

1                    HOUSE    BILL NO.    30  
 2    INTRODUCED BY    BARDANOUE

3  
 4    A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 5    CLARIFY THE LAWS RELATING TO VOCATIONAL REHABILITATION,  
 6    PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY  
 7    DISABLED, AND THE MENTALLY ILL; AMENDING SECTIONS 38-110,  
 8    38-120, 38-210, 38-506, 38-1202, 38-1205, 38-1206, 38-1208,  
 9    38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211,  
 10    71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226,  
 11    71-230, 71-233.1, 71-233.3, 71-302.2, 71-303, 71-305,  
 12    71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509,  
 13    71-710, 71-901, 71-1401, 71-1516, 71-1503, 71-2304, 71-2404,  
 14    71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912,  
 15    80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, R.C.M.  
 16    1947; AND REPEALING SECTIONS 71-101, 71-107, 71-118, AND  
 17    71-233.5, R.C.M. 1947."

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

20            Section 1. Section 38-110, R.C.M. 1947, is amended to  
 21    read as follows:

22            "38-110. Maintenance of indigent ~~persons~~ patients on  
 23    discharge. Prior to the discharge of a patient from a mental  
 24    health facility, the professional person in charge of the  
 25    facility shall notify the welfare department of the county

1    from which the patient was committed. The county welfare  
 2    department shall at once ascertain whether the discharged  
 3    patient is in financial need. If the patient is found to be  
 4    in financial need, the county welfare department shall  
 5    properly care for and maintain the discharged patient under  
 6    the laws of this state relating to public ~~welfare assistance~~  
 7    until the patient is able to care for himself, or until  
 8    another provision has been made for care of the patient."

9            Section 2. Section 38-120, R.C.M. 1947, is amended to  
 10    read as follows:

11            "38-120. Receipt of nonresident ~~insane person who is~~  
 12    seriously mentally ill pending return to home state. ~~An~~  
 13    ~~insane~~ ~~a~~ person, who is seriously mentally ill and not a  
 14    resident of this state, may be received into the state  
 15    hospital for a period not to exceed ~~thirty~~ (30) days pending  
 16    return to the state of his residence."

17            Section 3. Section 38-210, R.C.M. 1947, is amended to  
 18    read as follows:

19            "38-210. ~~Moneys Disposal of moneys of on person who is~~  
 20    seriously mentally ill ~~insane person disposal of~~. When a  
 21    person is adjudged ~~insane to be seriously mentally ill~~ and  
 22    ordered committed to the state hospital, or is adjudged to  
 23    be in such a condition of mind that he should be placed in  
 24    the state hospital for observation, the money found on him  
 25    at the time he is taken into custody must be certified to by

1 the judge, and sent with the person to the state hospital.  
 2 The money must be delivered to the superintendent of the  
 3 state hospital, whose receipt for the money shall be taken  
 4 by the officer or other person delivering ~~him~~ the patient to  
 5 the hospital, ~~who~~ The officer must file the receipt with  
 6 the clerk of the district court of the county in which the  
 7 proceedings were held. If the amount exceeds ~~one hundred~~  
 8 ~~dollars~~ ~~(\$100)~~, the excess must be applied to the payment of  
 9 the expenses of the person while in the hospital. If the  
 10 amount is ~~one hundred dollars~~ ~~(\$100)~~ or less, it must be  
 11 kept and delivered to the person when discharged or released  
 12 from the hospital or applied in payment of funeral expenses  
 13 if the person dies while in the hospital. If an amount  
 14 remains to the credit of a person paroled, discharged, or  
 15 released, or after payment of the funeral expenses of the  
 16 person who dies while in the hospital, and the amount  
 17 remains unclaimed for ~~one~~ ~~(1)~~ year after the parole,  
 18 discharge, release, or death, ~~fifty per cent~~ ~~(50%)~~ of the  
 19 amount, but not in any event exceeding ~~fifty dollars~~ ~~(\$50)~~,  
 20 shall be withdrawn from the account and placed in the agency  
 21 fund in the state treasury, to be expended for indigent  
 22 patients at the times and in the manner and for such  
 23 purposes as may be prescribed by the superintendent of the  
 24 hospital. A balance which remains to the credit of the  
 25 person, shall be transmitted to the county treasurer of the

1 county from which the person was sent, and if a sum remains  
 2 after paying the costs of hearing, and transportation to the  
 3 hospital, the balance shall be paid into the state treasury  
 4 to the credit of the general fund."

5 Section 4. Section 38-506, R.C.M. 1947, is amended to  
 6 read as follows:

7 "38-506. Support of patient conditionally released.  
 8 When a mental health facility conditionally releases a  
 9 patient committed to its care, it is not liable for his  
 10 support while conditionally released. Liability devolves  
 11 upon the legal guardian, parent, or person under whose care  
 12 the patient is placed when conditionally released, or upon  
 13 any other person legally liable for his support. The public  
 14 welfare officials of the county where the patient resides or  
 15 is found, are responsible for providing relief and care for  
 16 a conditionally released patient who is unable to maintain  
 17 himself, or who is unable to secure support from the person  
 18 under whose care he was placed on convalescent leave, like  
 19 any other person in need of relief and care, under the  
 20 public ~~welfare~~ assistance laws."

21 Section 5. Section 38-1202, R.C.M. 1947, is amended to  
 22 read as follows:

23 "38-1202. Definitions. As used in this act the  
 24 following definitions apply:

25 (1) "Board" means the mental disabilities board of

1 visitors created by this act.

2 (2) "Community-based facilities" or "community-based  
3 services" ~~include~~ includes those services and facilities  
4 which are available for the evaluation, treatment, and  
5 habilitation of the developmentally disabled in a community  
6 setting, including but not limited to, outpatient  
7 facilities, special education services, group homes, foster  
8 homes, ~~day-care~~ day-care facilities, sheltered workshops,  
9 and other community-based services and facilities.

10 (3) "Court" means ~~the~~ a district court of the state of  
11 Montana.

12 (4) "Developmentally disabled" means suffering from  
13 disabilities attributable to mental retardation, cerebral  
14 palsy, epilepsy, autism, or any other neurologically  
15 handicapping condition closely related to mental retardation  
16 and requiring treatment similar to that required by mentally  
17 retarded individuals, which condition has continued or can  
18 be expected to continue indefinitely and constitutes a  
19 substantial handicap of such individuals.

20 (5) "Habilitation" means the process by which a person  
21 who is developmentally disabled is assisted to acquire and  
22 maintain those life skills which enable him to cope more  
23 effectively with the demands of his own person and  
24 environment and to raise the level of his physical, mental,  
25 and social efficiency. Habilitation includes but is not

1 limited to formal, structured education and treatment.

2 (6) "Next of kin" includes but need not be limited to  
3 the spouse, parents, adult children, and adult brothers and  
4 sisters of a person.

5 (7) "Professional person" means:

6 (a) a medical doctor, or

7 (b) a person trained in the field of developmental  
8 disabilities and certified by the department of institutions  
9 or the department of social and rehabilitation services in  
10 accordance with standards of professional licensing boards,  
11 federal regulations, and the joint commissions on  
12 accreditation of hospitals.

13 (8) "Resident" means a person admitted to a  
14 residential facility for a course of evaluation, treatment,  
15 or habilitation.

16 (9) "Residential facility" or "facility" means any  
17 residential hospital or hospital and school which exists for  
18 the purpose of evaluating, treating, and habilitating the  
19 developmentally disabled on an inpatient basis, including  
20 the Boulder River ~~School~~ school and ~~Hospital~~ hospital and  
21 the Eastmont ~~Training Center~~ training center. The term does  
22 not include a group home, ~~or~~ or foster home, or a halfway  
23 house. A correctional facility or a facility for the  
24 treatment of the mentally ill shall not be a "residential  
25 facility" within the meaning of this act.

1 (10) "Respondent" means a person alleged in a petition  
 2 filed pursuant to this act to be developmentally disabled  
 3 and in need of developmental ~~disabilities~~ disability  
 4 services.

5 (11) "responsible person" means any person willing and  
 6 able to assume responsibility for a person who is  
 7 developmentally disabled or alleged to be developmentally  
 8 disabled. Whenever, in any proceeding under this act, the  
 9 court believes that a conflict of interest may exist between  
 10 a person who is developmentally disabled or alleged to be  
 11 developmentally disabled and his parents or guardian, or  
 12 that the parents or guardian are unable to protect the  
 13 interests of such person, or whenever there is no parent or  
 14 guardian, the court shall appoint a responsible person to  
 15 protect the interests of the person who is developmentally  
 16 disabled or alleged to be developmentally disabled. Only  
 17 one person shall at any one time be the responsible person  
 18 within the meaning of this act. In appointing a responsible  
 19 person, the court shall consider the preference of the  
 20 respondent or patient. The court may at any time, for good  
 21 cause shown, change its designation of who is the  
 22 responsible person.

23 (12) "Seriously developmentally disabled" means  
 24 developmentally disabled due to developmental or physical  
 25 disability or a combination of both rendering a person

1 unable to function in a community-based setting."

2 Section 6. Section 38-1205, R.C.M. 1947, is amended to  
 3 read as follows:

4 "38-1205. ~~Procedure for reporting developmentally~~  
 5 ~~disabled~~ Petition for involuntary treatment. (1) Any person  
 6 who believes that there is a person who is developmentally  
 7 disabled and in need of developmental disability services  
 8 may report the situation to a professional person. If the  
 9 professional person believes from the facts given to him  
 10 that the person may be developmentally disabled and in need  
 11 of developmental disability services, he shall contact the  
 12 parents or guardian of the person alleged to be  
 13 developmentally disabled or the person himself. If any of  
 14 the persons so contacted refuse to cooperate with the  
 15 professional person and if the professional person believes  
 16 from all the circumstances of the case that the person may  
 17 be developmentally disabled and in need of developmental  
 18 ~~disabilities~~ disability services, he shall request the  
 19 county attorney to file a petition alleging that there is a  
 20 person in the county who is developmentally disabled and in  
 21 need of developmental ~~disabilities~~ disability services.

22 (2) The petition shall contain ~~the name and address~~  
 23 ~~of:~~

24 (a) the name and address of the professional person  
 25 and any other person requesting the petition, and their

1 interest in the case;

2 (b) the name and address of the respondent;

3 (c) the name and address of the parents or guardian of  
4 the respondent, and of any other person believed to be  
5 legally responsible for the care, support, and maintenance  
6 of the respondent;

7 (d) the name and address of the respondent's next of  
8 kin, to the extent known;

9 (e) the name and address of any person whom the county  
10 attorney believes might be willing and able to be appointed  
11 responsible person; and

12 (f) a statement of the rights of the respondent and  
13 his parents or guardian which shall be in conspicuous print  
14 and identified by a suitable heading.

15 (3) Upon presentation to the court by the county  
16 attorney, the court shall immediately consider the petition  
17 with or without a hearing to determine if there is probable  
18 cause to believe that the respondent is developmentally  
19 disabled and in need of evaluation and treatment. If the  
20 court finds no such probable cause, it shall dismiss the  
21 petition. If the court finds that probable cause does  
22 exist, it shall direct a professional person to examine the  
23 respondent and to make an inquiry concerning the  
24 circumstances of the case. Such examination shall not  
25 exceed ~~four~~(4) hours in length. If probable cause is

1 found, the court may appoint a responsible person other than  
2 the respondent's parents or guardian to protect the  
3 interests of the respondent. The responsible person shall  
4 be notified as soon as possible that a petition has been  
5 filed. Notice of the petition and the finding of probable  
6 cause shall be mailed or delivered to the respondent and to  
7 all other persons named in the petition and to any person  
8 who would have been named in the petition had his name,  
9 address, and relationship to the respondent been known at  
10 the time.

11 (4) When the professional person first contacts the  
12 respondent, before he begins any examination, he shall give  
13 the respondent a copy of the petition and explain to the  
14 respondent the nature of the proceeding and his rights as  
15 set forth in the petition. If the respondent is incapable  
16 of understanding the explanation and proceeding, the  
17 professional person shall give the petition and make the  
18 explanation to the parents or guardian of the respondent.  
19 Before making any inquiry of the parents or guardian of the  
20 respondent, the professional person shall give them a copy  
21 of the petition, and explain the nature of the proceeding  
22 and their rights as set forth in the petition."

23 Section 7. Section 38-1206, R.C.M. 1947, is amended to  
24 read as follows:

25 \*38-1206. ~~Petition dismissal hearing counsel~~

1 ~~treatment~~ Action on petition. (1) If the professional  
 2 person, based on his examination and inquiry, determines  
 3 that the respondent is not developmentally disabled or is  
 4 not in need of developmental disability services, he shall  
 5 report this finding in writing to the court and the petition  
 6 shall be dismissed. If the professional person concludes  
 7 that the respondent is developmentally disabled and in need  
 8 of developmental disability services, he shall report this  
 9 conclusion to the court in writing together with his  
 10 recommendations for evaluation and treatment. The report  
 11 shall include an explanation of the basis on which the  
 12 professional person has reached his conclusion and shall  
 13 include a description of any tests or evaluation devices he  
 14 has employed. If the professional person's recommendation  
 15 is for further evaluation and treatment, notice of this  
 16 recommendation shall be sent to the respondent, his parents  
 17 or guardian, the next of kin, the responsible person  
 18 appointed by the court, if any, and any attorney  
 19 representing the respondent or his parents or guardian. If  
 20 no responsible person has yet been appointed, the court may  
 21 appoint one at this time.

22 (2) If the respondent, his parents or guardian, the  
 23 responsible person, if any, or counsel for any party  
 24 requests a hearing on the recommendation, the court shall  
 25 set a time and place for hearing. The hearing shall be

1 before the court without a jury. The rules of civil  
 2 procedure shall apply.

3 (3) Prior to any hearing held pursuant to this  
 4 section, the court shall appoint counsel to represent the  
 5 respondent, if the respondent has not retained independent  
 6 counsel. The parents [or guardian] shall be informed of  
 7 their right to counsel, and if they are indigent, the court  
 8 shall, on their request, appoint counsel for them. In no  
 9 case shall may the same attorney represent the respondent  
 10 and his parents or guardian.

11 (4) If the hearing is waived or if the court finds,  
 12 after hearing, that the respondent is developmentally  
 13 disabled and in need of further evaluation and treatment,  
 14 the court shall order that the respondent undergo such  
 15 evaluation and treatment. Evaluation and treatment ordered  
 16 pursuant to this subsection shall may not be for ~~no~~ more  
 17 than ~~thirty~~ {30} days. It shall take place in the least  
 18 restrictive environment in which the necessary evaluation  
 19 and treatment can be accomplished. Evaluation and treatment  
 20 in a residential facility shall may be ordered only if the  
 21 necessary evaluation and treatment cannot be accomplished  
 22 through the use of community-based facilities."

23 Section 8. Section 38-1208, R.C.M. 1947, is amended to  
 24 read as follows:

25 "38-1208. Recommendation to residential facility. (1)

1 If as a result of the evaluation and treatment, either  
 2 agreed to by the parents, guardian, or the person himself  
 3 pursuant to ~~section~~ 38-1204 or ordered by the court, the  
 4 professional person in charge of the case concludes that the  
 5 person evaluated is seriously developmentally disabled and  
 6 recommends that treatment and habilitation be had in a  
 7 residential facility on an extended basis, the professional  
 8 person shall file his written recommendation and report  
 9 with the court and request that the court order the  
 10 admission. The report shall include the factual basis for  
 11 the recommendation, and shall describe any tests or  
 12 evaluation devices which have been employed in evaluating  
 13 the patient. If no responsible person has yet been  
 14 appointed, the court may appoint one at this time. If there  
 15 is no parent or guardian, the court shall appoint a  
 16 responsible person. At the request of the respondent, his  
 17 parents or guardian, or the responsible person, the court  
 18 shall appoint counsel for the respondent. If the parents  
 19 ~~for guardian~~ are indigent and if they request it, the court  
 20 shall appoint counsel for the parents or guardian. Notice  
 21 of the recommendation shall be mailed or delivered to the  
 22 respondent, his parents or guardian, the responsible person,  
 23 next of kin, if known, and the attorney for the respondent,  
 24 if any, and for the parents or guardian, if any.

25 (2) The respondent, his parents or guardian, the

1 responsible person, or the attorney for any party may  
 2 request that a hearing be had on the recommendation. If a  
 3 hearing is requested, the court shall mail or deliver notice  
 4 of the date, time, and place of the hearing to each of the  
 5 parties listed at the beginning of this subsection. The  
 6 hearing shall be to the court without jury. The rules of  
 7 civil procedure shall apply.

8 (3) If the court finds that the respondent is  
 9 seriously developmentally disabled and that available  
 10 community-based services are not adequate, it shall order  
 11 the respondent admitted to a residential facility for an  
 12 extended course of treatment and habilitation. If the court  
 13 finds that the respondent is developmentally disabled, and  
 14 in need of developmental ~~disabilities~~ disability services,  
 15 ~~but~~ and that available community-based services are  
 16 adequate, it shall order the respondent to undertake a  
 17 community-based course of treatment and habilitation. If  
 18 the court finds that the respondent is not developmentally  
 19 disabled or is not in need of developmental disability  
 20 services, it shall dismiss the request.

21 (4) If none of the parties notified of the  
 22 recommendation request a hearing, the court may issue an  
 23 order authorizing the person to be admitted to the  
 24 residential facility for an extended period of treatment and  
 25 habilitation, or the court may initiate its own inquiry as

1 to whether the order should be granted. The court may  
2 refuse to authorize admission of a person to a residential  
3 facility for an extended period of treatment and  
4 habilitation if such admission is not in the best interests  
5 of the person.

6 (5) If any person is admitted to a residential  
7 facility for an extended course of habilitation without a  
8 hearing, and if subsequent to such admission one of the  
9 parties who could have requested a hearing learns that an  
10 alternative course of treatment is available which is more  
11 suitable to the needs of the resident, the party may request  
12 the professional person in charge of the resident to release  
13 the resident to the alternative, if it is a community-based  
14 alternative, or transfer the resident to the alternative, if  
15 it is a residential alternative. Any such transfer or  
16 release shall comply with the requirements of ~~section~~  
17 38-1209. If the professional person in charge of the  
18 resident refuses to authorize the release or transfer, then  
19 the party may petition the court for a hearing to determine  
20 whether the present residential alternative should be  
21 continued. The hearing shall comply with the procedures set  
22 forth in subsection (2) of this section."

23 Section 9. Section 38-1222, R.C.M. 1947, is amended to  
24 read as follows:

25 "38-1222. ~~Other rights while in a residential facility~~

1 Right to habilitation. (1) Persons admitted to residential  
2 facilities shall have a right to habilitation, including  
3 medical treatment, education, and care, suited to their  
4 needs, regardless of age, degree of retardation, or  
5 handicapping condition. Each resident has a right to a  
6 habilitation program which will maximize his human abilities  
7 and enhance his ability to cope with his environment. Every  
8 residential facility shall recognize that each resident,  
9 regardless of ability or status, is entitled to develop and  
10 realize his fullest potential. The facility shall implement  
11 the principle of normalization so that each resident may  
12 live as normally as possible.

13 (2) Residents shall have a right to the least  
14 restrictive conditions necessary to achieve the purposes of  
15 habilitation. To this end, the facility shall make every  
16 attempt to move residents from:

- 17 (a) more to less structured living;  
18 (b) larger to smaller facilities;  
19 (c) larger to smaller living units;  
20 (d) group to individual residence;  
21 (e) segregated from the community to integrated into  
22 the community living;  
23 (f) dependent to independent living.  
24 (3) Within ~~thirty~~ (30) days of his admission to a  
25 residential facility, each resident shall have an evaluation



1 by appropriate specialists for programming purposes.

2 (4) Each resident shall have an individualized  
3 habilitation plan formulated by the facility. This plan  
4 shall be developed by appropriate professional persons and  
5 implemented as soon as possible but no later than ~~fourteen~~  
6 ~~(14)~~ days after the resident's admission to the facility.  
7 An interim program of habilitation, based on the  
8 preadmission evaluation conducted pursuant to this act,  
9 shall commence promptly upon the resident's admission. Each  
10 individualized habilitation plan shall contain:

11 (a) a statement of the nature of the specific  
12 limitations and specific needs of the resident;

13 (b) a description of intermediate and long-range  
14 habilitation goals with a projected timetable for their  
15 attainment;

16 (c) a statement of, and an explanation for, the plan  
17 of habilitation for achieving these intermediate and  
18 long-range goals;

19 (d) a statement of the least restrictive setting for  
20 habilitation necessary to achieve the habilitation goals of  
21 the resident;

22 (e) a specification of the professional persons and  
23 other staff members who are responsible for the particular  
24 resident's attaining these habilitation goals;

25 (f) criteria for release to less restrictive settings

1 for habilitation, including criteria for discharge and a  
2 projected date for discharge.

3 (5) As part of his habilitation plan, each resident  
4 shall have an individualized ~~post-institutionalization~~  
5 ~~postinstitutionalization~~ plan. This plan shall be developed  
6 by a professional person who shall begin preparation of such  
7 plan upon the resident's admission to the institution and  
8 shall complete such plan as soon as practicable. The  
9 parents or guardian or next of kin of the resident, the  
10 responsible person appointed by the court, if any, and the  
11 resident, if able to give informed consent, shall be  
12 consulted in the development of such plan and shall be  
13 informed of the content of such plan.

14 (6) In the interests of continuity of care, one  
15 professional person shall whenever possible be responsible  
16 for supervising the implementation of the habilitation plan,  
17 integrating the various aspects of the habilitation  
18 program, and recording the resident's progress as measured  
19 by objective indicators. This professional person shall  
20 also be responsible for ensuring that the resident is  
21 released when appropriate to a less restrictive habilitation  
22 setting.

23 (7) The habilitation plan shall be continuously  
24 reviewed by the professional person responsible for  
25 supervising the implementation of the plan and shall be

1 modified if necessary. In addition, ~~six~~(6) months after  
 2 admission and at least annually thereafter, each resident  
 3 shall receive a comprehensive psychological, social,  
 4 educational, and medical diagnosis and evaluation, and his  
 5 habilitation plan shall be reviewed by an interdisciplinary  
 6 team of no less than two ~~(2)~~ professional persons and such  
 7 resident care workers as are directly involved in his  
 8 habilitation and care. A habilitation plan shall be  
 9 reviewed monthly.

10 (8) Each resident discharged to the community shall  
 11 have a program of transitional habilitation assistance.

12 (9) The professional person in charge of the  
 13 residential facility shall report in writing to the parents  
 14 or guardian of the resident, or the responsible person, at  
 15 least every ~~six~~(6) months on the resident's educational,  
 16 vocational, and living skills progress and medical  
 17 condition. Such report shall also state any appropriate  
 18 habilitation program which has not been afforded to the  
 19 resident because of inadequate habilitation resources.

20 (10) The parents or guardian of each resident, or the  
 21 responsible person appointed by the court, shall promptly  
 22 upon the resident's admission receive a written copy of all  
 23 the above standards for adequate habilitation. Each  
 24 resident, if the resident is able to comprehend, shall  
 25 promptly upon his admission be orally informed in clear

1 language of the above standards and, where appropriate, be  
 2 provided with a written copy."

3 Section 10. Section 38-1302, R.C.M. 1947, is amended  
 4 to read as follows:

5 "38-1302. Definitions. As used in this act the  
 6 following definitions apply:

7 (1) "Board" means the mental disabilities board of  
 8 visitors created by this act.

9 (2) "Court" means ~~the~~ a district court of the state of  
 10 Montana.

11 (3) "Department" means the department of institutions  
 12 provided for in Title 82A, chapter 10.

13 (4) "Emergency situation" means a situation in which  
 14 any person is in imminent danger of death or serious bodily  
 15 harm from the activity of a person who appears to be  
 16 seriously mentally ill.

17 (5) "Mental disorder" means any organic, mental, or  
 18 emotional impairment which has substantial adverse effects  
 19 on an individual's cognitive or volitional functions.

20 (6) "Mental health facility" or "facility" means a  
 21 public hospital or a licensed private hospital or, a  
 22 community mental health center, or any mental health clinic  
 23 or treatment center approved by the department. No  
 24 correctional institution or facility, or jail, is a mental  
 25 health facility within the meaning of this act.

