

1 HOUSE BILL NO. 29  
 2 INTRODUCED BY J. CARLSON  
 3 BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING THE  
 6 INVOLUNTARY COMMITMENT OF INDIVIDUALS WITH ALZHEIMER'S DISEASE, OTHER FORMS OF  
 7 DEMENTIA, OR TRAUMATIC BRAIN INJURY; ~~ENDING INVOLUNTARY COMMITMENT OF THE~~  
 8 ~~INDIVIDUALS AFTER JUNE 30, 2025, WHEN ONLY CERTAIN COMMITMENT CRITERIA ARE MET;~~  
 9 REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO TRANSITION  
 10 MONTANA STATE HOSPITAL PATIENTS WITH THOSE DIAGNOSES TO COMMUNITY SERVICES;  
 11 ~~ESTABLISHING A TEMPORARY TRANSITION REVIEW COMMITTEE; PROVIDING AN APPROPRIATION;~~  
 12 ~~AND~~ AMENDING SECTIONS ~~53-21-126, 53-21-104, 53-21-127, 53-21-149, 53-21-151, 53-21-401, AND 53-~~  
 13 ~~21-402, AND 53-21-414~~ MCA; ~~AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.~~"

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
16

17 **Section 1.** Section 53-21-104, MCA, is amended to read:

18 **"53-21-104. Powers and duties of mental disabilities board of visitors.** (1) The board is an  
 19 independent board of inquiry and review that is responsible to ensure that the treatment of all persons either  
 20 voluntarily or involuntarily admitted to a mental facility in Montana is humane, is consistent with established  
 21 clinical and other professional standards, and meets the requirements set forth in this part.

22 (2) The board shall review all plans for experimental research involving persons admitted to a  
 23 mental health facility to ensure that each research project is humane and not unduly hazardous and that it  
 24 complies with the principles of the statement on the use of human subjects for research of the American  
 25 association on mental deficiency and with the principles for research involving human subjects required by the  
 26 United States department of health and human services. An activity considered to be an experimental research  
 27 project and that involves a person or persons admitted to a mental health facility affected by this part may not  
 28 be commenced unless it is approved by the mental disabilities board of visitors.

1 (3) (a) The board shall inspect every mental health facility that provides treatment or evaluation to  
2 any person pursuant to this part.

3 (b) The board shall annually establish a schedule for the inspection of mental health facilities that  
4 enables the board to meet its obligation under subsection (1).

5 (c) The board's authority to inspect mental health facilities may not be waived or precluded by  
6 other treatment review, licensing, or accreditation requirements or protocols. The board may exercise the  
7 prerogative to inspect any mental health facility at any time independent of its facility inspection schedule.

8 (d) The board shall produce a written report of each inspection of a mental health facility that must  
9 include specific recommendations for improvements that the board concludes are necessary in order for the  
10 inspected facility to meet the requirements in this part.

11 (e) The board shall provide a draft of each written report within 30 calendar days of the completion  
12 of each mental health facility inspection to the professional person in charge of the inspected facility for review  
13 prior to publication.

14 (f) The professional person in charge of the inspected facility shall provide a written response to  
15 the board's written report within 30 calendar days of receipt of the report. The response must include one of the  
16 following for each recommendation:

17 (i) a specific plan for implementation of the recommended action; or

18 (ii) a specific rationale that explains why the recommendation cannot be implemented.

19 (g) The board shall include the inspected facility's written response in the board's final published  
20 written report.

21 (h) The board shall include in subsequent inspections an assessment of each facility's  
22 implementation of the recommendations.

23 (i) The board shall report in writing to the director of the department and the governor when it  
24 determines that a mental health facility has not either implemented written recommendations or provided a  
25 specific rationale that explains why any recommendations cannot be implemented.

26 (4) (a) The board, by applying a sampling process during a scheduled inspection of a mental  
27 health facility, shall ensure that a treatment plan and a discharge plan exists and is being implemented for each  
28 patient admitted or committed to the mental health facility being inspected under this part.

