medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review
28 is not possible, within 5 working days after the beginning of the involuntary administration. The medication

1 review committee must include at least one person who is not an employee of the facility or program. The
2 patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of
3 the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The
4 involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after
5 the beginning of the involuntary administration if medication is still being involuntarily administered. The mental
6 disabilities board of visitors and the director of the department of public health and human services must be
7 fully informed of the matter within 5 working days after the beginning of the involuntary administration. The
8 director shall report to the governor on an annual basis.

9 (7) Satisfaction of any one of the criteria listed in 53-21-126(1) justifies commitment pursuant to this
10 chapter. However, if the court relies solely upon the criterion provided in 53-21-126(1)(d), the court may require
11 commitment only to a community facility, which may include a category D assisted living facility, or a program or
12 an appropriate course of treatment, as provided in subsection (3)(b), and may not require commitment at the
13 state hospital, a behavioral health inpatient facility, or the Montana mental health nursing care center.

14 (8) In ordering commitment pursuant to this section, the court shall make the following findings of fact:

15 (a) a detailed statement of the facts upon which the court found the respondent to be suffering from a
16 mental disorder and requiring commitment;

17 (b) the alternatives for treatment that were considered;

18 (c) the alternatives available for treatment of the respondent;

19 (d) the reason that any treatment alternatives were determined to be unsuitable for the respondent;

20 (e) the name of the facility, program, or individual to be responsible for the management and
21 supervision of the respondent's treatment;

22 (f) if the order includes a requirement for inpatient treatment, the reason inpatient treatment was
23 chosen from among other alternatives;

24 (g) if the order commits the respondent to the Montana mental health nursing care center, a finding
25 that the respondent meets the admission criteria of the center and that the superintendent of the center has
26 issued a written authorization specifying a date and time for admission;

27 (h) if the order provides for an evaluation to determine eligibility for entering a category D assisted
28 living facility, a finding that indicates whether:

- 1 (i) the respondent meets the admission criteria;
- 2 (ii) there is availability in a category D assisted living facility; and
- 3 (iii) a category D assisted living facility is the least restrictive environment because the respondent is
- 4 unlikely to benefit from involuntary commitment to facilities with more intensive treatment; and
- 5 (i) if the order includes involuntary medication, the reason involuntary medication was chosen from
- 6 among other alternatives."

7

8 **Section 2.** Section 53-21-401, MCA, is amended to read:

9 **"53-21-401. Legislative intent.** (1) It is the intent of the legislature that geriatric patients at the
10 Montana state hospital and geriatric residents of the state who may ~~in the future be placed at~~ be at risk of
11 involuntary commitment to the Montana state hospital and who do not need intensive psychiatric care receive
12 care and treatment in nursing homes located in community settings.

13 (2) It is the further intent of the legislature that nursing homes providing such care and treatment be
14 located regionally so that the residents may be near their homes and families.

15 (3) It is the further intent of the legislature that these nursing homes ~~shall~~ be located in communities
16 with:

- 17 (a) a labor pool large enough to ensure adequate and qualified staffing;
 - 18 (b) sufficient medical facilities and medical professionals to provide necessary medical services; and
 - 19 (c) if possible, an institution or institutions of higher learning with educational programs in disciplines
- 20 with relevance to the problems of aging.

21 (4) It is further the intent of the legislature to:

22 (a) end involuntary commitment of individuals to the Montana state hospital when those individuals
23 have a primary diagnosis of Alzheimer's disease, other dementias, or traumatic brain injury; and

24 (b) develop, based on consultation and collaboration between providers and the department, services
25 in the community for those individuals."