1 (7) "Next of kin" shall include, but need not be  
2 limited to, the spouse, parents, adult children, and adult  
3 brothers and sisters of a person.

4 (8) "Patient" means a person committed by the court to  
5 a ~~seventy-two (72) hour~~ 72-hour evaluation or treatment or  
6 for a longer period.

7 (9) "Peace officer" means any sheriff, deputy sheriff,  
8 marshal, policeman, or other peace officer.

9 (10) "Professional person" means:

10 (a) a medical doctor, or

11 (b) a person trained in the field of mental health and  
12 certified by the department of ~~institutions~~ in accordance  
13 with standards of professional licensing boards, federal  
14 regulations, and the joint commission on accreditation of  
15 hospitals.

16 (11) "Respondent" means a person alleged in a petition  
17 filed pursuant to this act to be seriously mentally ill.

18 (12) "Responsible person" means any person willing and  
19 able to assume responsibility for a seriously mentally ill  
20 person, or person alleged to be seriously mentally ill,  
21 including next of kin; the person's conservator or legal  
22 guardian, if any; representatives of a charitable or  
23 religious organization; or any other person appointed by  
24 the court to perform the functions of a "responsible person"  
25 set out in this act. Only one person shall at any one time

1 be the "responsible person" within the meaning of this act.  
2 In appointing a responsible person, the court shall consider  
3 the preference of the respondent. The court may, at any  
4 time for good cause shown, change its designation of the  
5 "responsible person".

6 (13) "Seriously mentally ill" means suffering from a  
7 mental disorder which has resulted in self-inflicted injury  
8 or injury to others, or the imminent threat thereof, or  
9 which has deprived the person afflicted of the ability to  
10 protect his life or health. No person may be involuntarily  
11 committed to a mental health facility ~~and~~ or detained for  
12 evaluation and treatment because he is an epileptic,  
13 mentally deficient, mentally retarded, senile, or suffering  
14 from a mental disorder unless the condition causes the  
15 person to be seriously mentally ill within the meaning of  
16 this act."

17 Section 11. Section 41-817, R.C.M. 1947, is amended to  
18 read as follows:

19 "41-817. Definitions. (1) "Severely handicapped  
20 person" means any individual:

21 (a) who has a physical or mental impairment which  
22 requires multiple services over an extended period of time  
23 and results from amputation, blindness, cancer, cerebral  
24 palsy, cystic fibrosis, deafness, heart disease, hemiplegia,  
25 respiratory or pulmonary dysfunction, mental retardation,

1 mental illness, multiple sclerosis, muscular dystrophy,  
2 neurological disorders (including stroke and epilepsy),  
3 paraplegia, quadriplegia, and other spinal cord conditions,  
4 renal failure, and any other disability, specified by the  
5 department in regulations it shall prescribe; and/or

6 (b) who, because of lack of social competence,  
7 mobility, experience, skills, training, or other successful  
8 characteristics, is in need of sheltered employment or work  
9 activity services in a protective setting.

10 (2) "Physical or mental disability" means a physical  
11 or mental condition which materially limits, contributes to  
12 limiting, or, if not corrected, will probably result in  
13 limiting an individual's activities or functioning. The term  
14 includes behavioral disorders characterized by deviant  
15 social behavior or impaired ability to carry out normal  
16 relationships with family and community which may result  
17 from vocational, educational, cultural, social,  
18 environmental, or other factors.

19 (3) "Vocational rehabilitation services" means goods  
20 or services provided handicapped persons to enable such  
21 persons to be fit for gainful occupation or to attain or  
22 maintain a maximum degree of self-support or self-care and  
23 includes every type of goods and services for which federal  
24 funds are available for vocational rehabilitation purposes,  
25 including, but not limited to, the establishment,

1 construction, development, operation, and maintenance of  
2 workshops and rehabilitation facilities.

3 (4) "Self-care" means a reasonable degree of  
4 restoration from dependency upon others for personal needs  
5 and care and includes but is not limited to ability to live  
6 in own home, rather than requiring nursing home care and  
7 care for self rather than requiring attendant care.

8 (5) "Department" means the department of social and  
9 rehabilitation services.

10 (6) "Sheltered workshop" means a charitable  
11 organization or institution conducted not for profit, but  
12 for the purpose of carrying out a recognized program of  
13 rehabilitation for handicapped workers, and/or providing  
14 such individuals with remunerative employment or other  
15 occupational rehabilitating activity of an educational or  
16 therapeutic nature.

17 (7) "Work activity center" means a physically  
18 separated department of a workshop having an identifiable  
19 program, separate supervision and records, and which is  
20 planned and designed exclusively to provide therapeutic  
21 activities for handicapped workers whose physical or mental  
22 impairment is so severe as to make their productive capacity  
23 inconsequential. Therapeutic activities include custodial  
24 activities (such as activities where the focus is on teaching  
25 the basic skills ~~of~~ of living), and any purposeful activity

1 so long as work or production is not the main purpose."

2 Section 12. Section 71-113, R.C.M. 1947, is amended to  
3 read as follows:

4 "71-113. Bond of contractor — duty of physician to  
5 examine and notify contractor. ~~Any~~ A person with whom ~~any~~ a  
6 ~~such~~ contract ~~for the maintenance or medical attendance of~~  
7 ~~the poor or indigent sick~~ is made must execute a bond to the  
8 state in a sum not less than ~~one thousand \$1,000 nor or~~ more  
9 than ~~five thousand dollars \$5,000~~, with two or more  
10 sureties, conditioned for the faithful performance of his  
11 contract, ~~said~~ The bond is to be approved by and filed with  
12 the chairman of the board. ~~It is the duty of the~~ The  
13 physician with whom ~~the~~ a contract for medical attendance is  
14 made ~~to examine shall~~ each week examine any person who is a  
15 charge upon the county, and if, after ~~such~~ the examination,  
16 he is satisfied that ~~such~~ the person is able to support and  
17 maintain himself, he must ~~so~~ notify the contractor having  
18 the person in charge, by leaving with the contractor a  
19 notice of the fact that ~~such~~ the person requires no further  
20 medical attendance, ~~and he shall~~ file a duplicate thereof  
21 notice with the clerk of the board. After the ~~servicing~~ of  
22 ~~said~~ physician serves the notice and ~~filing~~ files the  
23 duplicate ~~thereof~~ with the clerk, the person mentioned  
24 therein ceases to be a charge upon the county."

25 Section 13. Section 71-207, R.C.M. 1947, is amended to

1 read as follows:

2 "71-207. ~~Legal services~~ Attorney general to act as  
3 legal adviser to department. The attorney general of the  
4 state shall act as legal adviser to the state department,  
5 ~~and shall perform such legal services as may be required,~~  
6 ~~and he is hereby empowered to~~ may employ such other and  
7 additional counsel as may be necessary for this purpose, and  
8 ~~may~~ fix the compensation therefor, ~~provided, however, that~~  
9 ~~the~~ The total yearly sum ~~per annum~~ for the service shall may  
10 not exceed ~~twenty-four hundred (\$2,400.00) dollars~~, which  
11 compensation shall be paid out of state public welfare  
12 assistance funds."

13 Section 14. Section 71-210, R.C.M. 1947, is amended to  
14 read as follows:

15 "71-210. ~~Authority Powers and activities~~ duties of the  
16 state department. (1) ~~The state department has authority~~  
17 ~~over and administration or supervision of all the purposes~~  
18 ~~and operations as set forth under Title 71.~~ The state  
19 department shall:

20 (a) ~~Administer~~ administer or supervise all forms of  
21 public assistance, child protection, and child welfare,  
22 including the provision of medical care payments in behalf  
23 of recipients of public assistance;

24 (b) ~~Administer~~ administer or supervise all child  
25 welfare activities, including importation and exportation of

1 children; licensing and supervising of private and local  
 2 child-caring agencies; the care of dependent, neglected, and  
 3 delinquent children in foster family homes, especially  
 4 children placed for adoption or those of illegitimate birth;

5 (c) ~~Give~~ give consultant service to private  
 6 institutions providing care for the needy, indigent,  
 7 handicapped, or dependent adults;

8 (d) ~~Develop and~~ cooperate with other state agencies  
 9 and develop provisions for services to the blind, including  
 10 the prevention of blindness, the location of blind persons,  
 11 medical services for eye conditions, and vocational guidance  
 12 and training of the blind;

13 (e) ~~Provide~~ provide services in respect to  
 14 organization and supervise county departments of public  
 15 welfare and county boards of public welfare in the  
 16 administration of public ~~welfare~~ assistance functions, and  
 17 for efficiency and economy;

18 (f) ~~Assist~~ assist and cooperate with other state and  
 19 federal departments, bureaus, agencies, and institutions,  
 20 when so requested, by performing services in conformity with  
 21 ~~the purposes of this act, public assistance purposes; and~~

22 (g) ~~Administer~~ administer and supervise all federal  
 23 funds allocated to this state and all state funds  
 24 appropriated to ~~this the~~ state department for ~~the activities~~  
 25 ~~set forth in Title 74~~ public assistance activities. The

1 state department shall do all things necessary, in  
 2 conformity with federal and state law, for the proper  
 3 fulfillment of ~~the purposes set forth in Title 74~~ public  
 4 assistance purposes.

5 (2) The state department may:

6 (a) ~~Purchase~~ purchase, exchange, condemn, or receive  
 7 by gift, either real or personal property which is necessary  
 8 to carry out its public assistance functions ~~under Title 74~~.  
 9 Title to property obtained under this subsection shall be  
 10 taken in the name of the state of Montana, for the use and  
 11 benefit of the state department.

12 (b) ~~Contract~~ contract with the federal government to  
 13 carry out its public assistance functions ~~under Title 74~~.  
 14 The state department may do all things necessary in order to  
 15 avail itself of federal aid and assistance."

16 Section 15. Section 71-211, R.C.M. 1947, is amended to  
 17 read as follows:

18 "71-211. State department to act as agency of federal  
 19 government — assistance to ward Indians. (1) The state  
 20 department shall act as the agent of the federal government  
 21 in public ~~welfare~~ assistance matters of mutual concern in  
 22 conformity with this act and the ~~Federal~~ federal Social  
 23 Security Act, and in the administration of any federal funds  
 24 granted to the state to aid in the purposes and functions of  
 25 the state department.

1       (2) The counties shall not be required to reimburse  
 2 the state department for any portion of old-age assistance,  
 3 medical assistance, aid to needy dependent children, or aid  
 4 to needy blind, or aid to the totally disabled paid to ward  
 5 Indians or for any payment on behalf of any person in a  
 6 state-operated medical institution, ~~and further provided that~~  
 7 ~~the~~ The federal government may reimburse the state of  
 8 Montana in behalf of counties, providing general relief to  
 9 ward Indians, a sum in lieu of taxes which the counties  
 10 would collect if the lands of such ward Indians were not in  
 11 trust status. A "ward Indian" is hereby defined as an Indian  
 12 who is living on an Indian reservation set aside for tribal  
 13 use, or is a member of a tribe or nation accorded certain  
 14 rights and privileges by treaty or by federal statutes. If  
 15 and when the ~~Federal~~ federal Social Security Act is amended  
 16 to define a "ward Indian," such definition shall supersede  
 17 the foregoing definition."

18       Section 16. Section 71-212, R.C.M. 1947, is amended to  
 19 read as follows:

20       "71-212. State Power of state department in  
 21 administering state grants-in-aid. In administering or  
 22 supervising any state or federal funds appropriated or made  
 23 available to the state department for public ~~welfare~~  
 24 assistance purposes, the state department shall have the  
 25 authority to:

1       ~~(a) (1) Require~~ require as a condition for receiving  
 2 grants-in-aid that the county shall bear the proportion of  
 3 the total of local public assistance as is fixed by law  
 4 relating to such assistance.;

5       ~~(b) (2) Make~~ make use of all legal processes to enforce  
 6 the minimum standards prescribed by the state department  
 7 under laws providing for grants-in-aid, provided that such  
 8 standards shall not exceed in cost the amount derived from  
 9 levies established by state law; ~~and~~

10       ~~(c) (3) Require~~ require that each part of ~~this act~~ the  
 11 public assistance law shall be in effect in all counties of  
 12 the state."

13       Section 17. Section 71-213, R.C.M. 1947, is amended to  
 14 read as follows:

15       "71-213. County departments to be established. There  
 16 shall be established in each county of the state a county  
 17 department of public welfare which shall consist of a county  
 18 board of public welfare and such staff personnel as may be  
 19 necessary for the efficient performance of the public  
 20 welfare assistance activities of the county. ~~Provided,~~  
 21 ~~however,~~ if ~~if~~ conditions warrant and if two or more county  
 22 boards enter into an agreement, two or more counties may  
 23 combine into one administrative unit and use the same staff  
 24 personnel throughout the administrative unit."

25       Section 18. Section 71-214, R.C.M. 1947, is amended to

1 read as follows:

2 "71-214. County commissioners ex officio county  
3 welfare board — compensation. The board of county  
4 commissioners, ex officio, shall be the county welfare board  
5 and is hereby authorized to devote such additional time for  
6 public welfare assistance matters as may be found necessary.  
7 The members of the county welfare board shall receive the  
8 same compensation for their services and the same mileage  
9 when acting as the county board of public welfare as they  
10 receive when acting as the board of county commissioners and  
11 shall be limited as to meetings as now provided by law, and  
12 the compensation and mileage of the members of the board  
13 shall be paid from county funds. They may transact business  
14 as a board of county commissioners and as a county welfare  
15 board on the same day, and in such cases they shall be paid  
16 as a board of county commissioners, but ~~shall in no case~~ may  
17 not receive compensation for more than ~~one~~ 1 day's work for  
18 all services performed on the same calendar day."

19 Section 19. Section 71-216, R.C.S. 1947, is amended to  
20 read as follows:

21 "71-216. Powers and duties of the county board. The  
22 county board of public welfare ~~shall be~~ is responsible for  
23 establishing local policies and such rules ~~and regulations~~  
24 as are necessary to govern the county department and local  
25 administration of public ~~welfare~~ assistance activities

1 except that all such policies and rules ~~and regulations~~ must  
2 be in conformity with general policies and rules ~~and~~  
3 ~~regulations~~ established by the state department. The county  
4 board of public welfare shall review the determinations of  
5 eligibility and amount of payment to or on behalf of  
6 individuals made by the staff of the county department for  
7 conformity with the aforesaid rules ~~and regulations~~.  
8 Determinations not in conformity will be referred to the  
9 staff by the county welfare board for appropriate action as  
10 authorized by ~~said~~ the board."

11 Section 20. Section 71-217, R.C.S. 1947, is amended to  
12 read as follows:

13 "71-217. Staff personnel — how selected, paid, and  
14 controlled — dismissal. (1) Each county board shall select  
15 and appoint from a list of qualified persons furnished by  
16 the state department such staff personnel as are necessary.  
17 The staff personnel in each county shall consist of at least  
18 one qualified staff worker (or investigator) and such clerks  
19 and stenographers as may be decided necessary. If conditions  
20 warrant, the county board, with the approval of the state  
21 department, may appoint some fully qualified person listed  
22 by the state department as supervisor of its staff  
23 personnel. The staff personnel of each county department are  
24 directly responsible to the county board, but the state  
25 department ~~shall have the authority to~~ may supervise such



1 county employees in respect to the efficient and proper  
 2 performance of their duties. The county board of public  
 3 welfare ~~shall may~~ not dismiss any member of the staff  
 4 personnel without the approval of the state department, but  
 5 the state department ~~shall have the authority to may~~ request  
 6 the county board to dismiss any member of the staff  
 7 personnel for inefficiency, incompetence, or similar cause.

8 (2) Public assistance staff personnel attached to the  
 9 county board shall be paid from state public welfare  
 10 assistance funds, both their salaries and their travel  
 11 expenses, as provided for in sections 59-538, 59-539, and  
 12 59-801, when away from the county seat in the performance of  
 13 their duties, but the county board of public welfare shall  
 14 reimburse the state department, from county poor funds,  
 15 one-half of the payments so made to its public assistance  
 16 staff personnel, except that, under circumstances prescribed  
 17 by the state department, the reimbursement by the county  
 18 board of public welfare may be less than one-half. All other  
 19 administrative costs of the county department shall also be  
 20 paid from county poor funds.

21 (3) On or before the 20th day of the month following  
 22 the month for which the payments to the public assistance  
 23 staff personnel of the county were made, the state  
 24 department shall present to the county department of public  
 25 welfare a claim for the required reimbursements. The county

1 board shall make such reimbursements within ~~twenty (20)~~ days  
 2 after the presentation of the claim, and the state  
 3 department shall credit (add) all such reimbursements to its  
 4 account for administrative costs."

5 Section 21. Section 71-222, R.C.M. 1947, is amended to  
 6 read as follows:

7 "71-222. ~~Millage taxes to be levied~~  
 8 ~~expenditures budgets County to levy taxes, budget, and make~~  
 9 ~~expenditures for public assistance activities.~~ (1) The board  
 10 of county commissioners in each county shall levy ~~seventeen~~  
 11 ~~(17)~~ 13.5 mills for the county poor fund as provided by law,  
 12 or so much thereof as may be necessary. The board shall  
 13 budget and expend so much of the funds in the county poor  
 14 fund for all public assistance purposes ~~of this act~~ as will  
 15 enable the county welfare department to pay the general  
 16 relief activities of the county and to reimburse the state  
 17 department for the county's proportionate share of the  
 18 administrative costs of the county welfare department and of  
 19 all public assistance and its proportionate share of any  
 20 other ~~welfare~~ public assistance activity that may be carried  
 21 on jointly by the state and the county.

22 (2) The amounts set up in the budget for the  
 23 reimbursements to the state department shall be sufficient  
 24 to make all of these reimbursements in full. The budget  
 25 shall make separate provision for each one of these public

1 assistance activities, and proper accounts shall be  
2 established for the funds for all such activities.

3 (3) As soon as the preliminary budget provided for in  
4 ~~section~~ 16-1903 has been agreed upon, a copy thereof shall  
5 without delay be mailed to the state department, and at any  
6 time before the final adoption of the budget, the department  
7 shall make such recommendations with regard to changes in  
8 any part of the budget relating to the county poor fund as  
9 considered necessary in order to enable the county to  
10 discharge its obligations under the ~~Public Welfare Act~~  
11 public assistance laws.

12 (4) The state department shall promptly examine the  
13 preliminary budget in order to ascertain if the amounts  
14 provided for reimbursements to the state department are  
15 likely to be sufficient, and shall notify the county clerk  
16 of ~~his~~ its findings. The board shall make such changes in  
17 the amounts provided for reimbursements, if any are  
18 required, in order that the county will be able to make the  
19 reimbursements in full.

20 (5) The board of county commissioners may not make any  
21 transfer from the amounts budgeted for reimbursing the state  
22 department without having first obtained a statement in  
23 writing from the state department to the effect that the  
24 amount to be transferred will not be required during the  
25 fiscal year for the purposes for which the amounts were

1 provided in the budget.

2 (6) No part of the county poor fund, irrespective of  
3 the source of any part thereof, may be used directly or  
4 indirectly for the erection or improvement of any county  
5 building so long as the fund is needed for general relief  
6 expenditures by the county or is needed for paying the  
7 county's proportionate share of public assistance, or its  
8 proportionate share of any other ~~welfare~~ public assistance  
9 activity that may be carried on jointly by the state and the  
10 county. Expenditures for improvement of any county buildings  
11 used directly for care of the poor may be made out of any  
12 moneys in the county poor fund, whether such moneys are  
13 produced by ~~the seventeen (17) mill~~ 13.5 mill levy provided  
14 for in ~~paragraph one~~ subsection (1) of this section or from  
15 any additional levy authorized or to be authorized by law.  
16 Such expenditure shall be authorized only when any county  
17 building used for the care of the poor must be improved in  
18 order to meet legal standards required for such buildings by  
19 the department of health and environmental sciences, and  
20 when such expenditure has been approved by the state  
21 department."

22 Section 22. Section 71-226, R.C.M. 1947, is amended to  
23 read as follows:

24 "71-226. ~~Fraudulent acts~~ Fraudulent obtainment of  
25 public assistance a misdemeanor. Whoever knowingly obtains,

1 or attempts to obtain, or aids, or abets any person to  
 2 obtain, by means of a willfully false statement or  
 3 representation or by impersonation, or other fraudulent  
 4 device, public assistance to which he is not entitled, or  
 5 assistance greater than that to which he is justly  
 6 entitled, or whoever aids or abets in buying or in any way  
 7 disposing of the property, either personal or real, of a  
 8 recipient of assistance without the consent of the county  
 9 department and with the intent to defeat the purposes of  
 10 this act, shall be is guilty of a misdemeanor. In assessing  
 11 the penalty, the court shall take into consideration, among  
 12 other factors, the amount of money fraudulently received."

13 Section 23. Section 71-230, R.C.M. 1947, is amended to  
 14 read as follows:

15 "71-230. Method of issuing assistance grants —  
 16 reimbursement. ~~(a)(1)~~ Checks in payment of public  
 17 assistance, ~~as provided for in each part of this act,~~ with  
 18 the exception of general relief, shall be issued by the  
 19 state department upon approved certificates of award and  
 20 reports of changes of such eligible grantees as are  
 21 forwarded by the county department to the state department,  
 22 and all such checks will be mailed to the individual  
 23 recipient or the appropriate vendor. The checks in payment  
 24 of public assistance shall be issued in the full approved  
 25 amount for each eligible approved grantee, and the original

1 monthly payment shall be from the state public ~~welfare~~  
 2 assistance accounts. All public assistance checks shall  
 3 represent cash on demand at full par value to the recipient  
 4 and vendor.

5 ~~(b)(2)~~ Whenever the state department, acting pursuant  
 6 to standards established by ~~said the~~ department, shall  
 7 ~~determine~~ determines that any otherwise eligible recipient  
 8 of ~~old-age~~ old-age assistance, aid to the needy blind, or  
 9 aid to the permanently and totally disabled, has, by reason  
 10 of any physical or mental condition, such inability to  
 11 manage funds that making payments to him would be contrary  
 12 to his welfare, the department may, under standards  
 13 established under the state plan, make the public assistance  
 14 payment on behalf of such recipient to another person found  
 15 by the department to be interested in or concerned with the  
 16 welfare of such needy individual. Before such payments may  
 17 be paid to such other person, such person shall give a bond,  
 18 with adequate corporate surety and in form to be approved by  
 19 the state department, running in favor of the needy  
 20 individual and the state of Montana, conditioned upon the  
 21 faithful use by such other person of the funds for the  
 22 welfare of the ~~said~~ needy individual. Such bond shall be in  
 23 an amount equal to six ~~(6)~~ times the amount of the monthly  
 24 payment involved.

25 ~~(c)(3)~~ On or before the ~~twentieth~~ 20th of each month

1 the state department ~~will~~ shall present a claim for  
 2 reimbursement to each county department for its  
 3 proportionate share of public assistance granted in the  
 4 county to recipients during the month and for vendor medical  
 5 payments made on behalf of recipients in the previous month.  
 6 The county department ~~must~~ shall make ~~such~~ the reimbursement  
 7 to the state department within ~~twenty~~ (20) days after ~~such~~  
 8 the claim is presented."

9 Section 24. Section 71-233.1, R.C.M. 1947, is amended  
 10 to read as follows:

11 "71-233.1. Investigations ~~and enforcement actions~~ by  
 12 department of revenue ~~enforcement actions~~. When requested  
 13 by the department of social and rehabilitation services, the  
 14 department of revenue shall ~~have the power and duty to:~~

15 ~~(a)~~ (1) investigate matters relating to public welfare  
 16 assistance and vendor payments, including but not limited to  
 17 the claim for an acceptance of welfare public assistance  
 18 benefits by welfare public assistance recipients, and the  
 19 receipt and disbursement of welfare public assistance funds by  
 20 state, county, or other governmental agencies;

21 ~~(b)~~ (2) institute civil or criminal actions in the  
 22 appropriate courts to enforce the welfare public assistance  
 23 laws and violations thereof."