1 (b) The board, during a scheduled inspection of a mental health facility, shall review all aspects of  
2 the treatment of persons admitted to mental health facilities and review the use of treatment procedures that  
3 involve behavior control, including but not limited to the use of any type of mechanical restraints, locked and  
4 unlocked seclusion or isolation, time out, or any other procedure involving physical control.

5 (c) The board shall ensure that the use of treatment procedures described in subsection (4)(b) at  
6 inspected mental health facilities is clinically justified, is monitored closely by a medical doctor and other mental  
7 health professionals, is implemented only when other less restrictive measures have failed, and is implemented  
8 to the least extent necessary to protect the safety and health of the affected individual or others in the  
9 immediate environment.

10 (d) The board may exercise the prerogative to inquire about and ensure the existence and  
11 implementation of treatment plans and discharge plans for any person admitted to a mental health facility and  
12 to inquire about and ensure the appropriate use of treatment procedures described in subsection (4)(b) with any  
13 person admitted to a mental health facility independent of its facility inspection schedule.

14 (5) The board may assist any person who is receiving or who has received treatment at a mental  
15 health facility in resolving any grievance the person may have concerning the person's admission or course of  
16 treatment in the facility.

17 (6) The board shall employ and is responsible for full-time legal counsel at the state hospital,  
18 whose responsibility is to act on behalf of all patients at the state hospital. The board shall ensure that there are  
19 sufficient legal staff and facilities to ensure availability to all patients and shall require that the appointed  
20 counsel periodically interview every patient and examine the patient's files and records. The board may employ  
21 additional legal counsel for representation of patients in a similar manner at any other mental health facility  
22 having inpatient capability.

23 (7) (a) If the board believes that any facility is failing to comply with the provisions of this part in  
24 regard to its physical facilities or its treatment of any person, it shall report its findings in writing to the  
25 professional person in charge of the facility and the director of the department.

26 (b) The professional person in charge of the facility shall submit a written response to the board  
27 within 10 working days of the receipt of the board's written findings provided for in subsection (7)(a) that  
28 includes an explanation of the facility's point of view regarding the board's concerns, including areas of

1 disagreement and agreement. If the facility is in full or partial agreement with the board's concerns, its written  
2 response must include actions that it has taken or that it plans to take to address the concerns.

3 (c) If the facility's written response does not resolve the concerns to the board's satisfaction, the  
4 board and the professional person in charge of the facility shall meet in person within 15 working days of the  
5 board's receipt of the facility's response to seek a mutually agreed upon resolution.

6 (8) The board shall publish standards for its inspections of mental health facilities.

7 (9) The board shall report annually to the governor concerning:

8 (a) the status of the mental health facilities and treatment programs that it has inspected since the  
9 last annual report; and

10 (b) occurrences of the administration of medications against the wishes of persons receiving  
11 treatment in mental health facilities and the effectiveness of the review procedure required by 53-21-127 ~~(6)~~(7)  
12 in protecting persons from unnecessary or excessive medication."

13  
14 **Section 1. Section 53-21-126, MCA, is amended to read:**

15 ~~"53-21-126. Trial or hearing on petition. (1) The respondent must be present unless the  
16 respondent's presence has been waived as provided in 53-21-119(2), and the respondent must be represented  
17 by counsel at all stages of the trial. The trial must be limited to the determination of whether or not the  
18 respondent is suffering from a mental disorder and requires commitment. At the trial, the court shall consider all  
19 the facts relevant to the issues of whether the respondent is suffering from a mental disorder. If the court  
20 determines that the respondent is suffering from a mental disorder, the court shall then determine whether the  
21 respondent requires commitment. In determining whether the respondent requires commitment and the  
22 appropriate disposition under 53-21-127, the court shall consider the following:~~