26

27 **Section 3.** Section 53-21-402, MCA, is amended to read:

28 **"53-21-402. Powers and duties of department of public health and human services.** The

1 department of public health and human services:

2 (1) shall contract with nonprofit corporations which demonstrate expertise in and the capability of
3 providing rehabilitative and restorative programs for aged citizens for the operation and management of nursing
4 homes established under this part;

5 (2) shall ensure that nursing homes established and operated under this part are in compliance with
6 all applicable federal and state regulations;

7 (3) shall adopt rules for staffing requirements and the admission of patients;

8 (4) shall provide that ~~geriatric residents of the Montana state hospital have~~ first priority for admission
9 to nursing homes established under this part be given to Montana state hospital patients who are geriatric or
10 who have a primary diagnosis of Alzheimer's disease, other dementias, or traumatic brain injury;

11 (5) shall provide members of the transition review committee provided for in [section 5] with the
12 information necessary to carry out the committee's duties;

13 (6) shall implement, in consultation and collaboration with the transition review committee, a plan to
14 prepare for the end of involuntary commitment of individuals with a primary diagnosis of Alzheimer's disease,
15 other dementias, or traumatic brain injury; and

16 ~~(5)(7)~~ may accept grants, gifts, bequests, and contributions in money or property or any other form
17 from individuals, corporations, associations, or federal, state, and local government agencies for the purposes
18 of establishing and operating nursing homes under this part."

19
20 **NEW SECTION. Section 4. Placement of individuals with Alzheimer's disease, other dementias,**
21 **or traumatic brain injury -- direction to department.** To accomplish the intent of 51-21-401(4), the legislature
22 directs the department of public health and human services to:

23 (1) by June 30, 2025, develop and implement a plan to ensure the availability of community-based
24 services for individuals with a primary diagnosis of Alzheimer's disease, other dementias, or traumatic brain
25 injury who might otherwise be at risk of involuntary commitment;

26 (2) collaborate with the transition review committee provided for in [section 5] to identify the community-
27 based services needed to ensure that individuals with those diagnoses can be safely and effectively served in
28 the community;

1 (3) transfer funds as authorized by 17-7-139, [section 7], and federal laws and regulations to develop
 2 the services needed in the community; and

3 (4) transition most patients with a primary diagnosis of Alzheimer's disease, other dementias, or
 4 traumatic brain injury out of the Montana state hospital and into community-based services by June 30, 2025.
 5 As part of this transition, the legislature intends for the department to actively pursue the timely discharge of
 6 Montana state hospital patients with those primary diagnoses.

7

8 **NEW SECTION. Section 5. Transition review committee -- membership -- meetings --**

9 **reimbursement.** (1) There is a transition review committee to monitor the need for and progress in developing
 10 community-based services for individuals who have been or are at risk of being involuntarily committed to the
 11 Montana state hospital and who have a primary diagnosis of Alzheimer's disease, other dementia, or traumatic
 12 brain injury.

13 (2) The committee shall consist of:

14 (a) four legislators appointed as provided in subsection (4); and

15 (b) six members appointed by the governor or the governor's designee as follows:

16 (i) one representative of a statewide association representing skilled nursing facilities and assisted
 17 living facilities;

18 (ii) one representative of the state protection and advocacy program for individuals with mental illness
 19 authorized under 42 U.S.C. 10803;

20 (iii) one representative of a statewide association representing individuals with Alzheimer's disease and
 21 other dementias;

22 (iv) one representative of a statewide association representing individuals with traumatic brain injury;

23 (v) one family member or guardian of an individual who is or has, within the previous 5 years, been
 24 committed to the Montana state hospital and whose diagnosis included Alzheimer's disease, another dementia,
 25 or traumatic brain injury; and

26 (vi) one representative of the department of public health and human services.

27 (3) Appointments must be made no later than May 15, 2023.

28 (4) (a) Legislative members of the committee must, in consultation with the minority party, be appointed

1 as provided in this subsection (4).

2 (b) (i) The committee on committees shall appoint two members of the Montana senate, one from the
3 majority party and one from the minority party.

4 (ii) The speaker of the house shall appoint two members of the Montana house, one from the majority
5 party and one from the minority party.

6 (c) Two of the appointees must have served on the section b joint appropriations subcommittee, and
7 two of the appointees must have been members of the house human services committee or senate public
8 health, welfare, and safety committee.

9 (d) Legislative appointees to the committee may continue to serve on the committee if they are not
10 members of the 69th legislature.

11 (5) A vacancy on the committee must be filled in the same manner as the original appointment.

12 (6) The committee shall elect a presiding officer and vice presiding officer from among the legislative
13 members of the committee.

14 (7) The committee shall meet quarterly during the biennium beginning July 1, 2023, and must be
15 disbanded no later than June 30, 2025.