24 Section 25. Section 71-233.3, R.C.M. 1947, is amended  
 25 to read as follows:

1 "71-233.3. Information made available to department of  
 2 revenue. (1) The department of social and rehabilitation  
 3 services and its local units shall make available to the  
 4 department of revenue information contained in the ~~welfare~~  
 5 public assistance files pertinent to the investigations and  
 6 judicial actions described in ~~section 4~~ [71-233.1].

7 (2) Every other state, county, or other governmental  
 8 agency shall make available to the agents or attorneys of  
 9 the department of revenue, all records, files, memoranda,  
 10 forms, or other papers relating to public welfare assistance  
 11 matters, including income tax returns filed with the  
 12 department of revenue."

13 Section 26. Section 71-302.2, R.C.M. 1947, is amended  
 14 to read as follows:

15 "71-302.2. Residency requirements. (1) Any person  
 16 otherwise qualified who makes his home in ~~the state of~~  
 17 Montana with the intent to become a resident shall be  
 18 eligible for general relief. Upon the filing of his  
 19 application in the county of residence, his a qualified  
 20 applicant's general relief assistance shall be paid entirely  
 21 from state funds until he has resided for ~~one~~ (1) continuous  
 22 year in ~~the state of~~ Montana, at which time he shall become  
 23 a financial responsibility of the county in which he resides  
 24 at the expiration of the ~~one~~ (1) year 1-year period. A  
 25 person who leaves ~~the state of~~ Montana with the intent to

1 reside in another state, and later returns to reside in the  
 2 ~~state of Montana, shall be deemed~~ is considered a new  
 3 resident for the purposes of this act. If a recipient moves  
 4 from his original county of residence to reside in another  
 5 county, he shall continue to be a financial responsibility  
 6 of the original county of residence for ~~one (1)~~  
 7 the date of his change of residence. If during this ~~one (1)~~  
 8 year 1-year period, the individual resides in several  
 9 counties, he shall become a financial responsibility of the  
 10 county in which he resides at the expiration of the ~~one (1)~~  
 11 year 1-year period. County medical assistance under ~~section~~  
 12 71-308 shall not be entitled to be paid from state funds.

13 (2) If a person is absent from the state voluntarily,  
 14 he ~~shall be~~ is ineligible for general relief in ~~the state of~~  
 15 Montana. Aliens found to be illegally within the United  
 16 States ~~shall are~~ not be eligible for relief from state  
 17 funds.

18 (3) Recipients of public assistance who become wards  
 19 or patients in a licensed nursing home or hospital, foster  
 20 home, or a private charitable institution shall have the  
 21 county share of financial participation paid entirely from  
 22 state funds for ~~one (1)~~ year from the original date of  
 23 entrustment or the original date of state residency,  
 24 whichever is earlier. At the expiration of such period, the  
 25 appropriate county, as defined by the following guidelines,

1 shall become financially responsible to the extent of its  
 2 legally required share of participation. The county in which  
 3 commitment of an adult is initiated ~~shall be deemed~~ is  
 4 considered the county of financial responsibility except  
 5 where court decree declares the residency to be otherwise.  
 6 ~~Where~~ When an adult is transferred from a facility or  
 7 institution to one of the above-enumerated facilities, the  
 8 county which initiated the original commitment ~~shall be~~  
 9 ~~deemed~~ is considered the county of financial responsibility  
 10 except in the case of an adult transfer from an out-of-state  
 11 institution, in which case the county in which the facility  
 12 is located ~~shall be deemed~~ is considered the county of  
 13 financial responsibility. In all cases where a minor patient  
 14 or ward is involved, the county of financial responsibility  
 15 ~~shall be~~ is the county in which the parent or guardian  
 16 resides. ~~Where~~ If the custody of a minor is entrusted to a  
 17 state agency, the agency ~~shall have the power to~~ may make a  
 18 reasonable declaration of the county residency of its ward  
 19 using applicable guidelines enumerated in this section. A  
 20 person who reaches majority in an institution, ~~shall~~ upon  
 21 release and restoration to competency, ~~have the power to~~ may  
 22 determine his own county residency. Such person shall  
 23 continue to be a financial responsibility of the county  
 24 which initiated the original commitment for ~~one (1)~~ year  
 25 from the date of release, at which time he shall become a

1 financial responsibility of his new county of residence.

2 (4) Nonresidents or interstate transients may receive  
3 temporary relief from county funds in cases of extreme  
4 necessity and destitution until they ~~may be~~ are returned at  
5 state expense to their state of residence or origin. Medical  
6 expenses arising from accidental injury to interstate  
7 transients shall be paid from county funds and reimbursed by  
8 the state upon submission of a proper claim.

9 (5) "Interstate transient", as the term is used in  
10 this act, is defined as an individual who has signed a  
11 declaration that he is unable to pay for his own necessities  
12 or transportation to return to his state of residence or  
13 origin and is en route to a point outside of this state,  
14 being unable, due to unexpected distress, to reach his  
15 destination."

16 Section 27. Section 71-303, R.C.M. 1947, is amended to  
17 read as follows:

18 "71-303. Eligibility for general relief -- ~~based on~~  
19 investigation of resources. An applicant for general relief  
20 assistance, including medical care and hospitalization,  
21 shall be eligible to receive assistance only after  
22 investigation by the county department reveals that the  
23 income and resources are insufficient to provide the  
24 necessities of life, ~~and assistance.~~ Assistance shall be  
25 provided to meet a minimum subsistence compatible with

1 decency and health."

2 Section 28. Section 71-305, R.C.M. 1947, is amended to  
3 read as follows:

4 "71-305. ~~Equal Right of equal~~ consideration. Persons  
5 eligible for and in need of general relief ~~shall be,~~ whether  
6 employable or unemployable, ~~shall be~~ given equal  
7 consideration for public assistance as those persons  
8 eligible for assistance under other parts of this act."

9 Section 29. Section 71-306, R.C.M. 1947, is amended to  
10 read as follows:

11 "~~71-306. Right of hearing. Grievances concerning~~  
12 general relief assistance. Individuals or committees with  
13 complaints or grievances concerning general relief  
14 assistance may present their complaints or grievances to  
15 either the county board or the state department, and due  
16 consideration shall be given all proven facts presented by  
17 the individuals or committees. The county board or the state  
18 department shall take action to relieve situations brought  
19 to their attention under this section to the extent of funds  
20 available."

21 Section 30. Section 71-307, R.C.M. 1947, is amended to  
22 read as follows:

23 "71-307. Relief by check or disbursing orders. (1) All  
24 general relief disbursements by county departments of public  
25 welfare shall be by warrant or check. However, if the county

1 welfare department finds that a recipient is in the habit of  
 2 dissipating general relief allowances instead of using them  
 3 for the purposes intended, or that for any other reason it  
 4 is better for the recipient and his family to receive the  
 5 allowance through disbursing orders, then disbursing orders  
 6 shall be used instead of cash payments, ~~but all~~. All such  
 7 disbursing orders must be written in such form that the  
 8 goods and merchandise to be provided may be furnished by any  
 9 regular dealer in such goods and merchandise within the  
 10 county. A recipient of general relief must register for  
 11 employment with the ~~State Employment Service~~ state  
 12 employment service and must accept available employment  
 13 within his or her capability. Refusal to accept such  
 14 employment will render the recipient ineligible for further  
 15 general relief assistance. If the county has work available  
 16 which a recipient of general relief is capable of  
 17 performing, then the county department of public welfare may  
 18 require the recipient to perform the work at the prevailing  
 19 rate of wages paid by that county for similar work, to be  
 20 paid from the county poor fund in place of granting him  
 21 general relief.

22 (2) The county department of public welfare shall  
 23 provide coverage under the ~~Workmen's~~ Workers' Compensation  
 24 Act for those recipients of general relief working under the  
 25 provisions hereof, and may enter into such agreements with

1 the division of ~~workmen's~~ workers' compensation of the  
 2 department of labor and industry as may be necessary to  
 3 carry out the provisions of this section.

4 (3) Any recipient of general relief who is subject to  
 5 the provisions of this section and who without cause refuses  
 6 to perform work assigned to him as herein provided, shall  
 7 lose his eligibility for general relief for ~~one~~ ~~(1)~~ week for  
 8 each refusal.

9 Section 31. Section 71-308, R.C.M. 1947, is amended to  
 10 read as follows:

11 "71-308. ~~Medical County to provide medical aid and~~  
 12 ~~hospitalization to indigent. (1) Medical~~ Except as provided  
 13 in other parts of this act, medical aid and hospitalization  
 14 for nonresidents within the county and county residents  
 15 unable to provide such necessities for themselves are the  
 16 legal and financial duty and responsibility of the board of  
 17 county commissioners, ~~except as otherwise provided in other~~  
 18 ~~parts of this act,~~ payable from the county poor fund. The  
 19 board of county commissioners shall make provisions for  
 20 competent and skilled medical or surgical services as  
 21 approved by the department of health and environmental  
 22 sciences or the state medical association, or in the case of  
 23 osteopathic practitioners by the state osteopathic  
 24 association or chiropractors by the state chiropractic  
 25 association, or optometrical services as approved by the

1 Montana optometric association and dental services as  
2 approved by the dental association. "Medical" or "medicine"  
3 as used in this ~~act~~ section refers to the healing art as  
4 practiced by licensed practitioners.

5 (2) The board, in arranging for medical care for those  
6 unable to provide it for themselves, may have the care  
7 provided by the physicians appointed by the board who shall  
8 be known as county physicians or deputy county physicians,  
9 and may fix a rate of compensation for the furnishing of the  
10 medical attendance.

11 (3) The board of county commissioners shall make  
12 suitable arrangements to provide respectable burial for  
13 nonresidents within the county and county residents for whom  
14 such expenses are not otherwise available.

15 (4) The department of social and rehabilitation  
16 services may promulgate rules to determine under what  
17 circumstances persons in the county are unable to provide  
18 medical aid and hospitalization for themselves, including  
19 the power to define the term "medically needy." ~~Provided,~~  
20 ~~however, such~~ Such definition may not allow payment by a  
21 county for general assistance—medical for persons whose  
22 income exceeds ~~three hundred percent (300%)~~ of the  
23 limitation for obtaining regular county general relief  
24 assistance.

25 (5) In any case where the county or state pays medical

1 expenses or hospitalization for an individual, the county or  
2 state is subrogated to the claims of the physician or  
3 hospital to the extent of payment."

4 Section 32. Section 71-311, R.C.M. 1947, is amended to  
5 read as follows:

6 "71-311. Grants from state funds to counties. (1) If  
7 the whole of a ~~six (6) mill~~ the 3.5-mill levy together with  
8 ~~the whole of the per capita tax~~ authorized by said ~~section~~  
9 71-106, and the income to the county poor fund from all  
10 other sources ~~shall prove~~ is inadequate to pay for the  
11 general relief in the county actually necessary and to meet  
12 the county's proportionate share of public assistance and  
13 its proportionate share of any other ~~welfare~~ public  
14 assistance activity that may be carried on jointly by the  
15 state and the county, and if warrants upon the county poor  
16 fund can no longer lawfully be issued to meet these charges,  
17 and if the board of county commissioners is unable to  
18 declare an emergency for the purpose of providing additional  
19 funds or to provide additional funds from any other source,  
20 and if the county has in all respects expended the county  
21 poor fund only for lawful purposes, and if all of these  
22 conditions ~~actually~~ exist in any county of the state, then  
23 the state department shall, ~~in so far~~ insofar as it has  
24 funds available, come to the assistance of such county, in  
25 the following manner:



1       (2) When the county in question has submitted proof to  
 2 the state department, through such reports as it may require  
 3 and through other evidence that may be deemed considered  
 4 necessary, that these conditions exist, then the state  
 5 department ~~may authorize the state department~~ is authorized  
 6 to issue a check to the county treasurer of the county for  
 7 general relief purposes, and the county department of public  
 8 welfare shall make the disbursements of these state funds  
 9 for general relief purposes within the county. These  
 10 grants-in-aid from the state department may be used for any  
 11 relief activity lawfully conducted by the county, including  
 12 medical aid, hospitalization, and institutional care; but no  
 13 part thereof may be used, directly or indirectly, to pay for  
 14 the erection or improvement of any county building or for  
 15 furniture, fixtures, appliances, or equipment for any such  
 16 building.

17       (3) Immediately upon receiving notice that such  
 18 grant-in-aid has been made by the state department, ~~it shall~~  
 19 ~~be the duty of~~ the board of county commissioners ~~to shall~~  
 20 adopt an emergency budget in accordance with the provisions  
 21 of ~~section~~ 16-1907 but ~~without being~~ are not required to  
 22 publish any notice of intention to adopt such emergency  
 23 budget or ~~to~~ hold a hearing thereon. This emergency budget  
 24 shall appropriate the whole amount of the general relief  
 25 grant from the state department for the various classes of

1 expenditures from the poor fund for which the grant-in-aid  
 2 was made by the state department. The money received through  
 3 such general relief grant from the state department shall be  
 4 placed in a special poor fund account kept separate and  
 5 distinct from the poor fund accounts arising under the  
 6 original poor fund budget, and all expenditures from this  
 7 special poor fund account shall be made by a separate series  
 8 of warrants or checks."

9       Section 33. Section 71-314, R.C.B. 1947, is amended to  
 10 read as follows:

11       "71-314. ~~Granting of assistance~~ Amount of general  
 12 relief assistance to be determined by county board. The  
 13 amount of general relief assistance granted any person or  
 14 family shall be determined by the county board of public  
 15 welfare according to the rules ~~and regulations~~ and standards  
 16 of assistance established by the state department."

17       Section 34. Section 71-501, R.C.B. 1947, is amended to  
 18 read as follows:

19       "71-501. "Dependent child" defined. (1) (a). The term  
 20 "dependent child", for ~~welfare~~ public assistance purposes,  
 21 means:

22       ~~(a) (i)~~ a child under the age of ~~eighteen~~ ~~(18)~~; or  
 23       ~~(b) (ii)~~ a person under the age of ~~twenty-one~~ ~~(21)~~ who  
 24 is a student under the regulations prescribed by the state  
 25 department.

1 ~~(b) Such The children child (A(a)(i) and or B (a)(ii)~~  
 2 above) must be deprived of parental support or care by  
 3 reason of the death, continued absence from the home,  
 4 continued unemployment, or physical or mental incapacity of  
 5 a parent, and ~~who is living~~ he living with his father,  
 6 mother, grandfather, grandmother, brother, sister,  
 7 stepfather, stepmother, stepbrother, stepsister, uncle,  
 8 aunt, nephew, niece, or first cousin, in a place of  
 9 residence maintained by one or more of such relatives as his  
 10 or their own home.

11 (2) Aid to dependent children may not be denied to or  
 12 for the care of children who would otherwise be entitled to  
 13 such aid under the laws of this state by the fact that the  
 14 child is living in the home of his ~~ex-his~~ father, who is, in  
 15 the opinion of the county board of public welfare of the  
 16 appropriate county, either unemployable or who is honestly  
 17 and responsibly seeking proper employment and is unable to  
 18 find such employment ~~or~~ or by the fact that the child is  
 19 living in the home of a head of a household who is, at the  
 20 time, receiving job training under the laws of this state;  
 21 nor ~~shall~~ may the benefits which would otherwise accrue to  
 22 the child for aid to dependent children under the laws of  
 23 the state be reduced by reason of any such cause.

24 (3) Primary factors in determining whether a father is  
 25 honestly and responsibly seeking employment include his

1 willingness to register for employment with the department  
 2 of labor and industry, if that department has a  
 3 representative in his county of residence, and his  
 4 willingness to accept employment in which he is able to  
 5 engage which will increase his ability to maintain himself  
 6 and his family.

7 (4) ~~The state department of social and rehabilitation~~  
 8 ~~services~~ may establish additional criteria for determining  
 9 whether a father is honestly and responsibly seeking  
 10 employment."

11 Section 35. Section 71-509, R.C.M. 1947, is amended to  
 12 read as follows:

13 "71-509. Periodic reconsideration and changes in  
 14 amount of assistance — appointment of guardian or payment  
 15 to another person. (1) All assistance grants made under this  
 16 chapter shall be reconsidered by the county department as  
 17 frequently as may be required by the rules of the state  
 18 department. After such further investigation as the county  
 19 department may ~~deem~~ consider necessary or the state  
 20 department may require, the amount of assistance may be  
 21 changed or assistance may be entirely withdrawn if the state  
 22 or county departments find that the child's circumstances  
 23 have altered sufficiently to warrant such action, ~~provided,~~  
 24 ~~however, that if~~ If the county department, after  
 25 investigation, finds that any recipient is not utilizing the

1 grant adequately for the needs of the child or children, ~~or~~  
 2 is dissipating such grant, or refuses or fails to accept  
 3 employment or training, and payments made to him would not  
 4 be used in the best interests of the child or children, the  
 5 county department may request the county attorney to file a  
 6 petition in the district court for the appointment of such  
 7 recipient as guardian of the assistance grant in behalf of  
 8 the child or children. Such petition shall set forth the  
 9 facts warranting such appointment. Notice of the hearing on  
 10 such petition shall be served upon the recipient and the  
 11 county department not less than ~~five~~ (5) days before the  
 12 date set for such hearing; such petition may be filed with  
 13 the clerk of the district court and all process issued and  
 14 served without payment of costs. If upon the hearing of such  
 15 petition the court is satisfied that it is for the best  
 16 interests of the child or children, and all parties  
 17 concerned, that such guardian be appointed, he shall order  
 18 such appointment, and may require such guardian to render to  
 19 the court a detailed itemized account of expenditures of  
 20 such assistance payments at such times as the court ~~may deem~~  
 21 considers advisable.

22 (2) It is the intention of this ~~act~~ section that the  
 23 guardianship herein provided for shall be a special and  
 24 limited guardianship solely for the purpose of safeguarding  
 25 the assistance grants made to dependent children. Such

1 guardianship shall terminate upon the termination of such  
 2 assistance grant, or sooner on order of the court, upon good  
 3 cause shown. In lieu of ~~said~~ guardianship proceedings,  
 4 payments may be made in behalf of the child or children to  
 5 another person found by the county department to be  
 6 interested in or concerned with the welfare of such needy  
 7 child or children in accordance with the rules and  
 8 ~~regulations~~ established by the state department. Before such  
 9 payments may be paid to such other person, such person shall  
 10 give a bond, with adequate corporate surety, and in form to  
 11 be approved by the state department, running in favor of the  
 12 needy individual and the state of Montana, conditioned upon  
 13 the faithful use by such other person of the funds for the  
 14 welfare of the needy individual. Such bond shall be in an  
 15 amount equal to six times the amount of the monthly payment  
 16 involved.

17 (3) ~~Providing however, when~~ When federal law or  
 18 regulations ~~permit that~~ require, any amount ~~in a sum not~~  
 19 ~~exceeding one hundred dollars (\$100.00) in any one~~ (1)  
 20 ~~calendar year~~ received by an enrolled member of a recognized  
 21 Indian tribe as per capita payments or a share in the  
 22 profits and receipts from tribal lands and interests or  
 23 tribal enterprises ~~shall~~ may not be used to decrease the  
 24 amount of assistance received under this act. ~~Before such~~  
 25 ~~payments may be paid to such other person, such person shall~~

1 ~~give a bond, with adequate corporate surety and in form to~~  
 2 ~~be approved by the state department, running in favor of the~~  
 3 ~~needy individual and the state of Montana, conditioned upon~~  
 4 ~~the faithful use by such other person of the funds for the~~  
 5 ~~welfare of the said needy individual. Such bond shall be in~~  
 6 ~~an amount equal to six (6) times the amount of the monthly~~  
 7 ~~payment involved."~~

8 Section 36. Section 71-710, R.C.M. 1947, is amended to  
 9 read as follows:

10 "71-710. Child rehabilitation. The state department  
 11 shall:

12 ~~(a)(1) Enforce enforce~~ all laws pertaining to children  
 13 and take the initiative in all matters involving the  
 14 interest of illegitimate, dependent, neglected, and  
 15 delinquent children where adequate provision therefor has  
 16 not been made by law; ~~and to~~

17 ~~(2)~~ use funds available for cases where special  
 18 medical or material assistance is necessary to rehabilitate  
 19 subnormal or physically handicapped children and where it is  
 20 not otherwise provided for by law; ~~and co-operate~~

21 ~~(3) cooperate~~ for the purposes hereof with all  
 22 reputable ~~child helping~~ child helping and ~~child placing~~  
 23 child placing agencies; ~~and~~

24 ~~(b)(4) Inspect inspect,~~ license, and supervise public  
 25 and private infants' homes, ~~and child caring~~ child caring

1 and ~~child placing~~ child placing institutions and agencies."

2 Section 37. Section 71-901, R.C.M. 1947, is amended to  
 3 read as follows:

4 "71-901. ~~Receipt of funds~~ State treasurer to receive  
 5 funds. The treasurer of the state of Montana is hereby  
 6 designated as the appropriate fiscal officer of the state to  
 7 receive federal funds. All money for public assistance  
 8 purposes appropriated by the legislature ~~for public welfare~~  
 9 ~~purposes,~~ all money received from the United States  
 10 government ~~for public welfare purposes,~~ and all money or  
 11 received from any other source ~~for the purposes set forth in~~  
 12 ~~the Public Welfare Act~~ shall be paid into the state treasury  
 13 to the credit of the state department."

14 Section 38. Section 71-1401, R.C.M. 1947, is amended  
 15 to read as follows:

16 "71-1401. Definitions. As used in this act the  
 17 following definitions apply:

18 (1) "Vocational rehabilitation" and "vocational  
 19 rehabilitation services" mean any services, provided  
 20 directly or through public or private instrumentalities,  
 21 found by the state department ~~of social and rehabilitation~~  
 22 ~~services~~ to be necessary to compensate a blind individual  
 23 for his employment handicap, and to enable him to engage in  
 24 a remunerative occupation including, but not limited to,  
 25 medical and vocational diagnosis, vocational guidance,

1 counseling and placement, rehabilitation training, physical  
2 restoration, transportation, occupational and business  
3 licenses, tools, equipment, initial stocks and supplies,  
4 including livestock, capital advances, maintenance, and  
5 training books and materials.

6 (2) "Rehabilitation services" means any services,  
7 provided directly or through public or private  
8 instrumentalities, found by the state department of ~~social~~  
9 ~~and rehabilitation services~~ to be necessary to compensate a  
10 blind individual for his employment handicap or to enable  
11 him to achieve the maximum degree of self-care and to engage  
12 in productive tasks.

13 (3) "Rehabilitation training" means all necessary  
14 training provided to a blind individual to compensate for  
15 his employment handicap, including, but not limited to,  
16 manual, pre-conditioning prevocational, and supplementary  
17 training and training provided for the purpose of achieving  
18 broader or more remunerative skills and capacities.

19 (4) "Physical restoration" means any medical,  
20 surgical, or therapeutic treatment necessary to correct or  
21 substantially reduce a blind individual's employment  
22 handicap within a reasonable length of time, including, but  
23 not limited to, medical, psychiatric, dental, and surgical  
24 treatment, nursing services, hospital care, convalescent  
25 home care, drugs, medical and surgical supplies, and

1 prosthetic appliances, but excluding curative treatment for  
2 acute or transitory conditions.

3 (5) "Prosthetic appliance" means an artificial device  
4 necessary to support or take the place of a part of the body  
5 or to increase the acuity of a sense organ.

6 (6) "Occupational licenses" means a license, permit,  
7 or other written authority required by any governmental unit  
8 to be obtained in order to engage in an occupation.

9 (7) "Business licenses" means any license, permit, or  
10 other written authority required by any governmental unit to  
11 be obtained in order to engage in a business.

12 (8) "Maintenance" means money payments not exceeding  
13 the estimated cost of subsistence during the provision of  
14 vocational rehabilitation and rehabilitation services.

15 (9) "Blind individual" means an individual whose  
16 central visual acuity does not exceed 20/200 in the better  
17 eye with correcting lenses, or whose visual acuity is  
18 greater than 20/200 but is accompanied by a limitation in  
19 the fields of vision such that the widest diameter of the  
20 visual field subtends an angle no greater than 20 degrees,  
21 or who has other eye conditions which render vision equally  
22 defective, or who has an eye condition which will cause  
23 blindness."