23 ~~(a) whether the respondent, because of a mental disorder, is substantially unable to provide for the  
24 respondent's own basic needs of food, clothing, shelter, health, or safety;~~

25 ~~(b) whether the respondent has recently, because of a mental disorder and through an act or an  
26 omission, caused self-injury or injury to others;~~

27 ~~(c) whether, because of a mental disorder, there is an imminent threat of injury to the respondent  
28 or to others because of the respondent's acts or omissions; and~~

1           ~~(d) —(i) whether the respondent's mental disorder, as demonstrated by the respondent's recent acts~~  
2 ~~or omissions, will, if untreated, predictably result in deterioration of the respondent's mental condition to the~~  
3 ~~point at which the respondent will:~~

4           ~~(A) — become a danger to self or to others; or~~

5           ~~(B) — will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health,~~  
6 ~~or safety.~~

7           ~~(ii) — Predictability may be established by the respondent's relevant medical history.~~

8           ~~(2) — The standard of proof in a hearing held pursuant to this section is proof beyond a reasonable~~  
9 ~~doubt with respect to any physical facts or evidence and clear and convincing evidence as to all other matters.~~  
10 ~~However, the respondent's mental disorder must be proved to a reasonable medical certainty. Imminent threat~~  
11 ~~of self inflicted injury or injury to others must be proved by overt acts or omissions, sufficiently recent in time as~~  
12 ~~to be material and relevant as to the respondent's present condition.~~

13           ~~(3) — The professional person appointed by the court must be present for the trial and subject to~~  
14 ~~cross-examination. The trial is governed by the Montana Rules of Civil Procedure. However, if the issues are~~  
15 ~~tried by a jury, at least two-thirds of the jurors shall concur on a finding that the respondent is suffering from a~~  
16 ~~mental disorder and requires commitment. The written report of the professional person that indicates the~~  
17 ~~professional person's diagnosis may be attached to the petition, but any matter otherwise inadmissible, such as~~  
18 ~~hearsay matter, is not admissible merely because it is contained in the report. The court may order the trial~~  
19 ~~closed to the public for the protection of the respondent.~~

20           ~~(4) — The professional person may testify as to the ultimate issue of whether the respondent is~~  
21 ~~suffering from a mental disorder and requires commitment. This testimony is insufficient unless accompanied~~  
22 ~~by evidence from the professional person or others that:~~

23           ~~(a) — the respondent, because of a mental disorder, is substantially unable to provide for the~~  
24 ~~respondent's own basic needs of food, clothing, shelter, health, or safety;~~

25           ~~(b) — the respondent has recently, because of a mental disorder and through an act or an omission,~~  
26 ~~caused self injury or injury to others;~~

27           ~~(c) — because of a mental disorder, there is an imminent threat of injury to the respondent or to~~  
28 ~~others because of the respondent's acts or omissions; or~~

(d) ~~\_\_\_\_\_ (i) the respondent's mental disorder:~~

~~(A) \_\_\_\_\_ has resulted in recent acts, omissions, or behaviors that create difficulty in protecting the respondent's life or health;~~

~~(B) \_\_\_\_\_ is treatable, with a reasonable prospect of success;~~

~~(C) \_\_\_\_\_ has resulted in the respondent's refusing or being unable to consent to voluntary admission for treatment; and~~

~~(ii) \_\_\_\_\_ will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. Predictability may be established by the respondent's relevant medical history.~~

~~(5) \_\_\_\_\_ The court, upon the showing of good cause and when it is in the best interests of the respondent, may order a change of venue.~~

~~(6) \_\_\_\_\_ An individual with a primary diagnosis of a mental disorder who also has a co-occurring diagnosis of chemical dependency may satisfy criteria for commitment under this part.~~

~~(7) \_\_\_\_\_ An individual with a primary diagnosis of Alzheimer's disease, other forms of dementia, or traumatic brain injury may be committed under this part only if the person meets the criteria outlined in subsection (1)(b), (1)(c), or (1)(d)(i)(A)."~~

