62nd Legislature

1	SENATE BILL NO. 24
2	INTRODUCED BY J. SHOCKLEY
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE COUNTY ATTORNEY OF THE COUNTY IN
5	WHICH AN ALCOHOLIC INDIVIDUAL RESIDES TO PETITION THE DISTRICT COURT FOR INVOLUNTARY
6	COMMITMENT OF THE INDIVIDUAL FOR TREATMENT OF ALCOHOLISM; AND AMENDING SECTION
7	53-24-302, MCA."
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9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11	Section 1. Section 53-24-302, MCA, is amended to read:
12	"53-24-302. Involuntary commitment of alcoholics rights. (1) A person may be committed to the
13	custody of the department by the district court upon the petition of the person's spouse or guardian, a relative,
14	the certifying physician, the county attorney of the county in which the person resides when a written request is
15	made by any person having direct knowledge of the facts, or the chief of any approved public treatment facility.
16	The petition must allege that the person is an alcoholic who habitually lacks self-control as to the use of alcoholic
17	beverages and that the person has threatened, attempted, or inflicted physical harm on another and that unless
18	committed is likely to inflict physical harm on another or is incapacitated by alcohol. A refusal to undergo
19	treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition must be
20	accompanied by a certificate of a licensed physician who has examined the person within 2 days before
21	submission of the petition unless the person whose commitment is sought has refused to submit to a medical
22	examination, in which case the fact of refusal must be alleged in the petition. The certificate must set forth the
23	physician's findings in support of the allegations of the petition. A physician employed by the admitting facility or
24	the department is not eligible to be the certifying physician.
25	(2) Upon filing the petition, the court shall fix a date for a hearing no later than 10 days after the date the
26	petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, must
27	be served on the petitioner, the person whose commitment is sought, the person's next of kin other than the
28	petitioner, a parent or the person's legal guardian if the person is a minor, the administrator in charge of the
29	approved public treatment facility to which the person has been committed for emergency care, and any other
30	person the court believes advisable. A copy of the petition and certificate must be delivered to each person

- 1 -

Legislative Services Division

SB0024.01

1 notified.

2 (3) At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at 3 least one licensed physician who has examined the person whose commitment is sought. The person has a right 4 to have a licensed physician of the person's own choosing conduct an examination and testify on the person's 5 behalf. If the person has no funds with which to pay the physician, the reasonable costs of one examination and 6 testimony must be paid by the county. The person must be present unless the court believes that the person's 7 presence is likely to be injurious to the person. The court shall examine the person in open court or, if advisable, 8 shall examine the person in chambers. If the person refuses an examination by a licensed physician and there 9 is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more 10 medical evidence is necessary, the court may make a temporary order committing the person to the department 11 for a period of not more than 5 days for purposes of a diagnostic examination.

12 (4) If after hearing all relevant evidence, including the results of any diagnostic examination by the 13 department, the court finds that grounds for involuntary commitment have been established by clear and 14 convincing evidence, it shall make an order of commitment to the department. The court may not order 15 commitment of a person unless it determines that the department is able to provide adequate and appropriate 16 treatment for the person and that the treatment is likely to be beneficial.

17 (5) A person committed under this section must remain in the custody of the department for treatment 18 for a period of 40 days unless sooner discharged. At the end of the 40-day period, the person must automatically 19 be discharged unless before expiration of the period the department obtains a court order from the district court 20 of the committing district for the person's recommitment upon the grounds set forth in subsection (1) for a further 21 period of 90 days unless sooner discharged. If a person has been committed because the person is an alcoholic 22 likely to inflict physical harm on another, the department shall apply for recommitment if after examination it is 23 determined that the likelihood still exists.

(6) A person recommitted under subsection (5) who has not been discharged by the department before the end of the 90-day period must be discharged at the expiration of that period unless before expiration of the period the department obtains a court order from the district court of the committing district on the grounds set forth in subsection (1) for recommitment for a further period not to exceed 90 days. If a person has been committed because the person is an alcoholic likely to inflict physical harm on another, the department shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under subsections (5) and (6) are permitted.



1 (7) Upon the filing of a petition for recommitment under subsection (5) or (6), the court shall fix a date 2 for hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of 3 hearing, including the date fixed by the court, must be served on the petitioner, the person whose commitment 4 is sought, the person's next of kin other than the petitioner, the original petitioner under subsection (1) if different 5 from the petitioner for recommitment, one of the person's parents or the person's legal guardian if the person is 6 a minor, and any other person the court believes advisable. At the hearing, the court shall proceed as provided 7 in subsection (3).

8 (8) A person committed to the custody of the department for treatment must be discharged at any time
9 before the end of the period for which the person has been committed if either of the following conditions is met:

(a) in case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon
another, that the person is no longer in need of treatment or the likelihood no longer exists; or

(b) in case of an alcoholic committed on the grounds of incapacity and the need of treatment, that the
incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the
person's condition, or treatment is no longer adequate or appropriate.

15 (9) The court shall inform the person whose commitment or recommitment is sought of the person's right 16 to contest the application, be represented by counsel at every stage of any proceedings relating to the person's 17 commitment and recommitment, and have assigned counsel pursuant to the Montana Public Defender Act, Title 18 47, chapter 1, if the person wants the assistance of counsel and is unable to obtain private counsel. If the court 19 believes that the person needs the assistance of counsel, the court shall order the office of state public defender, 20 provided for in 47-1-201, to assign counsel for the person regardless of the person's wishes. The person whose 21 commitment or recommitment is sought must be informed of the right to be examined by a licensed physician of 22 the person's choice. If the person is unable to obtain a licensed physician and requests examination by a 23 physician, the court shall employ a licensed physician.

(10) If a private treatment facility agrees with the request of a competent patient or the patient's parent,
sibling, adult child, or guardian to accept the patient for treatment, the department may transfer the patient to the
private treatment facility.

(11) A person committed under this section may at any time seek to be discharged from commitment bywrit of habeas corpus or other appropriate means.

(12) The venue for proceedings under this section is the place in which the person to be committed
 resides or is present."

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- END -



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