24 Section 39. Section 71-1516, R.C.M. 1947, is amended  
25 to read as follows:

1 "71-1516. Eligibility requirements ~~for medical~~  
2 ~~assistance~~. Medical assistance shall be granted in behalf of  
3 all persons:

4 (1) who reside in the state of Montana, including  
5 residents temporarily absent from the state; and

6 (2) who meet any of the following requirements:

7 ~~(1)(a)~~ who receive all or part of their income from  
8 the ~~federally-aided~~ ~~federally-aided~~ public assistance  
9 programs: old-age assistance, aid to the blind, aid to  
10 dependent children, and aid to the permanently and totally  
11 disabled;

12 ~~(2)(b)~~ All persons, who upon application, would be  
13 eligible for financial assistance under any one of the  
14 ~~federally-aided~~ ~~federally-aided~~ programs referred to above;

15 ~~(3)(c)~~ All persons who would be entitled to financial  
16 assistance under one of the ~~federally-aided~~ ~~federally-aided~~  
17 categories except that they do not meet the durational  
18 residence requirements or relative responsibility  
19 requirements of any of the public assistance programs above  
20 enumerated;

21 ~~(4)(d)~~ Persons are in medical institutions ~~who, and~~ if  
22 they were no longer in such institution, would be eligible  
23 for financial assistance under one of the above programs;

24 ~~(5)(e)~~ All children are under ~~twenty-one who~~ 21 years  
25 of age and meet the conditions of eligibility in the state's

1 plan for aid to dependent children, other than with respect  
2 to school attendance;

3 ~~(6)(f)~~ All children are under ~~twenty-one who are~~ 21  
4 years of age and in foster care under the supervision of the  
5 state;

6 ~~(7)(g)~~ All persons whose have income is less than ~~one~~  
7 ~~hundred-thirty-three and one-third per cent~~ (133 1/3%) of  
8 the amounts specified as maximum income levels for ~~federally~~  
9 ~~aided~~ ~~federally-aided~~ categories of assistance;

10 ~~(8)(h)~~ All ~~medically-needy~~ children are under  
11 ~~twenty-one~~ (21) years of age and medically-needy, as defined  
12 by the state department of social and rehabilitation  
13 services; or.

14 ~~(9)(i)~~ All children are under ~~twenty-one~~ (21) years of  
15 age, who were in foster care under the supervision of the  
16 state, and who have been adopted as "hard-to-place"  
17 children."

18 Section 40. Section 71-1903, R.C.M. 1947, is amended  
19 to read as follows:

20 "71-1903. Application for protective services —  
21 ~~contents department as guardian or trustee decision as to~~  
22 ~~eligibility~~. (1) Protective services may be provided on a  
23 voluntary basis for any developmentally disabled person who  
24 requests them for himself or at the request of any  
25 interested person, when the department determines that such

1 person is a developmentally disabled person who would  
 2 benefit from services provided in this act, and that the  
 3 department is currently able to supply services to such  
 4 person. A parent may name the department as guardian of the  
 5 ~~mentally~~ developmentally disabled person in his will. A  
 6 parent may also name the department as guardian or trustee  
 7 of the ~~mentally~~ developmentally disabled person, to assume  
 8 such duties during the ~~parents~~ parents' lifetime. Voluntary  
 9 services may be discontinued upon the written request of the  
 10 ward or any personal representative of the ward.

11 (2) Application for protective services under this act  
 12 shall be made to the designated field staff of the  
 13 department or other designated state agency in the county in  
 14 which the applicant resides, and the application shall be  
 15 transmitted promptly to the department. Such application  
 16 shall be in writing or reduced to writing in the manner and  
 17 upon the form prescribed by the department and shall contain  
 18 the name, age, and residence of the applicant and such other  
 19 information as may be required by the rules ~~and regulations~~  
 20 of the department. The rules ~~and regulations~~ of the  
 21 department shall simplify the application process in order  
 22 that protective services may be furnished as soon as  
 23 possible. Adequate safeguards shall be established by the  
 24 department to insure that only eligible persons receive  
 25 protective services under this act. The department shall

1 notify the applicant and the designated field staff of the  
 2 department or other designated state agency in writing of  
 3 its decision concerning eligibility for protective  
 4 services."

5 Section 41. Section 71-2304, R.C.M. 1947, is amended  
 6 to read as follows:

7 "71-2304. Definitions. As used in this act the  
 8 following definitions apply:

9 (1) "Department" means the department of social and  
 10 rehabilitation services.

11 (2) "Adult foster family care homes" means private  
 12 homes owned by one or more persons ~~over the age of eighteen~~  
 13 ~~(18)~~ years of age or older which offer light personal care  
 14 or custodial care to aged persons or disabled adults who are  
 15 not related to the owner by blood or marriage.

16 (3) "Aged person" means a person defined by the  
 17 department as aged.

18 (4) "Disabled adult" means a person ~~over the age of~~  
 19 ~~eighteen~~ ~~(18)~~ years of age or older defined by the  
 20 department as disabled.

21 (5) "Light personal care" means assisting the aged  
 22 person or disabled adult in accomplishing such personal  
 23 hygiene tasks as bathing, dressing, hair grooming, and  
 24 supervision of prescriptive medicine administration but not  
 25 administration of prescriptive medications.

1 (6) "Custodial care" means providing a sheltered  
2 ~~family-type~~ family-type setting for an aged person or  
3 disabled adult so as to provide for ~~their~~ his basic needs of  
4 food, and shelter and having a specific person available to  
5 help ~~them~~ him meet ~~their~~ his basic needs.

6 (7) "Skilled nursing care" means ~~twenty-four (24) hour~~  
7 24-hour care supervised by a registered nurse or a licensed  
8 practical nurse under orders of an attending physician."

9 Section 42. Section 71-2404, R.C.S. 1947, is amended  
10 to read as follows:

11 "71-2404. Rules and regulations. Department to adopt  
12 rules. The department shall control developmental  
13 disabilities programs which receive any state assistance by  
14 adopting rules, for providing developmental disabilities  
15 facilities and services. It shall set minimum standards for  
16 programs, and establish appropriate qualifications, ~~and~~  
17 compensation scales, and personnel policies for persons  
18 employed in such programs. All developmental disabilities  
19 facilities and services shall comply with existing federal  
20 guidelines and with requirements which will enable the  
21 services and facilities to qualify for available aid funds.  
22 However, nothing herein ~~shall imply the necessity for~~  
23 requires facilities serving the developmentally disabled to  
24 meet the same or equal standards as licensed medical  
25 facilities, unless the developmental disabilities facility

1 is providing professional or skilled medical care."

2 Section 43. Section 71-2405, R.C.S. 1947, is amended  
3 to read as follows:

4 "71-2405. Community services. (1) The department may  
5 establish and administer community comprehensive services,  
6 programs, clinics, or other facilities throughout the state  
7 for the purpose of aiding in the prevention, diagnosis,  
8 amelioration, or treatment of developmental disabilities.  
9 Programs, clinics, or other services may be provided  
10 directly by state agencies; ~~or~~ indirectly through contract  
11 or ~~co-operative~~ cooperative arrangements with other agencies  
12 of government, regional or local, private or public  
13 agencies, or private professional persons; or in accredited  
14 health or ~~long-term~~ long-term care facilities.

15 (2) Comprehensive services, programs, clinics, or  
16 other facilities established or provided by the department  
17 under this chapter shall conform, as nearly as possible, to  
18 the plans of the advisory council created under 71-2406, and  
19 the regional councils provided for in 71-2407."

20 Section 44. Section 80-1405, R.C.S. 1947, is amended  
21 to read as follows:

22 "80-1405. Powers and duties of department. The  
23 department shall:

24 (1) ~~Adopt~~ adopt rules for the admission, custody,  
25 transfer, and release of residents of institutions except as



1 otherwise provided by law; ~~however~~ however, no such rules  
2 shall ~~may~~ amend or alter the statutory powers and duties of  
3 the state board of pardons;

4 (2) ~~Subject~~ subject to the functions of the department  
5 of administration, lease or purchase lands for use by  
6 institutions, and classify those lands to determine which  
7 are of such character as to be most profitably used for  
8 agricultural purposes, taking into consideration the needs  
9 of all institutions for the food products that can be grown  
10 or produced on the lands, and the relative value of  
11 agricultural programs in the treatment or rehabilitation of  
12 the persons confined in the institutions;

13 (3) ~~Utilize~~ utilize the staff and services of other  
14 state agencies and units of the ~~university of~~ Montana  
15 university system, within their respective statutory  
16 functions, to carry out ~~the purposes of this act. its~~  
17 functions under this title;

18 (4) ~~Propose~~ propose programs to the ~~legislative~~  
19 assembly legislature to meet the projected long-range needs  
20 of institutions, including programs and facilities for the  
21 diagnosis, treatment, care, and aftercare of persons placed  
22 in institutions; and

23 (5) ~~Encourage~~ encourage the establishment of programs  
24 at the local level for the prevention and rehabilitation of  
25 physical and mental disability."

1 Section 45. Section 80-1410, R.C.M. 1947, is amended  
2 to read as follows:

3 "80-1410. Establishment of juvenile correctional  
4 facilities. The department, within the annual or ~~biannual~~  
5 biennial budgetary appropriation, may establish, maintain,  
6 and operate facilities to properly diagnose, care for,  
7 train, educate, and rehabilitate children in need of these  
8 services. The children must be ~~ten~~ (10) years of age or  
9 older and under ~~twenty-one~~ (21) years of age. The facilities  
10 include but are not limited to the Mountain View school, the  
11 Pine Hills school, and the youth forest camp."

12 Section 46. Section 80-1413, R.C.M. 1947, is amended  
13 to read as follows:

14 "80-1413. Participation by ~~governing boards~~  
15 institutions in research programs. The department may direct  
16 a penal, and ~~corrective, or custodial~~ institution of the  
17 state to participate in and ~~co-operate~~ cooperate with  
18 programs of research and development being conducted and  
19 carried on by any units of the Montana university system, by  
20 any of the other educational institutions of the state of  
21 Montana, or by any foundation or agency thereof, in the  
22 fields of science, health, education, and natural resources.  
23 These programs may include the voluntary participation of  
24 the inmates of the institution in testing and experimental  
25 work conducted as a part thereof. Any funds received from

1 the authorized programs may be shared with the participating  
 2 inmates or otherwise held and used for the welfare and  
 3 rehabilitation thereof, and shall not become a part of  
 4 the regular budgeted operation of the institution."

5 Section 47. Section 80-1603, R.C.M. 1947, is amended  
 6 to read as follows:

7 "~~80-1603. Monthly assessment of charges annual~~  
~~computation of rate investigation claim of~~  
 8 ~~state review deposit of receipts~~ Computation of per diem  
 9 rate, monthly assessment, and disposition of receipts.

10 (1) The department shall assess monthly against each  
 11 resident or responsible person, the full per diem charge, a  
 12 proportionate share of the per diem charge, or no per diem  
 13 charge, plus full ancillary charge, a proportionate share of  
 14 the ancillary charge, or no ancillary charge, based upon  
 15 financial information given to the department during its  
 16 investigation. The per diem shall be computed on July 1 of  
 17 each year by the department.

18 (2) An assessment made by the department under this  
 19 section shall be based on the resident's or responsible  
 20 person's ability to pay. The department shall not make  
 21 an assessment which would place an undue financial burden on  
 22 the resident or the responsible person.

23 (3) For the purpose of these investigations, every  
 24 agency of the state is required to render all reasonable  
 25

1 assistance to the department in obtaining all information  
 2 necessary for the proper implementation of the purposes of  
 3 this investigation. A representative of the department, duly  
 4 authorized by the director, may administer oaths, take  
 5 testimony, and subpoena and compel the attendance of  
 6 witnesses and the production of books, papers, records, and  
 7 documents in connection with the duty of securing payments  
 8 for support as provided by this act. A person who fails to  
 9 obey the subpoena, upon petition of the department, to any  
 10 judge of the district court of the state, may be ordered by  
 11 the judge to appear and show cause for his disobedience of  
 12 the subpoena. The judge, after the hearing, may order that  
 13 the subpoena be obeyed, or, if it is made to appear to the  
 14 judge that the subpoena was for any reason inappropriately  
 15 issued, may dismiss the petition. A person who fails to obey  
 16 the subpoena when ordered to do so by the judge may be  
 17 punished for contempt of court on application of the  
 18 district court by the department.

19 (4) The state has a claim against the estate of a  
 20 patient and against the estate of a responsible person, for  
 21 an amount due to the state at the date of death of the  
 22 resident or the responsible person. The claim against the  
 23 estate of a responsible person does not have priority  
 24 against the estate for the amount necessary to rear and  
 25 educate surviving children of the responsible person.

1 (5) The attorney general shall collect any claim which  
2 the state may have against such estate. This claim may not  
3 be enforced against any real estate while it is occupied as  
4 a home by the surviving spouse ~~or~~ of the resident or  
5 responsible person.

6 (6) If a resident or responsible person disagrees with  
7 the determination of the department as to the ability of the  
8 resident or responsible person to pay any part of the per  
9 dies or ancillary charge, an appeal may be filed within  
10 ~~thirty (30)~~ days of the determination with the board of  
11 ~~institutions~~. If the resident disagrees with the  
12 determination of the appeal by the board ~~of institutions~~, an  
13 appeal may be filed in any court of record in Montana having  
14 jurisdiction of the resident or responsible person liable  
15 for the payment.

16 (7) The department may, at any time, review and change  
17 a determination for per dies or ancillary charge payments.  
18 In any case, however, a resident of an institution may not  
19 be released by reason of the nonpayment of the per dies or  
20 the ancillary charge, if, in the judgment of the  
21 superintendent of the institution at which he is a resident,  
22 this release is medically inadvisable.

23 (8) A per dies payment received by the department  
24 shall be deposited in the state treasury to the credit of  
25 the general fund."

1 Section 48. Section 80-1912, R.C.M. 1947, is amended  
2 to read as follows:

3 "80-1912. Expense of trial for ~~escape offenses~~  
4 committed in prison. Whenever a trial takes place of any  
5 person under any of the provisions of ~~section 94-7-306~~, and  
6 whenever a prisoner in the state prison ~~shall be~~ is tried  
7 for any crime committed therein, the county clerk of the  
8 county where such trial is ~~had held~~ shall make out a  
9 statement of all the costs incurred by the county for the  
10 trial of such case, and of guarding and keeping such  
11 prisoner, properly certified by a district judge of said  
12 county, which statement shall be sent to the ~~board of state~~  
13 ~~prison commissioners~~ department of institutions for their  
14 its approval, and after such approval, ~~said board the~~  
15 department must cause the amount of such costs to be paid  
16 out of the money appropriated for the support of the state  
17 prison to the county treasurer of the county where such  
18 trial was ~~had held~~."

19 Section 49. Section 80-2412, R.C.M. 1947, is amended  
20 to read as follows:

21 "80-2412. Interstate compact on mental health enacted  
22 ~~text. The interstate compact on mental health~~ Interstate  
23 Compact on Mental Health as contained herein is hereby  
24 enacted into law and entered into by this state with all  
25 other jurisdiction legally joining therein in the form

1 substantially as follows:

2 The contracting states solemnly agree, that:

3 Article I

4 ~~Article I.~~ The party states find that the proper and  
5 expeditious treatment of the mentally ill and mentally  
6 deficient can be facilitated by ~~co-operative~~ cooperative  
7 action, to the benefit of the patients, their families, and  
8 society as a whole. Further, the party states find that the  
9 necessity of and desirability for furnishing such care and  
10 treatment bears no primary relation to the residence or  
11 citizenship of the patient but that, on the contrary, the  
12 controlling factors of community safety and humanitarianism  
13 require that facilities and services be made available for  
14 all who are in need of them. Consequently, it is the purpose  
15 of this compact and of the party states to provide the  
16 necessary legal basis for the institutionalization or other  
17 appropriate care and treatment of the mentally ill and  
18 mentally deficient under a system that recognizes the  
19 paramount importance of patient welfare and to establish the  
20 responsibilities of the party states in terms of such  
21 welfare.

22 Article II

23 ~~Article II.~~ As used in this compact:

24 ~~(a) (1)~~ "Sending sending state" shall ~~mean~~ means a  
25 party state from which a patient is transported pursuant to

1 the provisions of the compact or from which it is  
2 contemplated that a patient may be so sent;

3 ~~(b) (2)~~ "Receiving receiving state" shall ~~mean~~ means a  
4 party state to which a patient is transported pursuant to  
5 the provisions of the compact or to which it is contemplated  
6 that a patient may be so sent;

7 ~~(c) (3)~~ "Institution institution" shall ~~mean~~ means any  
8 hospital or other facility maintained by a party state or  
9 political subdivision thereof for the care and treatment of  
10 mental illness or mental deficiency;

11 ~~(d) (4)~~ "Patient patient" shall ~~mean~~ means any person  
12 subject to or eligible, as determined by the laws of the  
13 sending state, for institutionalization or other care,  
14 treatment, or supervision pursuant to the provisions of this  
15 compact;

16 ~~(e) (5)~~ "Aftercare aftercare" shall ~~mean~~ means care,  
17 treatment, and services provided a patient, as defined  
18 herein, on convalescent status or conditional release;

19 ~~(f) (6)~~ "Mental mental illness" shall ~~mean~~ means mental  
20 disease to such extent that a person so afflicted requires  
21 care and treatment for his own welfare, ~~or~~ the welfare of  
22 others, or of the community;

23 ~~(g) (7)~~ "Mental mental deficiency" shall ~~mean~~ means  
24 mental deficiency as defined by appropriate clinical  
25 authorities to such extent that a person so afflicted is

1 incapable of managing himself and his affairs, but shall not  
2 include mental illness as defined herein, ~~and~~

3 ~~(b)(8)~~ "State state" shall ~~mean~~ means any state,  
4 territory, or possession of the United States, the District  
5 of Columbia, and the Commonwealth of Puerto Rico.

#### 6 Article III

7 ~~Article III. (a)(1)~~ Whenever a person physically  
8 present in any party state shall be in need of  
9 institutionalization by reason of mental illness or mental  
10 deficiency, ~~he shall be eligible for care and treatment in~~  
11 an institution in that state irrespective of his residence,  
12 settlement, or citizenship qualifications.

13 ~~(b)(2)~~ The provisions of ~~paragraph (a) subsection (1)~~  
14 of this article to the contrary notwithstanding, any patient  
15 may be transferred to an institution in another state  
16 whenever there are factors based upon clinical  
17 determinations indicating that the care and treatment of  
18 said patient would be facilitated or improved thereby. Any  
19 such institutionalization may be for the entire period of  
20 care and treatment or for any portion or portions thereof.  
21 The factors referred to in this ~~paragraph~~ subsection shall  
22 include the patient's full record with due regard for the  
23 location of the patient's family, character of the illness  
24 and probable duration thereof, and such other factors as  
25 shall be considered appropriate.

1 ~~(a)(3)~~ No state shall be obliged to receive any  
2 patient pursuant to the provisions of ~~paragraph (b)~~  
3 subsection (2) of this article unless the sending state ~~has~~  
4 ~~given~~ gives advance notice of its intention to send the  
5 patient, ~~and~~ ~~furnished~~ furnishes all available medical and  
6 other pertinent records concerning the patient, ~~and~~ ~~gives~~ gives  
7 the qualified medical or other appropriate clinical  
8 authorities of the receiving state an opportunity to examine  
9 the patient if said authorities so wish, ~~and~~ unless the  
10 receiving state ~~shall agree~~ agrees to accept the patient.

11 ~~(d)(4)~~ In the event that the laws of the receiving  
12 state establish a system of priorities for the admission of  
13 patients, an interstate patient under this compact shall  
14 receive the same priority as a local patient and shall be  
15 taken in the same order and at the same time that he would  
16 be taken if he were a local patient.

17 ~~(e)(5)~~ Pursuant to this compact, the determination as  
18 to the suitable place of institutionalization for a patient  
19 may be reviewed at any time and such further transfer of the  
20 patient may be made as seems likely to be in the best  
21 interest of the patient.

#### 22 Article IV

23 ~~Article IV. (a)(1)~~ Whenever, pursuant to the laws of  
24 the state in which a patient is physically present, it shall  
25 be determined that the patient should receive aftercare or

1 supervision, such care or supervision may be provided in a  
 2 receiving state. If the medical or other appropriate  
 3 clinical authorities having responsibility for the care and  
 4 treatment of the patient in the sending state shall have  
 5 reason to believe that aftercare in another state would be  
 6 in the best interest of the patient and would not jeopardize  
 7 the public safety, they shall request the appropriate  
 8 authorities in the receiving state to investigate the  
 9 desirability of affording the patient such aftercare in said  
 10 receiving state, and such investigation shall be made with  
 11 all reasonable speed. The request for investigation shall  
 12 be accompanied by complete information concerning the  
 13 patient's intended place of residence and the identity of  
 14 the person in whose charge it is proposed to place the  
 15 patient, the complete medical history of the patient, and  
 16 such other documents as may be pertinent.

17 ~~(b)(2)~~ If the medical or other appropriate clinical  
 18 authorities having responsibility for the care and treatment  
 19 of the patient in the sending state and the appropriate  
 20 authorities in the receiving state find that the best  
 21 interest of the patient would be served thereby, and if the  
 22 public safety would not be jeopardized thereby, the patient  
 23 may receive aftercare or supervision in the receiving state.

24 ~~(c)(3)~~ In supervising, treating, or caring for a  
 25 patient on aftercare pursuant to the terms of this article,

1 a receiving state shall employ the same standards of  
 2 visitation, examination, care, and treatment that it  
 3 employs for similar local patients.

4 Article V

5 ~~Article V.~~ Whenever a dangerous or potentially  
 6 dangerous patient escapes from an institution in any party  
 7 state, that state shall promptly notify all appropriate  
 8 authorities within and without the jurisdiction of the  
 9 escapee in a manner reasonably calculated to facilitate the  
 10 speedy apprehension of the escapee. Immediately upon the  
 11 apprehension and identification of any such dangerous or  
 12 potentially dangerous patient, he shall be detained in the  
 13 state where found pending disposition in accordance with  
 14 law.

15 Article VI

16 ~~Article VI.~~ The duly accredited officers of any state  
 17 party to this compact, upon the establishment of their  
 18 authority and the identity of the patient, shall be  
 19 permitted to transport any patient being moved pursuant to  
 20 this compact through any and all states party to this  
 21 compact, without interference.

22 Article VII

23 ~~Article VII.~~ ~~(a)(1)~~ No person shall be deemed a patient  
 24 of more than one ~~(4)~~ institution at any given time.  
 25 Completion of transfer of any patient to an institution in a

1 receiving state shall have the effect of making the person a  
2 patient of the institution in the receiving state.

3 ~~(b)~~ (2) The sending state shall pay all costs of and  
4 incidental to the transportation of any patient pursuant to  
5 this compact, but any two ~~(3)~~ or more party states may, by  
6 making a specific arrangement for that purpose, arrange for  
7 a different allocation of costs as among themselves.

8 ~~(c)~~ (3) No provision of this compact shall be construed  
9 to alter or affect any internal relationships among the  
10 departments, agencies, and officers of and in the government  
11 of a party state, or between a party state and its  
12 subdivisions, as to the payment of costs, or  
13 responsibilities therefor.

14 ~~(d)~~ (4) Nothing in this compact shall be construed to  
15 prevent any party state or subdivision thereof from  
16 asserting any right against any person, agency, or other  
17 entity in regard to costs for which such party state or  
18 subdivision thereof may be responsible pursuant to any  
19 provision of this compact.

20 ~~(e)~~ (5) Nothing in this compact shall be construed to  
21 invalidate any reciprocal agreement between a party state  
22 and a nonparty state relating to institutionalization, care,  
23 or treatment of the mentally ill or mentally deficient, or  
24 any statutory authority pursuant to which such agreements  
25 may be made.