**Section 2.** 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, if,~~ upon trial, it is determined that the respondent:

~~(a) \_\_\_\_\_ is not suffering from a mental disorder ~~or;~~ or~~

~~(b) \_\_\_\_\_ does not require commitment within the meaning of this part, ~~the respondent must be discharged and the petition dismissed;~~ or, the respondent must be discharged and the petition dismissed~~

~~(c) \_\_\_\_\_ is suffering from a mental disorder but the respondent's primary diagnosis is Alzheimer's disease, other forms of dementia, or traumatic brain injury and the respondent meets only the commitment criteria outlined in 53-21-126(1)(a) or (1)(d)(i)(B).~~

~~(2) \_\_\_\_\_ If it is determined that the respondent, following an examination conducted pursuant to 53-21-~~

1 123 by a professional person, is suffering solely from Alzheimer's disease, other dementias, or traumatic brain  
2 injury, the court, in its discretion, may dismiss the petition and discharge the respondent on finding that  
3 placement in a community facility, pursuant to 50-5-226 is:

- 4 (a) appropriate;
- 5 (b) in the respondent's best interests; and
- 6 (c) available.

7 ~~(2)~~(3) If it is determined that the respondent is suffering from a mental disorder and requires  
8 commitment within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition  
9 hearing must be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a  
10 Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the  
11 respondent.

12 ~~(3)~~(4) At the conclusion of the disposition hearing and pursuant to the provisions in subsection ~~(7)~~(8),  
13 the court shall:

- 14 (a) subject to the provisions of 53-21-193, commit the respondent to the state hospital or to a  
15 behavioral health inpatient facility for a period of not more than 3 months;
- 16 (b) commit the respondent to a community facility, which may include a category D assisted living  
17 facility, or a community program or to any appropriate course of treatment, which may include housing or  
18 residential requirements or conditions as provided in 53-21-149, for a period of:
  - 19 (i) not more than 3 months; or
  - 20 (ii) not more than 6 months in order to provide the respondent with a less restrictive commitment in  
21 the community rather than a more restrictive placement in the state hospital if a respondent has been  
22 previously involuntarily committed for inpatient treatment in a mental health facility and the court determines  
23 that the admission of evidence of the previous involuntary commitment is relevant to the criterion of  
24 predictability, as provided in 53-21-126(1)(d), and outweighs the prejudicial effect of its admission, as provided  
25 in 53-21-190; or
- 26 (c) commit the respondent to the Montana mental health nursing care center for a period of not  
27 more than 3 months if the following conditions are met:
  - 28 (i) the respondent meets the admission criteria of the center as described in 53-21-411 and

1 established in administrative rules of the department; and

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

4 ~~(4)(5)~~ Except as provided in subsection ~~(3)(b)(ii)(4)(b)(ii)~~, a treatment ordered pursuant to this section  
5 may not affect the respondent's custody or course of treatment for a period of more than 3 months.

6 ~~(5)(6)~~ In determining which of the alternatives in subsection ~~(3)(4)~~ to order, the court shall choose the  
7 least restrictive alternatives necessary to protect the respondent and the public and to permit effective  
8 treatment.

9 ~~(6)(7)~~ The court may authorize the chief medical officer of a facility or a physician designated by the  
10 court to administer appropriate medication involuntarily if the court finds that involuntary medication is  
11 necessary to protect the respondent or the public or to facilitate effective treatment. Medication may not be  
12 involuntarily administered to a patient unless the chief medical officer of the facility or a physician designated by  
13 the court approves it prior to the beginning of the involuntary administration and unless, if possible, a  
14 medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review  
15 is not possible, within 5 working days after the beginning of the involuntary administration. The medication  
16 review committee must include at least one person who is not an employee of the facility or program. The  
17 patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of  
18 the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The  
19 involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after  
20 the beginning of the involuntary administration if medication is still being involuntarily administered. The mental  
21 disabilities board of visitors and the director of the department of public health and human services must be  
22 fully informed of the matter within 5 working days after the beginning of the involuntary administration. The  
23 director shall report to the governor on an annual basis.