16 (8)(a) A legislative member of the committee is entitled to salary and expenses as provided in 5-2-302.

17 (b) A nonlegislative member of the committee is entitled to reimbursement for travel expenses as
18 provided in 2-18-501 through 2-18-503.

19 (9) The legislative services division shall provide staff support to the committee.

20

21 **NEW SECTION. Section 6. Transition review committee duties -- reporting requirement.** (1) The
22 transition review committee shall:

23 (a) hear regular reports from the department of public health and human services and, as necessary,
24 the office of budget and program planning on:

25 (i) the number of Montana state hospital patients with a primary diagnosis of Alzheimer's disease, other
26 dementias, or traumatic brain injury being admitted to, treated at, and discharged from the Montana state
27 hospital;

28 (ii) efforts the department is making to find community placements for those individuals, including any

1 barriers to discharging the individuals from the Montana state hospital and the steps being taken to alleviate the
2 barriers;

3 (iii) activities being taken to identify services needed in the community for the individuals and to develop
4 those services in order to ensure a successful transition to community-based care for the individuals;

5 (b) hear reports from providers on matters related to serving individuals with Alzheimer's disease, other
6 dementias, and traumatic brain injury, including but not limited to information on the resources needed for
7 serving the individuals in the community and recommendations for meeting those needs;

8 (c) review, as needed, efforts undertaken in other states to reduce the involuntary commitment of
9 individuals with a primary diagnosis of Alzheimer's disease, other dementias, or traumatic brain injury and
10 identify practices in those states that may assist Montana in ending involuntary commitment of individuals with
11 those diagnoses;

12 (d) advise the department of public health and human services on problems it is observing with the
13 transition process; and

14 (e) make recommendations to the department and the legislature on potential solutions for alleviating
15 problems encountered in the transition process.

16 (2) The committee shall report regularly to the children, families, health, and human services interim
17 committee and at least once to the house human services committee and the senate public health, welfare, and
18 safety committee of the 68th legislature on:

19 (a) its review of the department's efforts and progress in:

20 (i) transitioning individuals from the Montana state hospital; and

21 (ii) developing the community-based services needed to prepare for the end of involuntary commitment
22 of individuals with a primary diagnosis of Alzheimer's disease, other dementias, and traumatic brain injury by
23 June 30, 2025; and

24 (b) any recommendations for additional legislation needed to accomplish the purposes of 53-21-127(1)
25 and [sections 5 through 8].

26

27 **NEW SECTION. Section 7. Certain transfers of funds authorized.** Funds appropriated to the
28 department of public health and human services for the operation of the Montana state hospital may be used

1 for carrying out the purposes of this part if:

2 (1) Montana state hospital patients are transferred to a community-based nursing home or other
3 community setting that results in lower expenditures than allowed by legislative appropriation; and

4 (2) a transfer of appropriations between programs is:

5 (a) made as provided in 17-7-139; and

6 (b) approved by the governor.

7

8 **NEW SECTION. Section 8. Limitation on expenditures.** For the biennium beginning July 1, 2023,
9 expenditures for placing individuals with a primary diagnosis of Alzheimer's disease, dementia, or traumatic
10 brain injury in a community setting rather than at the Montana state hospital may not exceed \$9 million a year.

11

12 **NEW SECTION. Section 9. Appropriation.** (1) There is appropriated \$37,115 from the general fund
13 to the legislative services division for the biennium beginning July 1, 2023, for the transition review committee
14 provided for in [section 5].

15 (2) The legislature intends that this is a one-time-only appropriation.

16

17 **NEW SECTION. Section 10. Codification instruction.** [Sections 4 through 8] are intended to be
18 codified as an integral part of Title 53, chapter 21, part 4, and the provisions of Title 53, chapter 21, apply to
19 [sections 4 through 8].

20

21 **NEW SECTION. Section 11. Effective dates.** (1) Except as provided in subsection (2), [this act] is
22 effective on passage and approval.

23 (2) [Sections 5 and 9] are effective July 1, 2023.

24 (3) [Section 1] is effective July 1, 2025.

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26 **NEW SECTION. Section 12. Termination.** [Sections 3(5), 3(6), 5 and 6] terminate June 30, 2025.

27

- END -