### 1 Article VIII

2 ~~Article VIII. (a) (1)~~ Nothing in this compact shall be  
3 construed to abridge, diminish, or in any way impair the  
4 rights, duties, and responsibilities of any patient's  
5 guardian on his own behalf or in respect of any patient for  
6 whom he may serve, except that, where the transfer of any  
7 patient to another jurisdiction makes advisable the  
8 appointment of a supplemental or substitute guardian, any  
9 court of competent jurisdiction in the receiving state may  
10 make such supplemental or substitute appointment and the  
11 court which appointed the previous guardian shall, upon  
12 being duly advised of the new appointment, and upon the  
13 satisfactory completion of such accounting and other acts as  
14 such court may by law require, relieve the previous guardian  
15 of power and responsibility to whatever extent shall be  
16 appropriate in the circumstances, ~~provided, however, that~~  
17 ~~is~~ in the case of any patient having settlement in the  
18 sending state, the court of competent jurisdiction in the  
19 sending state shall have the sole discretion to relieve a  
20 guardian appointed by it or continue his power and  
21 responsibility, whichever it shall deem advisable. The court  
22 in the receiving state may, in its discretion, confirm or  
23 reappoint the person or persons previously serving as  
24 guardian in the sending state in lieu of making a  
25 supplemental or substitute appointment.

1 ~~(b)(2)~~ The term "guardian" as used in ~~paragraph (a)~~  
 2 subsection (1) of this article shall include any guardian,  
 3 trustee, legal committee, conservator, or other person or  
 4 agency however denominated who is charged by law with power  
 5 to act for or responsibility for the person or property of a  
 6 patient.

7 Article II

8 ~~Article II, (a)(1)~~ No provisions of this compact except  
 9 Article V shall apply to any person institutionalized while  
 10 under sentence in a penal or correctional institution or  
 11 while subject to trial on a criminal charge, or whose  
 12 institutionalization is due to the commission of an offense  
 13 for which, in the absence of mental illness or mental  
 14 deficiency, said person would be subject to incarceration in  
 15 a penal or correctional institution.

16 ~~(b)(2)~~ To every extent possible, it shall be the  
 17 policy of states party to this compact that no patient shall  
 18 be placed or detained in any prison, jail, or lockup, but  
 19 such patient shall, with all expedition, be taken to a  
 20 suitable institutional facility for mental illness or mental  
 21 deficiency.

22 Article I

23 ~~Article I, (a)(1)~~ Each party state shall appoint a  
 24 "compact administrator" who, on behalf of his state, shall  
 25 act as general ~~co-ordinator~~ coordinator of activities under

1 the compact in his state and who shall receive copies of all  
 2 reports, correspondence, and other documents relating to any  
 3 patient processed under the compact by his state either in  
 4 the capacity of a sending or receiving state. The compact  
 5 administrator or his duly designated representative shall be  
 6 the official with whom other party states shall deal in any  
 7 matter relating to the compact or any patient processed  
 8 thereunder.

9 ~~(b)(2)~~ The compact administrators of the respective  
 10 party states shall have power to promulgate reasonable rules  
 11 ~~and regulations~~ to carry out more effectively the terms and  
 12 provisions of this compact.

13 Article XI

14 ~~Article II~~ The duly constituted administrative  
 15 authorities of any two ~~(2)~~ or more party states may enter  
 16 into supplementary agreements for the provision of any  
 17 service or facility or for the maintenance of any  
 18 institution on a joint or ~~co-operative~~ cooperative basis  
 19 whenever the states concerned shall find that such  
 20 agreements will improve services, facilities, or  
 21 institutional care and treatment in the fields of mental  
 22 illness or mental deficiency. No such supplementary  
 23 agreement shall be construed so as to relieve any party  
 24 state of any obligation which it otherwise would have under  
 25 other provisions of this compact.



Article III

~~Article III.~~ This compact shall enter into full force and effect as to any state when enacted by it into law, and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

~~Article XIII.~~ (1) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect ~~one~~ (1) year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

~~(b) (2)~~ Withdrawal from any agreement permitted by Article VII ~~(b) (2)~~ as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

~~Article XIV.~~ (1) This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party

state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(2) The director of the department of institutions, hereafter called "the director," shall be the compact administrator and shall have the power to make any rules and regulations necessary for the administration of this article. The director shall ~~co-operate~~ cooperate with all departments, agencies, and officers of the state and any political subdivision thereof to facilitate the proper administration of the ~~interstate compact on mental health~~ Interstate Compact on Mental Health or of any supplementary agreement or agreements entered into by this state thereunder.

(3) The director may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact.

(4) The department of institutions in its annual budget shall include such amounts necessary to discharge the

1 financial obligations incurred by it to carry out the  
 2 purposes of the ~~interstate compact on mental health~~  
 3 Interstate Compact on Mental Health, and the general  
 4 assembly shall appropriate such sums necessary therefor.

5 (5) The compact administrator is hereby directed to  
 6 consult with the immediate family of any proposed transferee  
 7 and, in the case of a proposed transferee from an  
 8 institution in this state to an institution in another party  
 9 state, to make no transfer out of the state without approval  
 10 of the district or probate court. Before granting such  
 11 approval the court shall hold such hearings as it ~~deems~~  
 12 considers appropriate. In addition, the court shall  
 13 designate some appropriate person to deliver written notice  
 14 of the proposed transferee's right to a hearing to the  
 15 proposed transferee and his guardian ad litem. The person  
 16 serving such notices shall make a written return to the  
 17 court that such has been done. At the conclusion of such  
 18 hearing, if any, the court may approve the proposed  
 19 transfer, order the release of the proposed transferee, or  
 20 enter any other suitable order.

21 (6) Duly authenticated copies of the article shall,  
 22 upon its approval, be transmitted by the secretary of state  
 23 to the governor of each state, the attorney general, and the  
 24 secretary of state of the United States, and the Council of  
 25 State Governments."

1 Section 50. Section 80-2701, R.C.M. 1947, is amended  
 2 to read as follows:

3 "80-2701. ~~Purpose and intent of act~~ ~~policy of state~~  
 4 Legislative purpose. It is the purpose of this act and the  
 5 policy of this state to recognize ~~alcohol~~ alcoholism and  
 6 drug dependence as problems affecting the health, safety,  
 7 morals, economy, and general welfare of this state; to  
 8 recognize ~~alcohol~~ alcoholism and drug dependence as problems  
 9 subject to treatment; and to recognize the sufferer of  
 10 ~~alcohol~~ alcoholism, drug dependence, or both, as worthy of  
 11 treatment and rehabilitation. It is the intent of this act  
 12 to establish means whereby the appropriate resources of this  
 13 state may be focused fully and effectively upon the problems  
 14 of ~~alcohol~~ alcoholism and drug dependence and utilized in  
 15 implementing programs for the control and treatment of these  
 16 problems."

17 Section 51. Section 80-2702, R.C.M. 1947, is amended  
 18 to read as follows:

19 "80-2702. Duties of department — department  
 20 authorized to accept gifts — enter into contracts —  
 21 acquire and dispose of property. (1) The department of  
 22 institutions, hereafter referred to as department in this  
 23 chapter, shall:

24 (a) ~~Plan~~ plan, promote, and assist in the support of  
 25 ~~alcohol~~ alcoholism and drug dependence prevention,

1 treatment, and control programs;

2 (b) ~~Conduct~~ conduct, sponsor, and support research,  
3 investigations, and studies, including evaluation, of all  
4 phases of ~~alcohol~~ alcoholism and drug dependence;

5 (c) ~~Assist~~ assist the development of educational and  
6 training programs relative to ~~alcohol~~ alcoholism and drug  
7 dependence, and carry on programs to assist the public, and  
8 technical and professional groups, in becoming fully  
9 informed about ~~alcohol~~ alcoholism and drug dependence;

10 (d) ~~Promote~~ promote, develop, and assist, financially  
11 and otherwise, ~~alcohol~~ alcoholism and drug dependence  
12 programs administered by other state agencies, local  
13 government agencies, and private nonprofit organizations and  
14 agencies; and

15 (e) ~~Encourage~~ encourage and promote effective use of  
16 facilities, resources, and funds in the planning and conduct  
17 of programs and activities for prevention, treatment, and  
18 control of ~~alcohol~~ alcoholism and drug dependence and, in  
19 this respect, cooperate with and utilize to the maximum  
20 possible extent the resources and services of federal,  
21 state, and local agencies.

22 (2) To carry out this act, the department may:

23 (a) ~~Accept~~ accept gifts, grants, and donations of  
24 money and property from public and private sources;

25 (b) ~~Enter~~ enter into contracts; and

1 (c) ~~Acquire~~ acquire and dispose of property."

2 Section 52. Section 80-2717, R.C.M. 1947, is amended  
3 to read as follows:

4 "80-2717. Emergency commitment of intoxicated persons.

5 (1) An intoxicated person who ~~(\*)~~ has threatened, attempted,  
6 or inflicted physical harm on another and is likely to  
7 inflict physical harm on another unless committed, or ~~(\*)~~  
8 who is incapacitated by alcohol, may be committed to an  
9 approved public treatment facility for emergency treatment.  
10 A refusal to undergo treatment does not constitute evidence  
11 of lack of judgment as to the need for treatment.

12 (2) The certifying physician, spouse, guardian, or  
13 relative of the person to be committed, or any other  
14 responsible person, may make a written application for  
15 commitment under this section, directed to the administrator  
16 of the approved public treatment facility. The application  
17 shall state facts to support the need for emergency  
18 treatment and be accompanied by a physician's certificate  
19 stating that he has examined the person sought to be  
20 committed within ~~two~~ (2) days before the certificate's date  
21 and facts supporting the need for emergency treatment. A  
22 physician employed by the admitting facility or the  
23 department is not eligible to be the certifying physician.

24 (3) Upon approval of the application by the  
25 administrator of the approved public treatment facility, the

1 person shall be brought to the facility by a peace officer,  
 2 health officer, the applicant for commitment, the patient's  
 3 spouse, the patient's guardian, or any other interested  
 4 person. The person shall be ~~retained~~ detained at the  
 5 facility to which he was admitted, or transferred to another  
 6 appropriate public or private treatment facility, until  
 7 discharged under subsection (5).

8 (4) The administrator of an approved public treatment  
 9 facility shall refuse an application if in his opinion the  
 10 application and certificate fail to sustain the grounds for  
 11 commitment.

12 (5) When on the advice of the medical staff the  
 13 administrator determines that the grounds for commitment no  
 14 longer exist, he shall discharge a person committed under  
 15 this section. No person committed under this section may be  
 16 detained in any treatment facility for more than ~~five~~ (5)  
 17 days. If a petition for involuntary commitment under ~~section~~  
 18 69-6221 has been filed within the ~~five~~ (5) days and the  
 19 administrator in charge of an approved public treatment  
 20 facility finds that grounds for emergency commitment still  
 21 exist, he may detain the person until the petition has been  
 22 heard and determined, but no longer than ~~ten~~ (10) days after  
 23 filing the petition.

24 (6) A copy of the written application for commitment  
 25 and of the physician's certificate, and a written

1 explanation of the person's right to counsel, shall be given  
 2 to the person within ~~twenty-four~~ (24) hours after commitment  
 3 by the department, ~~who~~. The department shall provide a  
 4 reasonable opportunity for the person to consult counsel."

5 Section 53. Section 80-2802, R.C.M. 1947, is amended  
 6 to read as follows:

7 \*80-2802. Duties of department. The department shall:

8 (1) take cognizance of matters affecting the mental  
 9 health of the citizens of the state;

10 (2) initiate preventive mental health activities of  
 11 the statewide mental health programs, including, but not  
 12 limited to, the implementation of mental health care and  
 13 treatment, prevention, and research as can best be  
 14 accomplished by ~~community-centered~~ community-centered  
 15 services. Such means shall be utilized to initiate and  
 16 operate these services in cooperation with local agencies as  
 17 established under this act;

18 (3) make scientific and medical research  
 19 investigations relative to the incidence, cause, prevention,  
 20 treatment, and care of the mentally ill;

21 (4) collect and disseminate information relating to  
 22 mental health;

23 (5) prepare and maintain a comprehensive plan for the  
 24 development of public mental health services in the state.  
 25 The public mental health services shall include, but not be

1 limited to, community comprehensive mental health centers,  
2 mental health clinics, traveling service units, and  
3 consultative and educational services\*.

4 (6) provide by regulations for the examination of  
5 persons, who apply for examination or who are admitted  
6 either as inpatients or outpatients into Wara Springs state  
7 hospital or other public mental health facilities;

8 (7) receive from agencies of the United States and  
9 other state agencies, persons or groups of persons,  
10 associations, firms, or corporations, grants of money,  
11 receipts from fees, gifts, supplies, materials, and  
12 contributions, for the development of mental health services  
13 within the state;

14 (8) establish standards for public mental health  
15 facilities; and

16 (9) evaluate performance of public mental health  
17 facilities in compliance with federal and state standards."

18 Section 54. Repealer. Sections 71-101, 71-107, 71-118,  
19 and 71-233.5, R.C.M. 1947, are repealed.

-End-

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LC 0008

1977 Legislature  
Code Commissioner Bill - Summary

\_\_\_\_\_ Bill No. \_\_\_\_\_

FOR THE GENERAL REVISION AND CLARIFICATION OF LAWS RELATING TO STATE INSTITUTIONS, VOCATIONAL REHABILITATION, PUBLIC ASSISTANCE, THE DEVELOPMENTALLY DISABLED, AND THE MENTALLY ILL.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 38-110. "Public welfare" was changed to "public assistance" for consistency and to update language.

Section 2. 38-120. "An insane person" was changed to "a person who is seriously mentally ill" for consistency, to update language, and to bring the section into conformity with the current RCM chapter on commitment of seriously mentally ill persons (chapter 13, Title 38).

Section 3. 38-210. "Person is adjudged insane" was changed to "person is adjudged to be seriously mentally ill" for consistency, to update language, and to bring the section into conformity with the current RCM chapter on commitment of seriously mentally ill persons (chapter 13, Title 38). "Him" was changed to "the patient" and "who" was changed to "the officer" for purposes of clarity and grammar.

Section 4. 38-506. "Public welfare laws" was changed to "public assistance laws" for consistency and to update language.

Section 5. 38-1202. "The following definitions apply" was added to this definitional section to make the lead-in phrase a complete thought, thereby correcting certain punctuation problems that could not be solved by compiler's change.

Section 6. 38-1205. "And" was added to the last sentence of this section for grammatical reasons and to clarify meaning.

Section 7. 38-1206. "And" was added to the last sentence in subsection (1) for grammatical reasons and for "Shall" was changed to "may" throughout for grammatical reasons.

Section 8. 38-1208. "But" was changed to "and" in subsection (3) for consistency and grammatical reasons.

Section 9. 38-1222. "The" was added in subsection (10) for grammatical reasons.

Section 10. 38-1302. "The following definitions apply" was added to this definitional section to make the lead-in phrase a complete thought, thereby correcting certain punctuation problems that could not be solved by compiler's changes.

Section 11. 41-817. In subsection (7), "and which is" was added for grammatical reasons, and "or" was changed to "of" for obvious reasons.

Section 12. 71-113. "Such" was deleted in the first sentence and "for the maintenance or medical attendance of the poor or indigent sick" was added because it wasn't clear what contracts the "such" in "any such contract" referred to.

Section 13. 71-207. "Public Welfare" was changed to "public assistance" for consistency and to update language.

Section 14. 71-210. References to functions or purposes under "this act" or "Title 71" were deleted and "public assistance" inserted to clearly define what type of activities are referred to. "This act" refers to the original 1939 Welfare Act which has been amended and added to many times. The amendments make it clear that all public assistance activities are covered no matter when they were enacted or where they were codified. These amendments are also necessary to facilitate recodification.

Section 15. 71-211. "Public welfare" was changed to "public assistance" in the first sentence for consistency and to update language.

Section 16. 71-212. "Public welfare" was changed to "public assistance" in the first sentence for consistency and to update language. "This act" was changed to "the public assistance laws" in subsection (3) to aid recodification.

Sections 17 through 20. Sections 71-213, 71-214, 71-216, and 71-217. "Public welfare" was changed to "public assistance" for consistency and to update language.

Section 21. 71-222. "Seventeen (17) mills" was changed to "13.5 mills" in subsections (1) and (6) for consistency and clarification and to further the legislative intent shown by section 2, Chapter 279, Laws of 1974, in which the "17- mill" language was changed in 71-106 but not in 71-222. "All purposes of this act" was changed to "public assistance purposes" in subsection (1) to aid recodification. "Public welfare" was changed to "public assistance in subsection (1) to aid recodification. "Public welfare" was changed to "public assistance" in subsections (1), (3), and (6) for consistency and to update language. "The" was added in subsection (6) for obvious reasons.

Section 22. 71-226. "Or" was added for grammatical reasons.

Section 23. 71-230. "Public welfare" was changed to "Public assistance in subsection (1) [formerly (a) ] for consistency and to update language. "or" was added to subsection (2) [formerly (b)] for grammatical reasons.

Sections 24 and 25. Sections 71-233.1 and 71-233.3. "Public Welfare" was changed to "public assistance" throughout these sections for consistency and to update language.

Section 26. 71-302.2. "His" was changed to a qualified applicant's in the first paragraph to facilitate recodification (this section will be substantially broken up and "his", as a result, will lose its antecedent). "General relief" was added in paragraph one for consistency and clarification.

Sections 27 through 30. Sections 71-303, 71-305, 71-306, and 71-307. "General" or "general relief" was added to these sections for consistency and clarification.

Section 31. 71-308. "Relief" was added in subsection (4) for consistency and clarification.

Section 32. 71-311. The "6-mill levy" and "per capita tax" language was changed to "13-5- mill levy" in the first paragraph for consistency and clarification and to further legislative intent shown by section 2, Chapter 279, Laws 1974, in which the "17-mill" language was changed in 71-106 but not in 71-311. "Welfare" was changed to "public assistance" for consistency and to update language. "State department may



authorize the state department" was changed to "state department is authorized" in the second paragraph for grammatical reasons.

Section 33. 71-314. "General relief" was added for consistency and clarification.

Section 34. 71-501. "Welfare" was changed to "public assistance" in subsection (1) for consistency and to update language. "And" was changed to "or" in subsection (1) to further legislative intent and to clarify an otherwise contradiction. "Who is living" was changed to "be living" in subsection (1) for grammatical reasons and clarification. "Children" was changed to "child" in subsection (1) for grammatical reasons.

Section 35. 71-509. The first "sentence" of the third paragraph, which is not a complete sentence, was amended to make it a complete sentence and to bring this section into line with current federal regulations.

Section 36. 71-710. "And" was added to the last sentence of this section for grammatical reasons.

Section 37. 71-901. References to "the Public Welfare Act" and "public welfare purposes" were deleted and "for public assistance purposes" was added to aid recodification.

Section 38. 71-1401. "The following definitions apply" was added to this definitional section to make the lead-in phrase a complete thought, thereby eliminating certain punctuation problems that could not be solved by compiler's changes.

Section 39. 71-1516. This section was amended for style and grammatical purposes only.

Section 40. 71-1903. "Mentally disabled" was changed to "developmentally disabled" in subsection (1) for consistency with the rest of the section and for clarification.

Section 41. 71-2304. "The following definitions apply" was added to this definitional section to make the lead-in phrase a complete thought, thereby correcting certain punctuation problems. In subsection (6), "and" was added for grammatical reasons and clarification. "Their" was changed to "his" and "them" to "him" in subsection (6) for grammatical reasons.

Section 42. 71-2404. "And" was added in the second sentence for grammatical reasons and clarification.

Section 43. 71-2405. "Or" was added to the last sentence in subsection (1) for grammatical reasons and clarification.

Section 44. 80-1405. "The purposes of this act" was changed to "its functions under this title" in subsection (3) to aid recodification.

Section 45. 80-1410. "Biannual" was changed to "biennial" for clarification -----there are no biannual appropriations.

Section 46. 80-1413. "Or custodial" was deleted in the first sentence to clarify that only a penal and corrective institution may be directed to participate in research programs.

Section 47. 80-1603. "And" was added in subsection (3) for grammatical reasons. "Or" was changed to "of" in subsection (5) to correct an apparent misprint and for clarification.

Section 48. 80-1912. The "board of state prison commissioners" was changed to the "department of institutions", which has taken over the functions of the now defunct board.

Section 49. 80-2412. Articles III (a) and XIV were amended to add language left out of Montana's version of the Interstate Compact on Mental Health.

Sections 50 and 51. 80-2701 and 80-2702. The phrase "alcohol and drug dependence" was changed to "alcoholism and drug dependence" throughout these sections for purposes of clarification.

Section 52. 80-2717. "Who" was added in subsection (1) for purposes of clarification. "Retained" was changed to "detained" in subsection (3) for clarification and to correct poor word choice. "Who" was changed to "which" in subsection (6) for grammatical reasons.

Section 53. 80-2802. "And" was added to subsection (5) for grammatical reasons.

Section 54. Repealer. Section 71-101, which vests the "Superintendence" of the poor" in the board of county commissioners, was repealed as outdated, and because 71-221 provides a similar function to 71-101. Sections 71-107 and 71-118, relating to poor farms, were repealed as outdated and no longer necessary. Section 71-233.5, which defines "public welfare" and "welfare" for the purposes of sections 71-233.1 through 71-233.4, was repealed as outdated and no longer necessary. In this regard, sections 25 and 26 of this bill amend the references to "public welfare" or "welfare" in 71-233.1 through 71-233.4 (which appear only in 71-233.1 and 71-233.3) to read "public assistance", and 71-201.1 (2) defines "public assistance" in almost the exact language 71-233.5 used in defining "public welfare" and "welfare" (71-201.1 (2) applies to entire Title 71).

Approved by Committee  
on Public Health, Welfare  
& Safety

HOUSE BILL NO. 30

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO VOCATIONAL REHABILITATION, PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY DISABLED, AND THE MENTALLY ILL; AMENDING SECTIONS 38-110, 38-120, ~~38-240~~, 38-506, 38-1202, 38-1205, 38-1206, 38-1208, 38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211, 71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226, 71-230, 71-233.1, 71-233.3, 71-302.2, 71-303, 71-305, 71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509, 71-710, 71-901, 71-1401, 71-1516, 71-1903, 71-2304, 71-2404, 71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912, 80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, R.C.M. 1947; AND REPEALING SECTIONS ~~38-210~~, 71-101, 71-107, 71-118, AND 71-233.5, R.C.M. 1947."

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

Section 1. Section 38-110, R.C.M. 1947, is amended to read as follows:

"38-110. Maintenance of indigent ~~persons~~ patients on discharge. Prior to the discharge of a patient from a mental health facility, the professional person in charge of the facility shall notify the welfare department of the county

from which the patient was committed. The county welfare department shall at once ascertain whether the discharged patient is in financial need. If the patient is found to be in financial need, the county welfare department shall properly care for and maintain the discharged patient under the laws of this state relating to public welfare ~~assistance~~ until the patient is able to care for himself, or until another provision has been made for care of the patient."

Section 2. Section 38-120, R.C.M. 1947, is amended to read as follows:

"38-120. Receipt of nonresident ~~insane person who is~~ seriously mentally ill pending return to home state. ~~An insane~~ A person, who is seriously mentally ill and not a resident of this state, may be received into the state hospital for a period not to exceed ~~thirty~~ (30) days pending return to the state of his residence."