24 ~~(7)(8)~~ ~~Satisfaction~~ ~~Except as provided in 53-21-126(7), satisfaction~~ ~~Satisfaction~~ of any one of the  
25 criteria listed in 53-21-126(1) justifies commitment pursuant to this chapter. However, if the court relies solely  
26 upon ~~on~~ the criterion provided in 53-21-126(1)(d), the court may require commitment only to a community  
27 facility, which may include a category D assisted living facility, or a program or an appropriate course of  
28 treatment, as provided in subsection ~~(3)(b)(4)(b)~~, and may not require commitment at the state hospital, a

1 behavioral health inpatient facility, or the Montana mental health nursing care center.

2 ~~(8)(9)~~ In ordering commitment pursuant to this section, the court shall make the following findings of  
3 fact:

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

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

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

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

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

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

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

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

19 (i) the respondent meets the admission criteria;

20 (ii) there is availability in a category D assisted living facility; and

21 (iii) a category D assisted living facility is the least restrictive environment because the respondent  
22 is unlikely to benefit from involuntary commitment to facilities with more intensive treatment; and

23 (i) if the order includes involuntary medication, the reason involuntary medication was chosen  
24 from among other alternatives."

25

26 **Section 3.** Section 53-21-149, MCA, is amended to read:

27 **"53-21-149. Conditions of treatment in community facility, program, or course of treatment.** If

28 the court orders a disposition under 53-21-127~~(3)(b)(4)(b)~~, the court may order the following conditions for

1 treatment in a community facility or program, or may order a course of treatment, including but not limited to:

2 (1) following a treatment plan developed pursuant to 53-21-150 that may include case  
3 management services, medication, short-term inpatient treatment, chemical dependency treatment, assertive  
4 community treatment, or a combination, as set forth by the designated community facility or program or the  
5 individual responsible for the management and supervision of the respondent's treatment; or

6 (2) specific residential or housing requirements that may include being under the care or custody  
7 of a relative or guardian."  
8

9 **Section 4.** Section 53-21-151, MCA, is amended to read:

10 **"53-21-151. Notification of noncompliance as condition for treatment plan -- response.** (1) If the  
11 respondent has been ordered to follow a treatment plan and the respondent does not substantially comply with  
12 the treatment plan developed pursuant to the order for treatment pursuant to a commitment to a community  
13 facility or program or course of treatment, the chief medical officer or designee shall promptly notify the court  
14 upon becoming aware of substantial noncompliance that is likely to result in at least one of the conditions in 53-  
15 21-126(1) and shall provide supporting documentation.

16 (2) The court may take reasonable steps to ensure compliance with the court's outpatient  
17 treatment order, including but not limited to the following:

18 (a) directing that the friend of respondent remind the respondent of the respondent's treatment  
19 obligations and attempt to persuade the noncompliant respondent to comply with the treatment plan;

20 (b) presenting the respondent to the mental health facility or program for treatment, including  
21 administration of medication pursuant to 53-21-127~~(6)~~(7); or

22 (c) directing the treating provider to work with the respondent to bring about compliance with the  
23 treatment plan."  
24

25 **Section 5.** Section 53-21-401, MCA, is amended to read:

26 **"53-21-401. Legislative intent.** (1) It is the intent of the legislature that geriatric patients at the  
27 Montana state hospital and geriatric residents of the state who may ~~in the future be placed at~~ be at risk of  
28 commitment to in the future be placed at the Montana state hospital and who do not need intensive psychiatric

1 care ~~receive care and treatment~~ be placed in ~~nursing homes located in~~ community ~~settings~~ facilities as  
2 determined by the court to be appropriate and in the best interests of the patient on verification that such  
3 placement is available.