~~Section 3. Section 38-240, R.C.M. 1947, is amended to read as follows:~~

~~"38-240. Moneys Disposal of moneys of or person who is seriously mentally ill insane person disposal of. When a person is adjudged insane to be seriously mentally ill and ordered committed to the state hospital, or is adjudged to be in such a condition of mind that he should be placed in the state hospital for observation, the money found on his at the time he is taken into custody shall be certified to by~~

~~1 the judge, and sent with the person to the state hospital.~~  
~~2 The money must be delivered to the superintendent of the~~  
~~3 state hospital, whose receipt for the money shall be taken~~  
~~4 by the officer or other person delivering his the patient to~~  
~~5 the hospital, the officer must file the receipt with~~  
~~6 the clerk of the district court of the county in which the~~  
~~7 proceedings were held. If the amount exceeds one hundred~~  
~~8 dollars (\$100), the excess must be applied to the payment of~~  
~~9 the expenses of the person while in the hospital. If the~~  
~~10 amount is one hundred dollars (\$100) or less, it must be~~  
~~11 kept and delivered to the person when discharged or released~~  
~~12 from the hospital or applied in payment of funeral expenses~~  
~~13 if the person dies while in the hospital. If an amount~~  
~~14 remains to the credit of a person paroled, discharged, or~~  
~~15 released, or after payment of the funeral expenses of the~~  
~~16 person who dies while in the hospital, and the amount~~  
~~17 remains unclaimed for one (1) year after the parole,~~  
~~18 discharge, release, or death, fifty per cent (50%) of the~~  
~~19 amount, but not in any event exceeding fifty dollars (\$50),~~  
~~20 shall be withdrawn from the account and placed in the agency~~  
~~21 fund in the state treasury, to be expended for indigent~~  
~~22 patients at the time and in the manner and for such~~  
~~23 purposes as may be prescribed by the superintendent of the~~  
~~24 hospital. A balance which remains to the credit of the~~  
~~25 person, shall be transmitted to the county treasurer of the~~

~~1 county from which the person was sent, and if a sum remains~~  
~~2 after paying the costs of hearing, and transportation to the~~  
~~3 hospital, the balance shall be paid into the state treasury~~  
~~4 to the credit of the general fund."~~

Section 3. Section 38-506, R.C.M. 1947, is amended to  
 read as follows:

"38-506. Support of patient conditionally released.  
 When a mental health facility conditionally releases a  
 patient committed to its care, it is not liable for his  
 support while conditionally released. Liability devolves  
 upon the legal guardian, parent, or person under whose care  
 the patient is placed when conditionally released, or upon  
 any other person legally liable for his support. The public  
 welfare officials of the county where the patient resides or  
 is found, are responsible for providing relief and care for  
 a conditionally released patient who is unable to maintain  
 himself, or who is unable to secure support from the person  
 under whose care he was placed on convalescent leave, like  
 any other person in need of relief and care, under the  
 public welfare assistance laws."

Section 4. Section 38-1202, R.C.M. 1947, is amended to  
 read as follows:

"38-1202. Definitions. As used in this act the  
following definitions apply:

(1) "Board" means the mental disabilities board of

1 visitors created by this act.

2 (2) "Community-based facilities" or "community-based  
3 services" ~~include~~ includes those services and facilities  
4 which are available for the evaluation, treatment, and  
5 habilitation of the developmentally disabled in a community  
6 setting, including but not limited to, outpatient  
7 facilities, special education services, group homes, foster  
8 homes, ~~day-care~~ day-care facilities, sheltered workshops,  
9 and other community-based services and facilities.

10 (3) "Court" means ~~the~~ a district court of the state of  
11 Montana.

12 (4) "Developmentally disabled" means suffering from  
13 disabilities attributable to mental retardation, cerebral  
14 palsy, epilepsy, autism, or any other neurologically  
15 handicapping condition closely related to mental retardation  
16 and requiring treatment similar to that required by mentally  
17 retarded individuals, which condition has continued or can  
18 be expected to continue indefinitely and constitutes a  
19 substantial handicap of such individuals.

20 (5) "Habilitation" means the process by which a person  
21 who is developmentally disabled is assisted to acquire and  
22 maintain those life skills which enable him to cope more  
23 effectively with the demands of his own person and  
24 environment and to raise the level of his physical, mental,  
25 and social efficiency. Habilitation includes but is not

1 limited to formal, structured education and treatment.

2 (6) "Next of kin" includes but need not be limited to  
3 the spouse, parents, adult children, and adult brothers and  
4 sisters of a person.

5 (7) "Professional person" means:

- 6 (a) a medical doctor; or
- 7 (b) a person trained in the field of developmental  
8 disabilities and certified by the department of institutions  
9 or the department of social and rehabilitation services in  
10 accordance with standards of professional licensing boards,  
11 federal regulations, and the joint commissions on  
12 accreditation of hospitals.

13 (8) "Resident" means a person admitted to a  
14 residential facility for a course of evaluation, treatment,  
15 or habilitation.

16 (9) "Residential facility" or "facility" means any  
17 residential hospital or hospital and school which exists for  
18 the purpose of evaluating, treating, and habilitating the  
19 developmentally disabled on an inpatient basis, including  
20 the Boulder River ~~School~~ school and ~~Hospital~~ hospital and  
21 the Eastmont ~~Training Center~~ training center. The term does  
22 not include a group home, ~~or~~ or foster home, or a halfway  
23 house. A correctional facility or a facility for the  
24 treatment of the mentally ill shall not be a "residential  
25 facility" within the meaning of this act.

1 (10) "Respondent" means a person alleged in a petition  
 2 filed pursuant to this act to be developmentally disabled  
 3 and in need of developmental ~~disabilities~~ disability  
 4 services.

5 (11) "Responsible person" means any person willing and  
 6 able to assume responsibility for a person who is  
 7 developmentally disabled or alleged to be developmentally  
 8 disabled. Whenever, in any proceeding under this act, the  
 9 court believes that a conflict of interest may exist between  
 10 a person who is developmentally disabled or alleged to be  
 11 developmentally disabled and his parents or guardian, or  
 12 that the parents or guardian are unable to protect the  
 13 interests of such person, or whenever there is no parent or  
 14 guardian, the court shall appoint a responsible person to  
 15 protect the interests of the person who is developmentally  
 16 disabled or alleged to be developmentally disabled. Only  
 17 one person shall at any one time be the responsible person  
 18 within the meaning of this act. In appointing a responsible  
 19 person, the court shall consider the preference of the  
 20 respondent or patient. The court may at any time, for good  
 21 cause shown, change its designation of who is the  
 22 responsible person.

23 (12) "Seriously developmentally disabled" means  
 24 developmentally disabled due to developmental or physical  
 25 disability or a combination of both rendering a person

1 unable to function in a community-based setting."

2 Section 5. Section 38-1205, R.C.M. 1947, is amended to  
 3 read as follows:

4 "~~38-1205. Procedure for reporting developmentally~~  
 5 ~~disabled~~ Petition for involuntary treatment. (1) Any person  
 6 who believes that there is a person who is developmentally  
 7 disabled and in need of developmental disability services  
 8 may report the situation to a professional person. If the  
 9 professional person believes from the facts given to him  
 10 that the person may be developmentally disabled and in need  
 11 of developmental disability services, he shall contact the  
 12 parents or guardian of the person alleged to be  
 13 developmentally disabled or the person himself. If any of  
 14 the persons so contacted refuse to cooperate with the  
 15 professional person and if the professional person believes  
 16 from all the circumstances of the case that the person may  
 17 be developmentally disabled and in need of developmental  
 18 ~~disabilities~~ disability services, he shall request the  
 19 county attorney to file a petition alleging that there is a  
 20 person in the county who is developmentally disabled and in  
 21 need of developmental ~~disabilities~~ disability services.

22 (2) The petition shall contain ~~the name and address~~  
 23 of:

24 (a) the name and address of the professional person  
 25 and any other person requesting the petition, and their

1 interest in the case;

2 (b) the name and address of the respondent;

3 (c) the name and address of the parents or guardian of  
4 the respondent, and of any other person believed to be  
5 legally responsible for the care, support, and maintenance  
6 of the respondent;

7 (d) the name and address of the respondent's next of  
8 kin, to the extent known;

9 (e) the name and address of any person whom the county  
10 attorney believes might be willing and able to be appointed  
11 responsible person; and

12 (f) a statement of the rights of the respondent and  
13 his parents or guardian which shall be in conspicuous print  
14 and identified by a suitable heading.

15 (3) Upon presentation to the court by the county  
16 attorney, the court shall immediately consider the petition  
17 with or without a hearing to determine if there is probable  
18 cause to believe that the respondent is developmentally  
19 disabled and in need of evaluation and treatment. If the  
20 court finds no such probable cause, it shall dismiss the  
21 petition. If the court finds that probable cause does  
22 exist, it shall direct a professional person to examine the  
23 respondent and to make an inquiry concerning the  
24 circumstances of the case. Such examination shall not  
25 exceed ~~four~~-(4) hours in length. If probable cause is

1 found, the court may appoint a responsible person other than  
2 the respondent's parents or guardian to protect the  
3 interests of the respondent. The responsible person shall  
4 be notified as soon as possible that a petition has been  
5 filed. Notice of the petition and the finding of probable  
6 cause shall be mailed or delivered to the respondent and to  
7 all other persons named in the petition and to any person  
8 who would have been named in the petition had his name,  
9 address, and relationship to the respondent been known at  
10 the time.

11 (4) When the professional person first contacts the  
12 respondent, before he begins any examination, he shall give  
13 the respondent a copy of the petition and explain to the  
14 respondent the nature of the proceeding and his rights as  
15 set forth in the petition. If the respondent is incapable  
16 of understanding the explanation and proceeding, the  
17 professional person shall give the petition and make the  
18 explanation to the parents or guardian of the respondent.  
19 Before making any inquiry of the parents or guardian of the  
20 respondent, the professional person shall give them a copy  
21 of the petition, and explain the nature of the proceeding  
22 and their rights as set forth in the petition."

23 Section 6. Section 38-1206, R.C.M. 1947, is amended to  
24 read as follows:

25 "~~38-1206. Petition-dismissal-hearing-counsel-~~



1 ~~treatment~~ Action on petition. (1) If the professional  
 2 person, based on his examination and inquiry, determines  
 3 that the respondent is not developmentally disabled or is  
 4 not in need of developmental disability services, he shall  
 5 report this finding in writing to the court and the petition  
 6 shall be dismissed. If the professional person concludes  
 7 that the respondent is developmentally disabled and in need  
 8 of developmental disability services, he shall report this  
 9 conclusion to the court in writing together with his  
 10 recommendations for evaluation and treatment. The report  
 11 shall include an explanation of the basis on which the  
 12 professional person has reached his conclusion and shall  
 13 include a description of any tests or evaluation devices he  
 14 has employed. If the professional person's recommendation  
 15 is for further evaluation and treatment, notice of this  
 16 recommendation shall be sent to the respondent, his parents  
 17 or guardian, the next of kin, the responsible person  
 18 appointed by the court, if any, and any attorney  
 19 representing the respondent or his parents or guardian. If  
 20 no responsible person has yet been appointed, the court may  
 21 appoint one at this time.

22 (2) If the respondent, his parents or guardian, the  
 23 responsible person, if any, or counsel for any party  
 24 requests a hearing on the recommendation, the court shall  
 25 set a time and place for hearing. The hearing shall be

1 before the court without a jury. The rules of civil  
 2 procedure shall apply.

3 (3) Prior to any hearing held pursuant to this  
 4 section, the court shall appoint counsel to represent the  
 5 respondent, if the respondent has not retained independent  
 6 counsel. The parents [or guardian] shall be informed of  
 7 their right to counsel, and if they are indigent, the court  
 8 shall, on their request, appoint counsel for them. In no  
 9 case ~~shall~~ may the same attorney represent the respondent  
 10 and his parents or guardian.

11 (4) If the hearing is waived or if the court finds,  
 12 after hearing, that the respondent is developmentally  
 13 disabled and in need of further evaluation and treatment,  
 14 the court shall order that the respondent undergo such  
 15 evaluation and treatment. Evaluation and treatment ordered  
 16 pursuant to this subsection ~~shall~~ may not be for ~~no~~ more  
 17 than ~~thirty~~ ~~(30)~~ days. It shall take place in the least  
 18 restrictive environment in which the necessary evaluation  
 19 and treatment can be accomplished. Evaluation and treatment  
 20 in a residential facility ~~shall~~ may be ordered only if the  
 21 necessary evaluation and treatment cannot be accomplished  
 22 through the use of community-based facilities."

23 Section 7. Section 38-1208, R.C.B. 1947, is amended to  
 24 read as follows:

25 "38-1208. Recommendation to residential facility. (1)

1 If as a result of the evaluation and treatment, either  
 2 agreed to by the parents, guardian, or the person himself  
 3 pursuant to ~~section~~ 38-1204 or ordered by the court, the  
 4 professional person in charge of the case concludes that the  
 5 person evaluated is seriously developmentally disabled and  
 6 recommends that treatment and habilitation be had in a  
 7 residential facility on an extended basis, the professional  
 8 person shall file his written recommendation and report  
 9 with the court and request that the court order the  
 10 admission. The report shall include the factual basis for  
 11 the recommendation, and shall describe any tests or  
 12 evaluation devices which have been employed in evaluating  
 13 the patient. If no responsible person has yet been  
 14 appointed, the court may appoint one at this time. If there  
 15 is no parent or guardian, the court shall appoint a  
 16 responsible person. At the request of the respondent, his  
 17 parents or guardian, or the responsible person, the court  
 18 shall appoint counsel for the respondent. If the parents  
 19 [or guardian] are indigent and if they request it, the court  
 20 shall appoint counsel for the parents or guardian. Notice  
 21 of the recommendation shall be mailed or delivered to the  
 22 respondent, his parents or guardian, the responsible person,  
 23 next of kin, if known, and the attorney for the respondent,  
 24 if any, and for the parents or guardian, if any.

25 (2) The respondent, his parents or guardian, the

1 responsible person, or the attorney for any party may  
 2 request that a hearing be had on the recommendation. If a  
 3 hearing is requested, the court shall mail or deliver notice  
 4 of the date, time, and place of the hearing to each of the  
 5 parties listed at the beginning of this subsection. The  
 6 hearing shall be to the court without jury. The rules of  
 7 civil procedure shall apply.

8 (3) If the court finds that the respondent is  
 9 seriously developmentally disabled and that available  
 10 community-based services are not adequate, it shall order  
 11 the respondent admitted to a residential facility for an  
 12 extended course of treatment and habilitation. If the court  
 13 finds that the respondent is developmentally disabled, and  
 14 in need of developmental ~~disabilities~~ disability services,  
 15 ~~but~~ and that available community-based services are  
 16 adequate, it shall order the respondent to undertake a  
 17 community-based course of treatment and habilitation. If  
 18 the court finds that the respondent is not developmentally  
 19 disabled or is not in need of developmental disability  
 20 services, it shall dismiss the request.

21 (4) If none of the parties notified of the  
 22 recommendation request a hearing, the court may issue an  
 23 order authorizing the person to be admitted to the  
 24 residential facility for an extended period of treatment and  
 25 habilitation, or the court may initiate its own inquiry as

1 to whether the order should be granted. The court may  
 2 refuse to authorize admission of a person to a residential  
 3 facility for an extended period of treatment and  
 4 habilitation if such admission is not in the best interests  
 5 of the person.

6 (5) If any person is admitted to a residential  
 7 facility for an extended course of habilitation without a  
 8 hearing, and if subsequent to such admission one of the  
 9 parties who could have requested a hearing learns that an  
 10 alternative course of treatment is available which is more  
 11 suitable to the needs of the resident, the party may request  
 12 the professional person in charge of the resident to release  
 13 the resident to the alternative, if it is a community-based  
 14 alternative, or transfer the resident to the alternative, if  
 15 it is a residential alternative. Any such transfer or  
 16 release shall comply with the requirements of ~~section~~  
 17 38-1209. If the professional person in charge of the  
 18 resident refuses to authorize the release or transfer, then  
 19 the party may petition the court for a hearing to determine  
 20 whether the present residential alternative should be  
 21 continued. The hearing shall comply with the procedures set  
 22 forth in subsection (2) of this section."

23 Section 8. Section 38-1222, R.C.M. 1947, is amended to  
 24 read as follows:

25 "~~38-1222. Other rights while in a residential facility~~

1 Right to habilitation. (1) Persons admitted to residential  
 2 facilities shall have a right to habilitation, including  
 3 medical treatment, education, and care, suited to their  
 4 needs, regardless of age, degree of retardation, or  
 5 handicapping condition. Each resident has a right to a  
 6 habilitation program which will maximize his human abilities  
 7 and enhance his ability to cope with his environment. Every  
 8 residential facility shall recognize that each resident,  
 9 regardless of ability or status, is entitled to develop and  
 10 realize his fullest potential. The facility shall implement  
 11 the principle of normalization so that each resident may  
 12 live as normally as possible.

13 (2) Residents shall have a right to the least  
 14 restrictive conditions necessary to achieve the purposes of  
 15 habilitation. To this end, the facility shall make every  
 16 attempt to move residents from:

- 17 (a) more to less structured living;
- 18 (b) larger to smaller facilities;
- 19 (c) larger to smaller living units;
- 20 (d) group to individual residence;
- 21 (e) segregated from the community to integrated into  
 22 the community living;
- 23 (f) dependent to independent living.

24 (3) Within ~~thirty~~ (30) days of his admission to a  
 25 residential facility, each resident shall have an evaluation

1 by appropriate specialists for programming purposes.

2 (4) Each resident shall have an individualized

3 habilitation plan formulated by the facility. This plan

4 shall be developed by appropriate professional persons and

5 implemented as soon as possible but no later than ~~fourteen~~

6 ~~{14}~~ days after the resident's admission to the facility.

7 An interim program of habilitation, based on the

8 preadmission evaluation conducted pursuant to this act,

9 shall commence promptly upon the resident's admission. Each

10 individualized habilitation plan shall contain:

11 (a) a statement of the nature of the specific

12 limitations and specific needs of the resident;

13 (b) a description of intermediate and long-range

14 habilitation goals with a projected timetable for their

15 attainment;

16 (c) a statement of, and an explanation for, the plan

17 of habilitation for achieving these intermediate and

18 long-range goals;

19 (d) a statement of the least restrictive setting for

20 habilitation necessary to achieve the habilitation goals of

21 the resident;

22 (e) a specification of the professional persons and

23 other staff members who are responsible for the particular

24 resident's attaining these habilitation goals;

25 (f) criteria for release to less restrictive settings

1 for habilitation, including criteria for discharge and a

2 projected date for discharge.

3 (5) As part of his habilitation plan, each resident

4 shall have an individualized ~~post-institutionalization~~

5 postinstitutionalization plan. This plan shall be developed

6 by a professional person who shall begin preparation of such

7 plan upon the resident's admission to the institution and

8 shall complete such plan as soon as practicable. The

9 parents or guardian or next of kin of the resident, the

10 responsible person appointed by the court, if any, and the

11 resident, if able to give informed consent, shall be

12 consulted in the development of such plan and shall be

13 informed of the content of such plan.

14 (6) In the interests of continuity of care, one

15 professional person shall whenever possible be responsible

16 for supervising the implementation of the habilitation plan,

17 integrating the various aspects of the habilitation

18 program, and recording the resident's progress as measured

19 by objective indicators. This professional person shall

20 also be responsible for ensuring that the resident is

21 released when appropriate to a less restrictive habilitation

22 setting.

23 (7) The habilitation plan shall be continuously

24 reviewed by the professional person responsible for

25 supervising the implementation of the plan and shall be

1 modified if necessary. In addition, ~~six~~(6) months after  
 2 admission and at least annually thereafter, each resident  
 3 shall receive a comprehensive psychological, social,  
 4 educational, and medical diagnosis and evaluation, and his  
 5 habilitation plan shall be reviewed by an interdisciplinary  
 6 team of no less than two (2) professional persons and such  
 7 resident care workers as are directly involved in his  
 8 habilitation and care. A habilitation plan shall be  
 9 reviewed monthly.

10 (8) Each resident discharged to the community shall  
 11 have a program of transitional habilitation assistance.

12 (9) The professional person in charge of the  
 13 residential facility shall report in writing to the parents  
 14 or guardian of the resident, or the responsible person, at  
 15 least every ~~six~~(6) months on the resident's educational,  
 16 vocational, and living skills progress and medical  
 17 condition. Such report shall also state any appropriate  
 18 habilitation program which has not been afforded to the  
 19 resident because of inadequate habilitation resources.

20 (10) The parents or guardian of each resident, or the  
 21 responsible person appointed by the court, shall promptly  
 22 upon the resident's admission receive a written copy of all  
 23 the above standards for adequate habilitation. Each  
 24 resident, if the resident is able to comprehend, shall  
 25 promptly upon his admission be orally informed in clear

1 language of the above standards and, where appropriate, be  
 2 provided with a written copy."

3 Section 9. Section 38-1302, R.C.L. 1947, is amended to  
 4 read as follows:

5 "38-1302. Definitions. As used in this act the  
 6 following definitions apply:

7 (1) "Board" means the mental disabilities board of  
 8 visitors created by this act.

9 (2) "Court" means ~~the~~ a district court of the state of  
 10 Montana.

11 (3) "Department" means the department of institutions  
 12 provided for in Title 82A, chapter 10.

13 (4) "Emergency situation" means a situation in which  
 14 any person is in imminent danger of death or serious bodily  
 15 harm from the activity of a person who appears to be  
 16 seriously mentally ill.

17 (5) "Mental disorder" means any organic, mental, or  
 18 emotional impairment which has substantial adverse effects  
 19 on an individual's cognitive or volitional functions.

20 (6) "Mental health facility" or "facility" means a  
 21 public hospital or a licensed private hospital or, a  
 22 community mental health center, or any mental health clinic  
 23 or treatment center approved by the department. No  
 24 correctional institution or facility, or jail, is a mental  
 25 health facility within the meaning of this act.

1 (7) "Next of kin" shall include, but need not be  
 2 limited to, the spouse, parents, adult children, and adult  
 3 brothers and sisters of a person.

4 (8) "Patient" means a person committed by the court to  
 5 a ~~seventy-two (72)-hour~~ 72-hour evaluation or treatment or  
 6 for a longer period.

7 (9) "Peace officer" means any sheriff, deputy sheriff,  
 8 marshal, policeman, or other peace officer.

9 (10) "Professional person" means:

10 (a) a medical doctor; or

11 (b) a person trained in the field of mental health and  
 12 certified by the department of ~~institutions~~ in accordance  
 13 with standards of professional licensing boards, federal  
 14 regulations, and the joint commission on accreditation of  
 15 hospitals.

16 (11) "Respondent" means a person alleged in a petition  
 17 filed pursuant to this act to be seriously mentally ill.

18 (12) "Responsible person" means any person willing and  
 19 able to assume responsibility for a seriously mentally ill  
 20 person, or person alleged to be seriously mentally ill,  
 21 including next of kin; the person's conservator or legal  
 22 guardian, if any; representatives of a charitable or  
 23 religious organization; or any other person appointed by  
 24 the court to perform the functions of a "responsible person"  
 25 set out in this act. Only one person shall at any one time

1 be the "responsible person" within the meaning of this act.  
 2 In appointing a responsible person, the court shall consider  
 3 the preference of the respondent. The court may, at any  
 4 time for good cause shown, change its designation of the  
 5 "responsible person".

6 (13) "Seriously mentally ill" means suffering from a  
 7 mental disorder which has resulted in self-inflicted injury  
 8 or injury to others, or the imminent threat thereof, or  
 9 which has deprived the person afflicted of the ability to  
 10 protect his life or health. No person may be involuntarily  
 11 committed to a mental health facility ~~nor~~ or detained for  
 12 evaluation and treatment because he is an epileptic,  
 13 mentally deficient, mentally retarded, senile, or suffering  
 14 from a mental disorder unless the condition causes the  
 15 person to be seriously mentally ill within the meaning of  
 16 this act."

17 Section 10. Section 41-817, R.C.M. 1947, is amended to  
 18 read as follows:

19 "41-817. Definitions. (1) "Severely handicapped  
 20 person" means any individual:

21 (a) who has a physical or mental impairment which  
 22 requires multiple services over an extended period of time  
 23 and results from amputation, blindness, cancer, cerebral  
 24 palsy, cystic fibrosis, deafness, heart disease, hemiplegia,  
 25 respiratory or pulmonary dysfunction, mental retardation,

1 mental illness, multiple sclerosis, muscular dystrophy,  
2 neurological disorders (including stroke and epilepsy),  
3 paraplegia, quadriplegia, and other spinal cord conditions,  
4 renal failure, and any other disability specified by the  
5 department in regulations it shall prescribe; ~~and/or~~

6 (b) who, because of lack of social competence,  
7 mobility, experience, skills, training, or other successful  
8 characteristics, is in need of sheltered employment or work  
9 activity services in a protective setting.

10 (2) "Physical or mental disability" means a physical  
11 or mental condition which materially limits, contributes to  
12 limiting, or, if not corrected, will probably result in  
13 limiting an individual's activities or functioning. The term  
14 includes behavioral disorders characterized by deviant  
15 social behavior or impaired ability to carry out normal  
16 relationships with family and community which may result  
17 from vocational, educational, cultural, social,  
18 environmental, or other factors.

19 (3) "Vocational rehabilitation services" means goods  
20 or services provided handicapped persons to enable such  
21 persons to be fit for gainful occupation or to attain or  
22 maintain a maximum degree of self-support or self-care and  
23 includes every type of goods and services for which federal  
24 funds are available for vocational rehabilitation purposes,  
25 including, but not limited to, the establishment,

1 construction, development, operation, and maintenance of  
2 workshops and rehabilitation facilities.

3 (4) "Self-care" means a reasonable degree of  
4 restoration from dependency upon others for personal needs  
5 and care and includes but is not limited to ability to live  
6 in own home, rather than requiring nursing home care and  
7 care for self rather than requiring attendant care.

8 (5) "Department" means the department of social and  
9 rehabilitation services.

10 (6) "Sheltered workshop" means a charitable  
11 organization or institution conducted not for profit, but  
12 for the purpose of carrying out a recognized program of  
13 rehabilitation for handicapped workers, ~~and/or~~ providing  
14 such individuals with remunerative employment or other  
15 occupational rehabilitating activity of an educational or  
16 therapeutic nature.

17 (7) "Work activity center" means a physically  
18 separated department of a workshop having an identifiable  
19 program, separate supervision and records, and which is  
20 planned and designed exclusively to provide therapeutic  
21 activities for handicapped workers whose physical or mental  
22 impairment is so severe as to make their productive capacity  
23 inconsequential. Therapeutic activities include custodial  
24 activities (such as activities where the focus is on teaching  
25 the basic skills ~~of~~ of living) and any purposeful activity

1 so long as work or production is not the main purpose."  
 2 Section 11. Section 71-113, R.C.M. 1947, is amended to  
 3 read as follows:  
 4 "71-113. Bond of contractor -- duty of physician to  
 5 examine and notify contractor. ~~Any~~ A person with whom ~~any~~ a  
 6 ~~such~~ contract for the maintenance or medical attendance of  
 7 the poor or indigent sick is made must execute a bond to the  
 8 state in a sum not less than ~~one thousand \$1,000 nor~~ or more  
 9 than ~~five thousand dollars~~ \$5,000, with two or more  
 10 sureties, conditioned for the faithful performance of his  
 11 contract, ~~said~~ The bond is to be approved by and filed with  
 12 the chairman of the board. ~~It is the duty of the~~ The  
 13 physician with whom ~~the~~ a contract for medical attendance is  
 14 made ~~to examine~~ shall each week examine any person who is a  
 15 charge upon the county, and if, after ~~such~~ the examination,  
 16 he is satisfied that ~~such~~ the person is able to support and  
 17 maintain himself, he must ~~so~~ notify the contractor having  
 18 the person in charge, by leaving with the contractor a  
 19 notice of the fact that ~~such~~ the person requires no further  
 20 medical attendance, ~~and he shall~~ file a duplicate thereof  
 21 notice with the clerk of the board. After the ~~servicing~~ of  
 22 ~~said~~ physician serves the notice and ~~filing~~ files the  
 23 duplicate thereof with the clerk, the person mentioned  
 24 therein ceases to be a charge upon the county."  
 25 Section 12. Section 71-207, R.C.M. 1947, is amended to

1 read as follows:  
 2 "71-207. ~~Legal services~~ Attorney general to act as  
 3 legal adviser to department. The attorney general of the  
 4 state shall act as legal adviser to the state department,  
 5 and shall perform such legal services as may be required,  
 6 and ~~he is hereby empowered to~~ may employ such other and  
 7 additional counsel as may be necessary for this purpose, and  
 8 ~~may~~ fix the compensation therefor, ~~provided, however, that~~  
 9 ~~the~~ The total yearly sum ~~per annum~~ for the service shall may  
 10 not exceed ~~twenty four hundred (\$2,400.00) dollars~~, which  
 11 compensation shall be paid out of state public ~~welfare~~  
 12 assistance funds."  
 13 Section 13. Section 71-210, R.C.M. 1947, is amended to  
 14 read as follows:  
 15 "71-210. Authority Powers and activities duties of the  
 16 state department. (1) ~~The state department has authority~~  
 17 ~~over and administration or supervision of all the purposes~~  
 18 ~~and operations as set forth under Title 71.~~ The state  
 19 department shall:  
 20 (a) ~~Administer~~ administer or supervise all forms of  
 21 public assistance, child protection, and child welfare,  
 22 including the provision of medical care payments in behalf  
 23 of recipients of public assistance;  
 24 (b) ~~Administer~~ administer or supervise all child  
 25 welfare activities, including importation and exportation of



1 children; licensing and supervising of private and local  
 2 child-caring agencies; the care of dependent, neglected, and  
 3 delinquent children in foster family homes, especially  
 4 children placed for adoption or those of illegitimate birth;

5 (c) ~~Give~~ give consultant service to private  
 6 institutions providing care for the needy, indigent,  
 7 handicapped, or dependent adults;

8 (d) ~~Develop and~~ cooperate with other state agencies  
 9 and develop provisions for services to the blind, including  
 10 the prevention of blindness, the location of blind persons,  
 11 medical services for eye conditions, and vocational guidance  
 12 and training of the blind;

13 (e) ~~Provide~~ provide services in respect to  
 14 organization and supervise county departments of public  
 15 welfare and county boards of public welfare in the  
 16 administration of public ~~welfare~~ assistance functions, and  
 17 for efficiency and economy;

18 (f) ~~Assist~~ assist and cooperate with other state and  
 19 federal departments, bureaus, agencies, and institutions,  
 20 when so requested, by performing services in conformity with  
 21 ~~the purposes of this act,~~ public assistance purposes; and

22 (g) ~~Administer~~ administer and supervise all federal  
 23 funds allocated to this state and all state funds  
 24 appropriated to ~~this the~~ state department for ~~the activities~~  
 25 ~~set forth in Title 71~~ public assistance activities. The

1 state department shall do all things necessary, in  
 2 conformity with federal and state law, for the proper  
 3 fulfillment of ~~the purposes set forth in Title 71~~ public  
 4 assistance purposes.

5 (2) The state department may:

6 (a) ~~Purchase~~ purchase, exchange, condemn, or receive  
 7 by gift, either real or personal property which is necessary  
 8 to carry out its public assistance functions ~~under Title 71.~~  
 9 Title to property obtained under this subsection shall be  
 10 taken in the name of the state of Montana, for the use and  
 11 benefit of the state department.

12 (b) ~~Contract~~ contract with the federal government to  
 13 carry out its public assistance functions ~~under Title 71.~~  
 14 The state department may do all things necessary in order to  
 15 avail itself of federal aid and assistance."

16 Section 14. Section 71-211, R.C.M. 1947, is amended to  
 17 read as follows:

18 "71-211. State department to act as agency of federal  
 19 government -- assistance to ward Indians. (1) The state  
 20 department shall act as the agent of the federal government  
 21 in public ~~welfare~~ assistance matters of mutual concern in  
 22 conformity with this act and the ~~Federal~~ federal Social  
 23 Security Act, and in the administration of any federal funds  
 24 granted to the state to aid in the purposes and functions of  
 25 the state department.

1        ~~(2)~~ The counties shall not be required to reimburse  
 2 the state department for any portion of old-age assistance,  
 3 medical assistance, aid to needy dependent children, ~~or~~ aid  
 4 to needy blind, or aid to the totally disabled paid to ward  
 5 Indians or for any payment on behalf of any person in a  
 6 state-operated medical institution, ~~and further provided that~~  
 7 ~~the~~ The federal government may reimburse the state of  
 8 Montana in behalf of counties, providing general relief to  
 9 ward Indians, a sum in lieu of taxes which the counties  
 10 would collect if the lands of such ward Indians were not in  
 11 trust status. A "ward Indian" is hereby defined as an Indian  
 12 who is living on an Indian reservation set aside for tribal  
 13 use, or is a member of a tribe or nation accorded certain  
 14 rights and privileges by treaty or by federal statutes. If  
 15 and when the ~~federal~~ federal Social Security Act is amended  
 16 to define a "ward Indian," such definition shall supersede  
 17 the foregoing definition."

18        Section 15. Section 71-212, R.C.M. 1947, is amended to  
 19 read as follows:

20        "71-212. State power of state department in  
 21 administering state grants-in-aid. In administering or  
 22 supervising any state or federal funds appropriated or made  
 23 available to the state department for public ~~welfare~~  
 24 assistance purposes, the state department shall have the  
 25 authority to:

1        ~~(a)(1)~~ Require require as a condition for receiving  
 2 grants-in-aid that the county shall bear the proportion of  
 3 the total of local public assistance as is fixed by law  
 4 relating to such assistance;

5        ~~(b)(2)~~ Make make use of all legal processes to enforce  
 6 the minimum standards prescribed by the state department  
 7 under laws providing for grants-in-aid, provided that such  
 8 standards shall not exceed in cost the amount derived from  
 9 levies established by state law; and

10        ~~(c)(3)~~ Require require that each part of ~~this act~~ the  
 11 public assistance laws shall be in effect in all counties of  
 12 the state."

13        Section 16. Section 71-213, R.C.M. 1947, is amended to  
 14 read as follows:

15        "71-213. County departments to be established. There  
 16 shall be established in each county of the state a county  
 17 department of public welfare which shall consist of a county  
 18 board of public welfare and such staff personnel as may be  
 19 necessary for the efficient performance of the public  
 20 welfare assistance activities of the county. ~~Provided,~~  
 21 ~~however,--if~~ If conditions warrant and if two or more county  
 22 boards enter into an agreement, two or more counties may  
 23 combine into one administrative unit and use the same staff  
 24 personnel throughout the administrative unit."

25        Section 17. Section 71-214, R.C.M. 1947, is amended to

1 read as follows:

2 \*71-214. County commissioners ex officio county  
3 welfare board — compensation. The board of county  
4 commissioners, ex officio, shall be the county welfare board  
5 and is hereby authorized to devote such additional time for  
6 public welfare assistance matters as may be found necessary.  
7 The members of the county welfare board shall receive the  
8 same compensation for their services and the same mileage  
9 when acting as the county board of public welfare as they  
10 receive when acting as the board of county commissioners and  
11 shall be limited as to meetings as now provided by law, and  
12 the compensation and mileage of the members of the board  
13 shall be paid from county funds. They may transact business  
14 as a board of county commissioners and as a county welfare  
15 board on the same day, and in such cases they shall be paid  
16 as a board of county commissioners, but ~~shall in no case~~ may  
17 not receive compensation for more than ~~one~~ 1 day's work for  
18 all services performed on the same calendar day."

19 Section 18. Section 71-216, R.C.M. 1947, is amended to  
20 read as follows:

21 \*71-216. Powers and duties of the county board. The  
22 county board of public welfare ~~shall be~~ is responsible for  
23 establishing local policies and such rules ~~and regulations~~  
24 as are necessary to govern the county department and local  
25 administration of public ~~welfare~~ assistance activities

1 except that all such policies and rules ~~and regulations~~ must  
2 be in conformity with general policies and rules ~~and~~  
3 ~~regulations~~ established by the state department. The county  
4 board of public welfare shall review the determinations of  
5 eligibility and amount of payment to or on behalf of  
6 individuals made by the staff of the county department for  
7 conformity with the aforesaid rules ~~and regulations~~.  
8 Determinations not in conformity will be referred to the  
9 staff by the county welfare board for appropriate action as  
10 authorized by said the board."

11 Section 19. Section 71-217, R.C.M. 1947, is amended to  
12 read as follows:

13 \*71-217. Staff personnel — how selected, paid, and  
14 controlled — dismissal. (1) Each county board shall select  
15 and appoint from a list of qualified persons furnished by  
16 the state department such staff personnel as are necessary.  
17 The staff personnel in each county shall consist of at least  
18 one qualified staff worker (or investigator) and such clerks  
19 and stenographers as may be decided necessary. If conditions  
20 warrant, the county board, with the approval of the state  
21 department, may appoint some fully qualified person listed  
22 by the state department as supervisor of its staff  
23 personnel. The staff personnel of each county department are  
24 directly responsible to the county board, but the state  
25 department ~~shall have the authority to~~ may supervise such

1 county employees in respect to the efficient and proper  
 2 performance of their duties. The county board of public  
 3 welfare shall may not dismiss any member of the staff  
 4 personnel without the approval of the state department, but  
 5 the state department ~~shall have the authority to~~ may request  
 6 the county board to dismiss any member of the staff  
 7 personnel for inefficiency, incompetence, or similar cause.

8 (2) Public assistance staff personnel attached to the  
 9 county board shall be paid from state public ~~welfare~~  
 10 assistance funds, both their salaries and their travel  
 11 expenses, as provided for in ~~sections~~ 59-538, 59-539, and  
 12 59-801, when away from the county seat in the performance of  
 13 their duties, but the county board of public welfare shall  
 14 reimburse the state department, from county poor funds,  
 15 one-half of the payments so made to its public assistance  
 16 staff personnel, except that, under circumstances prescribed  
 17 by the state department, the reimbursement by the county  
 18 board of public welfare may be less than one-half. All other  
 19 administrative costs of the county department shall also be  
 20 paid from county poor funds.

21 (3) On or before the 20th day of the month following  
 22 the month for which the payments to the public assistance  
 23 staff personnel of the county were made, the state  
 24 department shall present to the county department of public  
 25 welfare a claim for the required reimbursements. The county

1 board shall make such reimbursements within ~~twenty (20)~~ days  
 2 after the presentation of the claim, and the state  
 3 department shall credit (add) all such reimbursements to its  
 4 account for administrative costs."

5 Section 20. Section 71-222, E.C.M. 1947, is amended to  
 6 read as follows:

7 "71-222. ~~Millage taxes to be levied~~  
 8 ~~expenditures budgets County to levy taxes, budget, and make~~  
 9 ~~expenditures for public assistance activities.~~ (1) The board  
 10 of county commissioners in each county shall levy ~~seventeen~~  
 11 ~~(17)~~ 13.5 mills for the county poor fund as provided by law,  
 12 or so much thereof as may be necessary. The board shall  
 13 budget and expend so much of the funds in the county poor  
 14 fund for ~~all public assistance purposes of this act~~ as will  
 15 enable the county welfare department to pay the general  
 16 relief activities of the county and to reimburse the state  
 17 department for the county's proportionate share of the  
 18 administrative costs of the county welfare department and of  
 19 all public assistance and its proportionate share of any  
 20 other ~~welfare~~ public assistance activity that may be carried  
 21 on jointly by the state and the county.

22 (2) The amounts set up in the budget for the  
 23 reimbursements to the state department shall be sufficient  
 24 to make all of these reimbursements in full. The budget  
 25 shall make separate provision for each one of these public

1 assistance activities, and proper accounts shall be  
 2 established for the funds for all such activities.

3 (3) As soon as the preliminary budget provided for in  
 4 ~~section~~ 16-1903 has been agreed upon, a copy thereof shall  
 5 without delay be mailed to the state department, and at any  
 6 time before the final adoption of the budget, the department  
 7 shall make such recommendations with regard to changes in  
 8 any part of the budget relating to the county poor fund as  
 9 considered necessary in order to enable the county to  
 10 discharge its obligations under the ~~Public Welfare Act~~  
 11 public assistance laws.

12 (4) The state department shall promptly examine the  
 13 preliminary budget in order to ascertain if the amounts  
 14 provided for reimbursements to the state department are  
 15 likely to be sufficient, and shall notify the county clerk  
 16 of ~~his~~ its findings. The board shall make such changes in  
 17 the amounts provided for reimbursements, if any are  
 18 required, in order that the county will be able to make the  
 19 reimbursements in full.

20 (5) The board of county commissioners may not make any  
 21 transfer from the amounts budgeted for reimbursing the state  
 22 department without having first obtained a statement in  
 23 writing from the state department to the effect that the  
 24 amount to be transferred will not be required during the  
 25 fiscal year for the purposes for which the amounts were

1 provided in the budget.

2 (6) No part of the county poor fund, irrespective of  
 3 the source of any part thereof, may be used directly or  
 4 indirectly for the erection or improvement of any county  
 5 building so long as the fund is needed for general relief  
 6 expenditures by the county or is needed for paying the  
 7 county's proportionate share of public assistance, or its  
 8 proportionate share of any other ~~welfare~~ public assistance  
 9 activity that may be carried on jointly by the state and the  
 10 county. Expenditures for improvement of any county buildings  
 11 used directly for care of the poor may be made out of any  
 12 moneys in the county poor fund, whether such moneys are  
 13 produced by ~~the seventeen (17) mill 13.5-mill~~ levy provided  
 14 for in ~~paragraph one subsection~~ (1) of this section or from  
 15 any additional levy authorized or to be authorized by law.  
 16 Such expenditure shall be authorized only when any county  
 17 building used for the care of the poor must be improved in  
 18 order to meet legal standards required for such buildings by  
 19 the department of health and environmental sciences, and  
 20 when such expenditure has been approved by the state  
 21 department."

22 Section 21. Section 71-226, R.C.M. 1947, is amended to  
 23 read as follows:

24 "71-226. ~~Fraudulent acts~~ Fraudulent obtainment of  
 25 public assistance a misdemeanor. Whoever knowingly obtains,

1 or attempts to obtain, or aids, or abets any person to  
 2 obtain, by means of a willfully false statement or  
 3 representation or by impersonation, or other fraudulent  
 4 device, public assistance to which he is not entitled, or  
 5 assistance greater than that to which he is justly  
 6 entitled, or whoever aids or abets in buying or in any way  
 7 disposing of the property, either personal or real, of a  
 8 recipient of assistance without the consent of the county  
 9 department and with the intent to defeat the purposes of  
 10 this act, shall be is guilty of a misdemeanor. In assessing  
 11 the penalty, the court shall take into consideration, among  
 12 other factors, the amount of money fraudulently received."

13 Section 22. Section 71-230, R.C.M. 1947, is amended to  
 14 read as follows:

15 "71-230. Method of issuing assistance grants —  
 16 reimbursement. ~~(a)(1)~~ Checks in payment of public  
 17 assistance, ~~as provided for in each part of this act,~~ with  
 18 the exception of general relief, shall be issued by the  
 19 state department upon approved certificates of award and  
 20 reports of changes of such eligible grantees as are  
 21 forwarded by the county department to the state department,  
 22 and all such checks will be mailed to the individual  
 23 recipient or the appropriate vendor. The checks in payment  
 24 of public assistance shall be issued in the full approved  
 25 amount for each eligible approved grantee, and the original

1 monthly payment shall be from the state public ~~welfare~~  
 2 assistance accounts. All public assistance checks shall  
 3 represent cash on demand at full par value to the recipient  
 4 and vendor.

5 ~~(b)(2)~~ Whenever the state department, acting pursuant  
 6 to standards established by ~~said the~~ department, shall  
 7 ~~determine~~ determines that any otherwise eligible recipient  
 8 of ~~old-age old-age~~ assistance, aid to the needy blind, or  
 9 aid to the permanently and totally disabled, has, by reason  
 10 of any physical or mental condition, such inability to  
 11 manage funds that making payments to his would be contrary  
 12 to his welfare, the department may, under standards  
 13 established under the state plan, make the public assistance  
 14 payment on behalf of such recipient to another person found  
 15 by the department to be interested in or concerned with the  
 16 welfare of such needy individual. Before such payments may  
 17 be paid to such other person, such person shall give a bond,  
 18 with adequate corporate surety and in form to be approved by  
 19 the state department, running in favor of the needy  
 20 individual and the state of Montana, conditioned upon the  
 21 faithful use by such other person of the funds for the  
 22 welfare of the ~~said~~ needy individual. Such bond shall be in  
 23 an amount equal to six ~~(6)~~ times the amount of the monthly  
 24 payment involved.

25 ~~(c)(3)~~ On or before the ~~twentieth~~ 20th of each month

1 the state department ~~will~~ shall present a claim for  
 2 reimbursement to each county department for its  
 3 proportionate share of public assistance granted in the  
 4 county to recipients during the month and for vendor medical  
 5 payments made on behalf of recipients in the previous month.  
 6 The county department ~~must~~ shall make ~~good~~ the reimbursement  
 7 to the state department within ~~twenty~~ (20) days after ~~such~~  
 8 the claim is presented."

9 Section 23. Section 71-233.1, R.C.M. 1947, is amended  
 10 to read as follows:

11 "71-233.1. Investigations and enforcement actions by  
 12 department of revenue ~~enforcement actions~~. When requested  
 13 by the department of social and rehabilitation services, the  
 14 department of revenue shall ~~have the power and duty to:~~

15 ~~(a)~~ (1) investigate matters relating to public welfare  
 16 assistance and vendor payments, including but not limited to  
 17 the claim for an acceptance of ~~welfare~~ public assistance  
 18 benefits by ~~welfare~~ public assistance recipients, and the  
 19 receipt and disbursement of ~~welfare~~ public assistance funds by  
 20 state, county, or other governmental agencies;

21 ~~(b)~~ (2) institute civil or criminal actions in the  
 22 appropriate courts to enforce the ~~welfare~~ public assistance  
 23 laws and violations thereof."

24 Section 24. Section 71-233.3, R.C.M. 1947, is amended  
 25 to read as follows:

1 "71-233.3. Information made available to department of  
 2 revenue. (1) The department of social and rehabilitation  
 3 services and its local units shall make available to the  
 4 department of revenue information contained in the ~~welfare~~  
 5 public assistance files pertinent to the investigations and  
 6 judicial actions described in ~~section 4~~ [71-233.1].

7 (2) Every other state, county, or other governmental  
 8 agency shall make available to the agents or attorneys of  
 9 the department of revenue, all records, files, memoranda,  
 10 forms, or other papers relating to public ~~welfare~~ assistance  
 11 matters, including income tax returns filed with the  
 12 department of revenue."

13 Section 25. Section 71-302.2, R.C.M. 1947, is amended  
 14 to read as follows:

15 "71-302.2. Residency requirements. (1) Any person  
 16 otherwise qualified who makes his home in ~~the state of~~  
 17 Montana with the intent to become a resident shall be  
 18 eligible for general relief. Upon the filing of his  
 19 application in the county of residence, ~~his~~ a qualified  
 20 applicant's general relief assistance shall be paid entirely  
 21 from state funds until he has resided for ~~one~~ (1) continuous  
 22 year in ~~the state of~~ Montana, at which time he shall become  
 23 a financial responsibility of the county in which he resides  
 24 at the expiration of the ~~one~~ (1) year 1-year period. A  
 25 person who leaves ~~the state of~~ Montana with the intent to

1 reside in another state, and later returns to reside in ~~the~~  
 2 ~~state of Montana, shall be deemed~~ is considered a new  
 3 resident for the purposes of this act. If a recipient moves  
 4 from his original county of residence to reside in another  
 5 county, he shall continue to be a financial responsibility  
 6 of the original county of residence for ~~one (1) year~~ from  
 7 the date of his change of residence. If during this ~~one (1)~~  
 8 ~~year 1-year~~ period, the individual resides in several  
 9 counties, he shall become a financial responsibility of the  
 10 county in which he resides at the expiration of the ~~one (1)~~  
 11 ~~year 1-year~~ period. County medical assistance under ~~sections~~  
 12 71-308 shall not be entitled to be paid from state funds.

13 (2) If a person is absent from the state voluntarily,  
 14 he ~~shall be~~ is ineligible for general relief in ~~the state of~~  
 15 Montana. Aliens found to be illegally within the United  
 16 States ~~shall be~~ are not be eligible for relief from state  
 17 funds.