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

6 (3) It is the further intent of the legislature that these ~~nursing homes~~ community facilities ~~shall~~ must  
7 be located in communities with:

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

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

14 (a) ~~end the involuntary commitment provide for the appropriate placement~~ of individuals who have  
15 ~~a primary sole~~ diagnosis of Alzheimer's disease, ~~other forms of dementia,~~ or traumatic brain injury when ~~these~~  
16 ~~individuals meet only the commitment criteria outlined in 53-21-126(1)(a) or (1)(d)(i)(B)~~ a court has determined  
17 ~~it is in the best interests of those individuals to be placed in an appropriate community facility other than the~~  
18 Montana state hospital; and

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

21  
22 **Section 6.** Section 53-21-402, MCA, is amended to read:

23 **"53-21-402. Powers and duties of department of public health and human services.** The  
24 department of ~~public health and human services:~~

25 (1) shall contract with nonprofit corporations ~~which~~ that demonstrate expertise in and the capability  
26 of providing rehabilitative and restorative programs for aged citizens for the operation and management of  
27 ~~nursing homes~~ community facilities established under this part;

28 (2) shall ensure that ~~nursing homes~~ community facilities established and operated under this part

1 are in compliance with all applicable federal and state regulations;

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

3 (4) shall provide that ~~geriatric residents of the Montana state hospital have~~ first priority for

4 admission to ~~nursing homes~~ community facilities established under this part be given to:

5 (a) Montana state hospital patients who are geriatric; and

6 (b) people with a ~~primary sole~~ diagnosis of Alzheimer's disease, other forms of dementia, or

7 traumatic brain injury who:

8 (i) ~~have been involuntarily committed to the Montana state hospital but no longer need the~~  
9 ~~intensive treatment provided by the hospital; or for whom the court has determined it is in their best interests to~~  
10 ~~be discharged and placed in a community facility;~~

11 (ii) ~~are substantially unable to provide for their basic needs of food, clothing, shelter, health, or~~  
12 ~~safety;~~

13 (5) ~~shall provide members of the transition review committee provided for in [section 6] with the~~  
14 ~~information necessary to carry out the committee's duties;~~

15 (6)(5) shall implement, ~~in consultation and collaboration with the transition review committee,~~ a plan  
16 to prepare for the end of involuntary commitment of ~~many those~~ individuals with a ~~primary sole~~ diagnosis of  
17 Alzheimer's disease, other forms of dementia, or traumatic brain injury ~~for whom the court has determined it is~~  
18 ~~in their best interests to be discharged and placed in a community facility; and~~

19 (5)(7)(6) may accept grants, gifts, bequests, and contributions in money or property or any other  
20 form from individuals, corporations, associations, or federal, state, and local government agencies for the  
21 purposes of establishing and operating ~~nursing homes~~ community facilities under this part."

23 **Section 7.** Section 53-21-414, MCA, is amended to read:

24 **"53-21-414. Admissions to mental health nursing care center.** (1) The Montana mental health  
25 nursing care center may admit patients on a voluntary basis according to admission criteria and procedures  
26 established in administrative rules and by involuntary commitment pursuant to 53-21-127 ~~(3)(e)(4)(c).~~

27 (2) A patient involuntarily committed (to the Montana state hospital may be transferred by the  
28 department of public health and human services to the Montana mental health nursing care center if the patient

1 meets the admission criteria of the center. The department shall notify the patient, the patient's next of kin, and  
 2 the mental disabilities board of visitors at least 15 days before the transfer. If a person or entity notified by the  
 3 department objects to the transfer, the person or entity may petition the district court for a hearing to review  
 4 whether the transfer is necessary and appropriate to meet the needs of the patient. The notice required by this  
 5 subsection must include notification of the right to petition the district court pursuant to this subsection. Section  
 6 53-21-128 applies to extensions of involuntary commitment of patients to the center.

7 (3) Except as provided in 53-21-413(2) and subsection (2) of this section, patients involuntarily  
 8 transferred to the center have the rights provided in this chapter."  
 9

10 **NEW SECTION. Section 8. Placement of individuals with Alzheimer's disease, other forms of**  
 11 **dementia, or traumatic brain injury -- direction to department.** To accomplish the intent of 53-21-401(4), the  
 12 legislature directs the department to:

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

16 (2) collaborate with ~~the transition review committee provided for in [section 6] to identify the~~  
 17 appropriate community-based ~~services needed providers~~ to ensure that individuals with those diagnoses can  
 18 be safely and effectively served in the community, pursuant to available funding;

19 (3) transfer funds as authorized by 17-7-139, [section 810], and federal laws and regulations to  
 20 develop the services needed in the community; and

21 (4) ~~by June 30, 2025 pursuant to the order of a court having jurisdiction over an individual~~  
 22 committed to the department and in accordance with Title 53, chapter 21, parts 1 and 4, including 53-21-127,  
 23 transition out of the Montana state hospital and into community services the Montana state hospital patients  
 24 whose primary who have a sole diagnosis ~~involves of~~ Alzheimer's disease, other forms of dementia, or  
 25 traumatic brain injury ~~and who meet only the commitment criteria of 53-21-126(1)(a) or (1)(d)(i)(B).~~ As part of  
 26 this transition, the legislature intends for the department to actively pursue the timely discharge of those  
 27 Montana state hospital patients who have a sole diagnosis of Alzheimer's disease, other forms of dementia, or  
 28 traumatic brain injury, or a combination of those neurocognitive disorders without other, co-occurring mental

1 disorders that require involuntary commitment as provided in Title 53, chapter 21, and a court has determined it  
2 is in the best interests of those individuals to be placed in an appropriate community facility other than the  
3 Montana state hospital.

4  
5 ~~NEW SECTION. Section 6. Transition review committee -- membership -- meetings --~~  
6 ~~reimbursement. (1) There is a transition review committee to monitor the need for and progress in developing~~  
7 ~~community-based services for individuals who have been or are at risk of being involuntarily committed to the~~  
8 ~~Montana state hospital and who have a primary diagnosis of Alzheimer's disease, other forms of dementia, or~~  
9 ~~traumatic brain injury.~~

- 10 (2) ~~The committee must consist of:~~
- 11 (a) ~~four legislators appointed as provided in subsection (4); and~~
- 12 (b) ~~seven members appointed by the governor or the governor's designee as follows:~~
  - 13 (i) ~~one representative of a statewide association whose primary purpose is representing skilled~~
  - 14 ~~nursing facilities and assisted living facilities;~~
  - 15 (ii) ~~one representative of the state protection and advocacy system for individuals with mental~~
  - 16 ~~illness authorized under 42 U.S.C. 10803;~~
  - 17 (iii) ~~one representative of a statewide association whose primary purpose is representing~~
  - 18 ~~individuals with Alzheimer's disease or other forms of dementia;~~
  - 19 (iv) ~~one representative of a statewide association whose primary purpose is representing~~
  - 20 ~~individuals with traumatic brain injury;~~
  - 21 (v) ~~one physician with experience in geriatric psychiatry;~~
  - 22 (vi) ~~one family member or guardian of an individual who is or has, within the previous 5 years, been~~
  - 23 ~~committed to the Montana state hospital and whose diagnosis included Alzheimer's disease, other forms of~~
  - 24 ~~dementia, or traumatic brain injury; and~~
  - 25 (vii) ~~one representative of the department of public health and human services.~~
- 26 (3) ~~Appointments must be made no later than May 15, 2023.~~
- 27 (4) ~~(a) Legislative members of the committee must, in consultation with the minority party, be~~
- 28 ~~appointed as provided in this subsection (4).~~

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

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

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

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

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

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

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

15 ~~(8) — (a) A legislative member of the committee is entitled to salary and expenses as provided in 5-2-~~  
16 ~~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 9. Transition review ~~committee duties~~ -- reporting requirement**

22 **children, families, health, and human services interim committee duties.** (1) The ~~transition review children,~~  
23 ~~families, health, and human services interim~~ committee shall:

24 (a) hear regular reports from the department and, as necessary, the office of budget and program  
25 planning on:

26 (i) the number of Montana state hospital patients with a primary sole diagnosis of Alzheimer's  
27 disease, other forms of dementia, or traumatic brain injury;

28 (ii) efforts the department is making to find community placements for individuals with ~~those~~

Amendment - Reference-white - Requested by: Governor - (H) Committee of the Whole

68th Legislature

Drafter: Madelyn Krezowski, (406) 444-6857

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1 ~~diagnoses a sole diagnosis of Alzheimer's disease, other forms of dementia, or traumatic brain injury~~, including  
2 any barriers to discharging the individuals from the Montana state hospital and the steps being taken to  
3 alleviate the barriers; and

4 (iii) activities being taken to identify and develop community-based services and to transition into  
5 those services individuals with a ~~primary sole~~ diagnosis of Alzheimer's disease, other forms of dementia, or  
6 traumatic brain injury ~~who meet only the commitment criteria of 53-21-126(1)(a) or (1)(d)(i)(B)~~;

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

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

14 ~~(d) advise the department of problems it is observing with the transition process; and~~

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

17 (2) The department reports on Montana state hospital patients required under subsection (1)(a)(i)  
18 must include, for each period covered by the report:

19 (a) the number of those patients admitted to the hospital;

20 (b) the number currently receiving treatment; and

21 (c) the number discharged.

22 (3) The committee shall report ~~regularly to the children, families, health, and human services~~  
23 ~~interim committee and~~ at least once to the house human services committee and the senate public health,  
24 welfare, and safety committee of the 69th legislature on:

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

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

27 (ii) developing the community-based services needed to ~~prepare for the scheduled discontinuance~~  
28 ~~on July 1, 2025, of~~ treat individuals with a sole diagnosis of Alzheimer's disease, other forms of dementia, or

1 ~~traumatic brain injury and~~ the use of involuntary commitments for individuals with a ~~primary sole~~ diagnosis of  
2 Alzheimer's disease, other forms of dementia, or traumatic brain injury ~~who meet only the commitment criteria~~  
3 ~~of 53-21-126(1)(a) or (1)(d)(i)(B); and~~

4 (b) any recommendations for additional legislation needed to accomplish the purposes of [~~sections~~  
5 ~~5 through 9 section 8~~].

7 NEW SECTION. Section 10. Certain transfers of funds authorized. Funds appropriated to the  
8 department for the operation of the Montana state hospital may be used for carrying out the purposes of  
9 [section 5 8] if:

10 (1) Montana state hospital patients are transferred to a ~~community-based nursing home~~  
11 community facility or other community setting that results in ~~lower comparable~~ expenditures ~~than as~~ allowed by  
12 legislative appropriation; and

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

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

15 (b) approved by the governor.

17 NEW SECTION. Section 11. Limitation on expenditures. For the biennium beginning July 1, 2023,  
18 the department may spend up to \$9 million a year to place individuals with a ~~primary sole~~ diagnosis of  
19 Alzheimer's disease, other forms of dementia, or traumatic brain injury in a community or other appropriate  
20 setting rather than at the Montana state hospital ~~when those individuals meet only the commitment criteria of~~  
21 ~~53-21-126(1)(a) or (1)(d)(i)(B).~~

23 ~~NEW SECTION. Section 10. Appropriation. There is appropriated \$39,775 from the general fund to~~  
24 ~~the legislative services division for the biennium beginning July 1, 2023, for costs of the transition review~~  
25 ~~committee provided for in [section 6].~~

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