18 (3) Recipients of public assistance who become wards  
 19 or patients in a licensed nursing home or hospital, foster  
 20 home, or a private charitable institution shall have the  
 21 county share of financial participation paid entirely from  
 22 state funds for ~~one (1) year~~ from the original date of  
 23 entrustment or the original date of state residency,  
 24 whichever is earlier. At the expiration of such period, the  
 25 appropriate county, as defined by the following guidelines,

1 shall become financially responsible to the extent of its  
 2 legally required share of participation. The county in which  
 3 commitment of an adult is initiated ~~shall be deemed~~ is  
 4 considered the county of financial responsibility except  
 5 where court decree declares the residency to be otherwise.  
 6 ~~Where~~ When an adult is transferred from a facility or  
 7 institution to one of the above-enumerated facilities, the  
 8 county which initiated the original commitment ~~shall be~~  
 9 ~~deemed~~ is considered the county of financial responsibility  
 10 except in the case of an adult transfer from an out-of-state  
 11 institution, in which case the county in which the facility  
 12 is located ~~shall be deemed~~ is considered the county of  
 13 financial responsibility. In all cases where a minor patient  
 14 or ward is involved, the county of financial responsibility  
 15 ~~shall be~~ is the county in which the parent or guardian  
 16 resides. ~~Where~~ If the custody of a minor is entrusted to a  
 17 state agency, the agency ~~shall have the power to~~ may make a  
 18 reasonable declaration of the county residency of its ward  
 19 using applicable guidelines enumerated in this section. A  
 20 person who reaches majority in an institution, ~~shall upon~~  
 21 release and restoration to competency, ~~have the power to~~ may  
 22 determine his own county residency. Such person shall  
 23 continue to be a financial responsibility of the county  
 24 which initiated the original commitment for ~~one (1) year~~  
 25 from the date of release, at which time he shall become a



1 financial responsibility of his new county of residence.

2 (4) Nonresidents or interstate transients may receive  
3 temporary relief from county funds in cases of extreme  
4 necessity and destitution until they ~~may be~~ are returned at  
5 state expense to their state of residence or origin. Medical  
6 expenses arising from accidental injury to interstate  
7 transients shall be paid from county funds and reimbursed by  
8 the state upon submission of a proper claim.

9 (5) "Interstate transient", as the term is used in  
10 this act, is defined as an individual who has signed a  
11 declaration that he is unable to pay for his own necessities  
12 or transportation to return to his state of residence or  
13 origin and is en route to a point outside of this state,  
14 being unable, due to unexpected distress, to reach his  
15 destination."

16 Section 26. Section 71-303, R.C.M. 1947, is amended to  
17 read as follows:

18 "71-303. Eligibility for general relief -- based on  
19 investigation of resources. An applicant for general relief  
20 assistance, including medical care and hospitalization,  
21 shall be eligible to receive assistance only after  
22 investigation by the county department reveals that the  
23 income and resources are insufficient to provide the  
24 necessities of life, ~~and assistance.~~ Assistance shall be  
25 provided to meet a minimum subsistence compatible with

1 decency and health."

2 Section 27. Section 71-305, R.C.M. 1947, is amended to  
3 read as follows:

4 "71-305. ~~Equal Right of equal~~ Right of equal consideration. Persons  
5 eligible for and in need of general relief ~~shall be,~~ whether  
6 employable or unemployable, shall be given equal  
7 consideration for public assistance as these persons  
8 eligible for assistance under other parts of this act."

9 Section 28. Section 71-306, R.C.M. 1947, is amended to  
10 read as follows:

11 "71-306. ~~Right of hearing~~ Grievances concerning  
12 general relief assistance. Individuals or committees with  
13 complaints or grievances concerning general relief  
14 assistance may present their complaints or grievances to  
15 either the county board or the state department, and due  
16 consideration shall be given all proven facts presented by  
17 the individuals or committees. The county board or the state  
18 department shall take action to relieve situations brought  
19 to their attention under this section to the extent of funds  
20 available."

21 Section 29. Section 71-307, R.C.M. 1947, is amended to  
22 read as follows:

23 "71-307. Relief by check or disbursing orders. (1) All  
24 general relief disbursements by county departments of public  
25 welfare shall be by warrant or check. However, if the county

1 welfare department finds that a recipient is in the habit of  
 2 dissipating general relief allowances instead of using them  
 3 for the purposes intended, or that for any other reason it  
 4 is better for the recipient and his family to receive the  
 5 allowance through disbursing orders, then disbursing orders  
 6 shall be used instead of cash payments. ~~but all~~ All such  
 7 disbursing orders must be written in such form that the  
 8 goods and merchandise to be provided may be furnished by any  
 9 regular dealer in such goods and merchandise within the  
 10 county. A recipient of general relief must register for  
 11 employment with the ~~State Employment Service~~ state  
 12 employment service and must accept available employment  
 13 within his or her capability. Refusal to accept such  
 14 employment will render the recipient ineligible for further  
 15 general relief assistance. If the county has work available  
 16 which a recipient of general relief is capable of  
 17 performing, then the county department of public welfare may  
 18 require the recipient to perform the work at the prevailing  
 19 rate of wages paid by that county for similar work, to be  
 20 paid from the county poor fund in place of granting him  
 21 general relief.

22 (2) The county department of public welfare shall  
 23 provide coverage under the ~~Workmen's~~ Workers' Compensation  
 24 Act for those recipients of general relief working under the  
 25 provisions hereof, and may enter into such agreements with

1 the division of ~~workmen's~~ workers' compensation of the  
 2 department of labor and industry as may be necessary to  
 3 carry out the provisions of this section.

4 (3) Any recipient of general relief who is subject to  
 5 the provisions of this section and who without cause refuses  
 6 to perform work assigned to him as herein provided, shall  
 7 lose his eligibility for general relief for ~~one~~ (1) week for  
 8 each refusal."

9 Section 30. Section 71-308, R.C.M. 1947, is amended to  
 10 read as follows:

11 "71-308. Medical County to provide medical aid and  
 12 hospitalization to indigent. (1) Medical ~~except as provided~~  
 13 in other parts of this act, medical aid and hospitalization  
 14 for nonresidents within the county and county residents  
 15 unable to provide such necessities for themselves are the  
 16 legal and financial duty and responsibility of the board of  
 17 county commissioners, ~~except as otherwise provided in other~~  
 18 ~~parts of this act,~~ payable from the county poor fund. The  
 19 board of county commissioners shall make provisions for  
 20 competent and skilled medical or surgical services as  
 21 approved by the department of health and environmental  
 22 sciences or the state medical association, or in the case of  
 23 osteopathic practitioners by the state osteopathic  
 24 association or chiropractors by the state chiropractic  
 25 association, or optometrical services as approved by the

1 Montana optometric association and dental services as  
2 approved by the dental association. "Medical" or "medicine"  
3 as used in this ~~act~~ section refers to the healing art as  
4 practiced by licensed practitioners.

5 (2) The board, in arranging for medical care for those  
6 unable to provide it for themselves, may have the care  
7 provided by the physicians appointed by the board who shall  
8 be known as county physicians or deputy county physicians,  
9 and may fix a rate of compensation for the furnishing of the  
10 medical attendance.

11 (3) The board of county commissioners shall make  
12 suitable arrangements to provide respectable burial for  
13 nonresidents within the county and county residents for whom  
14 such expenses are not otherwise available.

15 (4) The department of social and rehabilitation  
16 services may promulgate rules to determine under what  
17 circumstances persons in the county are unable to provide  
18 medical aid and hospitalization for themselves, including  
19 the power to define the term "medically needy". Provided,  
20 ~~however, such~~ Such definition may not allow payment by a  
21 county for general assistance medical for persons whose  
22 income exceeds ~~three hundred percent (300%)~~ of the  
23 limitation for obtaining regular county general relief  
24 assistance.

25 (5) In any case where the county or state pays medical

1 expenses or hospitalization for an individual, the county or  
2 state is subrogated to the claims of the physician or  
3 hospital to the extent of payment."

4 Section 31. Section 71-311, R.C.M. 1947, is amended to  
5 read as follows:

6 "71-311. Grants from state funds to counties. (1) If  
7 the whole of ~~a six (6) mill~~ the 13.5 mill levy together with  
8 ~~the whole of the per capita tax~~ authorized by said sections  
9 71-106, and the income to the county poor fund from all  
10 other sources ~~shall prove~~ is inadequate to pay for the  
11 general relief in the county actually necessary and to meet  
12 the county's proportionate share of public assistance and  
13 its proportionate share of any other ~~welfare~~ public  
14 assistance activity that may be carried on jointly by the  
15 state and the county, and if warrants upon the county poor  
16 fund can no longer lawfully be issued to meet these charges,  
17 and if the board of county commissioners is unable to  
18 declare an emergency for the purpose of providing additional  
19 funds or to provide additional funds from any other source,  
20 and if the county has in all respects expended the county  
21 poor fund only for lawful purposes, and if all of these  
22 conditions ~~actually~~ exist in any county of the state, then  
23 the state department shall, ~~in so far~~ insofar as it has  
24 funds available, come to the assistance of such county, in  
25 the following manner:

1        [2] When the county in question has submitted proof to  
 2 the state department, through such reports as it may require  
 3 and through other evidence that may be deemed ~~deemed~~ considered  
 4 necessary, that these conditions exist, then the state  
 5 department ~~may authorize the state department~~ is authorized  
 6 to issue a check to the county treasurer of the county for  
 7 general relief purposes, and the county department of public  
 8 welfare shall make the disbursements of these state funds  
 9 for general relief purposes within the county. These  
 10 grants-in-aid from the state department may be used for any  
 11 relief activity lawfully conducted by the county, including  
 12 medical aid, hospitalization, and institutional care; but no  
 13 part thereof may be used, directly or indirectly, to pay for  
 14 the erection or improvement of any county building or for  
 15 furniture, fixtures, appliances, or equipment for any such  
 16 building.

17        [3] Immediately upon receiving notice that such  
 18 grant-in-aid has been made by the state department, ~~it shall~~  
 19 ~~be the duty of~~ the board of county commissioners ~~to shall~~  
 20 adopt an emergency budget in accordance with the provisions  
 21 of ~~section~~ 16-1907 but ~~without being~~ are not required to  
 22 publish any notice of intention to adopt such emergency  
 23 budget or ~~to~~ hold a hearing thereon. This emergency budget  
 24 shall appropriate the whole amount of the general relief  
 25 grant from the state department for the various classes of

1 expenditures from the poor fund for which the grant-in-aid  
 2 was made by the state department. The money received through  
 3 such general relief grant from the state department shall be  
 4 placed in a special poor fund account kept separate and  
 5 distinct from the poor fund accounts arising under the  
 6 original poor fund budget, and all expenditures from this  
 7 special poor fund account shall be made by a separate series  
 8 of warrants or checks."

9        Section 32. Section 71-314, R.C.M. 1947, is amended to  
 10 read as follows:

11        "71-314. ~~Granting of assistance~~ Amount of general  
 12 relief assistance to be determined by county board. The  
 13 amount of general relief assistance granted any person or  
 14 family shall be determined by the county board of public  
 15 welfare according to the rules ~~and regulations~~ and standards  
 16 of assistance established by the state department."

17        Section 33. Section 71-501, R.C.M. 1947, is amended to  
 18 read as follows:

19        "71-501. "Dependent child" defined. (1) (a) The term  
 20 "dependent child", for ~~welfare~~ public assistance purposes,  
 21 means;

22        ~~(a) (i)~~ a child under the age of ~~eighteen (18)~~; or  
 23        ~~(b) (ii)~~ a person under the age of ~~twenty-one (21)~~ who  
 24 is a student under the regulations prescribed by the state  
 25 department.

1       **(b) Such The children child (1)(a)(i) and or B (a)(iii)**  
 2 above) must be deprived of parental support or care by  
 3 reason of the death, continued absence from the home,  
 4 continued unemployment, or physical or mental incapacity of  
 5 a parent, and ~~who is living~~ be living with his father,  
 6 mother, grandfather, grandmother, brother, sister,  
 7 stepfather, stepmother, stepbrother, stepsister, uncle,  
 8 aunt, nephew, niece, or first cousin, in a place of  
 9 residence maintained by one or more of such relatives as his  
 10 or their own home.

11       (2) Aid to dependent children may not be denied to or  
 12 for the care of children who would otherwise be entitled to  
 13 such aid under the laws of this state by the fact that the  
 14 child is living in the home of his ~~ex-his~~ father, who is, in  
 15 the opinion of the county board of public welfare of the  
 16 appropriate county, either unemployable or who is honestly  
 17 and responsibly seeking proper employment and is unable to  
 18 find such employment ~~per or~~ by the fact that the child is  
 19 living in the home of a head of a household who is, at the  
 20 time, receiving job training under the laws of this state;  
 21 nor ~~shall~~ may the benefits which would otherwise accrue to  
 22 the child for aid to dependent children under the laws of  
 23 the state be reduced by reason of any such cause.

24       (3) Primary factors in determining whether a father is  
 25 honestly and responsibly seeking employment include his

1 willingness to register for employment with the department  
 2 of labor and industry, if that department has a  
 3 representative in his county of residence, and his  
 4 willingness to accept employment in which he is able to  
 5 engage which will increase his ability to maintain himself  
 6 and his family.

7       (4) The state department ~~of social and rehabilitation~~  
 8 ~~services~~ may establish additional criteria for determining  
 9 whether a father is honestly and responsibly seeking  
 10 employment."

11       Section 34. Section 71-509, R.C.M. 1947, is amended to  
 12 read as follows:

13       "71-509. Periodic reconsideration and changes in  
 14 amount of assistance -- appointment of guardian or payment  
 15 to another person. (1) All assistance grants made under this  
 16 chapter shall be reconsidered by the county department as  
 17 frequently as may be required by the rules of the state  
 18 department. After such further investigation as the county  
 19 department may ~~deem~~ consider necessary or the state  
 20 department may require, the amount of assistance may be  
 21 changed or assistance may be entirely withdrawn if the state  
 22 or county departments find that the child's circumstances  
 23 have altered sufficiently to warrant such action, ~~provided,~~  
 24 ~~however,--that--if~~ If the county department, after  
 25 investigation, finds that any recipient is not utilizing the

1 grant adequately for the needs of the child or children, or  
 2 is dissipating such grant, or refuses or fails to accept  
 3 employment or training, and payments made to him would not  
 4 be used in the best interests of the child or children, the  
 5 county department may request the county attorney to file a  
 6 petition in the district court for the appointment of such  
 7 recipient as guardian of the assistance grant in behalf of  
 8 the child or children. Such petition shall set forth the  
 9 facts warranting such appointment. Notice of the hearing on  
 10 such petition shall be served upon the recipient and the  
 11 county department not less than ~~five~~ (5) days before the  
 12 date set for such hearing; such petition may be filed with  
 13 the clerk of the district court and all process issued and  
 14 served without payment of costs. If upon the hearing of such  
 15 petition the court is satisfied that it is for the best  
 16 interests of the child or children, and all parties  
 17 concerned, that such guardian be appointed, he shall order  
 18 such appointment, and may require such guardian to render to  
 19 the court a detailed itemized account of expenditures of  
 20 such assistance payments at such times as the court ~~may deem~~  
 21 considers advisable.

22 (2) It is the intention of this ~~act~~ section that the  
 23 guardianship herein provided for shall be a special and  
 24 limited guardianship solely for the purpose of safeguarding  
 25 the assistance grants made to dependent children. Such

1 guardianship shall terminate upon the termination of such  
 2 assistance grant, or sooner on order of the court, upon good  
 3 cause shown. In lieu of ~~said~~ guardianship proceedings,  
 4 payments may be made in behalf of the child or children to  
 5 another person found by the county department to be  
 6 interested in or concerned with the welfare of such needy  
 7 child or children in accordance with the rules ~~and~~  
 8 ~~regulations~~ established by the state department. Before such  
 9 payments may be paid to such other person, such person shall  
 10 give a bond, with adequate corporate surety and in form to  
 11 be approved by the state department, running in favor of the  
 12 needy individual and the state of Montana, conditioned upon  
 13 the faithful use by such other person of the funds for the  
 14 welfare of the needy individual. Such bond shall be in an  
 15 amount equal to six times the amount of the monthly payment  
 16 involved.

17 (3) ~~Providing however, when~~ When federal law or  
 18 regulations ~~permit that require,~~ any amount ~~in a sum not~~  
 19 ~~exceeding one hundred dollars (\$100.00) in any one (1)~~  
 20 ~~calendar year~~ received by an enrolled member of a recognized  
 21 Indian tribe as per capita payments or a share in the  
 22 profits and receipts from tribal lands and interests or  
 23 tribal enterprises ~~shall~~ may not be used to decrease the  
 24 amount of assistance received under this act. ~~Before such~~  
 25 ~~payments may be paid to such other person, such person shall~~

1 ~~give a bond, with adequate corporate surety and in favor to~~  
 2 ~~be approved by the state department, running in favor of the~~  
 3 ~~needy individual and the state of Montana, conditioned upon~~  
 4 ~~the faithful use by such other person of the funds for the~~  
 5 ~~welfare of the said needy individual. Such bond shall be in~~  
 6 ~~an amount equal to six (6) times the amount of the monthly~~  
 7 ~~payment involved."~~

8 Section 35. Section 71-710, R.C.M. 1947, is amended to  
 9 read as follows:

10 "71-710. Child rehabilitation. The state department  
 11 shall:

12 ~~(a) (1) enforce enforce~~ all laws pertaining to children  
 13 and take the initiative in all matters involving the  
 14 interest of illegitimate, dependent, neglected, and  
 15 delinquent children where adequate provision therefor has  
 16 not been made by law; ~~and to~~

17 (2) use funds available for cases where special  
 18 medical or material assistance is necessary to rehabilitate  
 19 subnormal or physically handicapped children and where it is  
 20 not otherwise provided for by law; ~~and co-operate~~

21 (3) ~~cooperate~~ for the purposes hereof with all  
 22 reputable ~~child helping~~ child helping and ~~child placing~~  
 23 child placing agencies; ~~and~~

24 ~~(b) (4) inspect inspect,~~ license, and supervise public  
 25 and private infants' homes, ~~and child caring~~ child caring

1 and ~~child placing~~ child placing institutions and agencies."  
 2 Section 36. Section 71-901, R.C.M. 1947, is amended to  
 3 read as follows:

4 "71-901. ~~Receipt of funds~~ State treasurer to receive  
 5 funds. The treasurer of the state of Montana is hereby  
 6 designated as the appropriate fiscal officer of the state to  
 7 receive federal funds. All money for public assistance  
 8 purposes appropriated by the legislature ~~for public welfare~~  
 9 ~~purposes,~~ all money received from the United States  
 10 government ~~for public welfare purposes,~~ and all money or  
 11 received from any other source ~~for the purposes set forth in~~  
 12 ~~the Public Welfare Act~~ shall be paid into the state treasury  
 13 to the credit of the state department."

14 Section 37. Section 71-1401, R.C.M. 1947, is amended  
 15 to read as follows:

16 "71-1401. Definitions. As used in this act the  
 17 following definitions apply:

18 (1) "Vocational rehabilitation" and "vocational  
 19 rehabilitation services" mean any services, provided  
 20 directly or through public or private instrumentalities,  
 21 found by the state department ~~of social and rehabilitation~~  
 22 ~~services~~ to be necessary to compensate a blind individual  
 23 for his employment handicap, and to enable him to engage in  
 24 a remunerative occupation including, but not limited to,  
 25 medical and vocational diagnosis, vocational guidance,

1 counseling and placement, rehabilitation training, physical  
 2 restoration, transportation, occupational and business  
 3 licenses, tools, equipment, initial stocks and supplies,  
 4 including livestock, capital advances, maintenance, and  
 5 training books and materials.

6 (2) "Rehabilitation services" means any services,  
 7 provided directly or through public or private  
 8 instrumentalities, found by the state department of social  
 9 ~~and rehabilitation services~~ to be necessary to compensate a  
 10 blind individual for his employment handicap or to enable  
 11 him to achieve the maximum degree of self-care and to engage  
 12 in productive tasks.

13 (3) "Rehabilitation training" means all necessary  
 14 training provided to a blind individual to compensate for  
 15 his employment handicap, including, but not limited to,  
 16 manual, preconditioning prevocational, and supplementary  
 17 training and training provided for the purpose of achieving  
 18 broader or more remunerative skills and capacities.

19 (4) "Physical restoration" means any medical,  
 20 surgical, or therapeutic treatment necessary to correct or  
 21 substantially reduce a blind individual's employment  
 22 handicap within a reasonable length of time, including, but  
 23 not limited to, medical, psychiatric, dental, and surgical  
 24 treatment, nursing services, hospital care, convalescent  
 25 home care, drugs, medical and surgical supplies, and

1 prosthetic appliances, but excluding curative treatment for  
 2 acute or transitory conditions.

3 (5) "Prosthetic appliance" means an artificial device  
 4 necessary to support or take the place of a part of the body  
 5 or to increase the acuity of a sense organ.

6 (6) "Occupational licenses" means a license, permit,  
 7 or other written authority required by any governmental unit  
 8 to be obtained in order to engage in an occupation.

9 (7) "Business licenses" means any license, permit, or  
 10 other written authority required by any governmental unit to  
 11 be obtained in order to engage in a business.

12 (8) "Maintenance" means money payments not exceeding  
 13 the estimated cost of subsistence during the provision of  
 14 vocational rehabilitation and rehabilitation services.

15 (9) "Blind individual" means an individual whose  
 16 central visual acuity does not exceed 20/200 in the better  
 17 eye with correcting lenses, or whose visual acuity is  
 18 greater than 20/200 but is accompanied by a limitation in  
 19 the fields of vision such that the widest diameter of the  
 20 visual field subtends an angle no greater than 20 degrees,  
 21 or who has other eye conditions which render vision equally  
 22 defective, or who has an eye condition which will cause  
 23 blindness."

24 Section 38. Section 71-1516, B.C.M. 1947, is amended  
 25 to read as follows:



1 "71-1516. Eligibility requirements ~~for~~ ~~medical~~  
 2 ~~assistance~~. Medical assistance shall be granted in behalf of  
 3 all persons;

4 (1) who reside in the state of Montana, including  
 5 residents temporarily absent from the state; and

6 (2) who meet any of the following requirements:

7 ~~(1)(a)~~ ~~who~~ receive all or part of their income from  
 8 the ~~federally-aided~~ federally-aided public assistance  
 9 programs: old-age assistance, aid to the blind, aid to  
 10 dependent children, and aid to the permanently and totally  
 11 disabled;

12 ~~(2)(b)~~ ~~all persons, who~~ upon application, would be  
 13 eligible for financial assistance under any one of the  
 14 ~~federally-aided~~ federally-aided programs referred to above;

15 ~~(3)(c)~~ ~~all persons who~~ would be entitled to financial  
 16 assistance under one of the ~~federally-aided~~ federally-aided  
 17 categories except that they do not meet the durational  
 18 residence requirements or relative responsibility  
 19 requirements of any of the public assistance programs above  
 20 enumerated;

21 ~~(4)(d)~~ Persons are in medical institutions ~~who, and~~ if  
 22 they were no longer in such institution, would be eligible  
 23 for financial assistance under one of the above programs;

24 ~~(5)(e)~~ ~~all children are~~ under ~~twenty-one who~~ 21 years  
 25 of age and meet the conditions of eligibility in the state's

1 plan for aid to dependent children, other than with respect  
 2 to school attendance;

3 ~~(6)(f)~~ ~~all children are~~ under ~~twenty-one who are~~ 21  
 4 years of age and in foster care under the supervision of the  
 5 state;

6 ~~(7)(g)~~ ~~all persons whose~~ have income is less than ~~one~~  
 7 ~~hundred thirty-three and one-third per cent~~ ~~(133 1/3%)~~ of  
 8 the amounts specified as maximum income levels for ~~federally~~  
 9 ~~aided~~ federally-aided categories of assistance;

10 ~~(8)(h)~~ ~~all medically-needy children are~~ under  
 11 ~~twenty-one~~ ~~(21)~~ years of age and medically needy, as defined  
 12 by the state department of social and rehabilitation  
 13 services; or

14 ~~(9)(i)~~ ~~all children are~~ under ~~twenty-one~~ ~~(21)~~ years of  
 15 age, who were in foster care under the supervision of the  
 16 state, and ~~who~~ have been adopted as "hard-to-place"  
 17 children."

18 Section 39. Section 71-1903, R.C.M. 1947, is amended  
 19 to read as follows:

20 "71-1903. Application for protective services --  
 21 ~~contents department as guardian or trustee decision as to~~  
 22 ~~eligibility.~~ (1) Protective services may be provided on a  
 23 voluntary basis for any developmentally disabled person who  
 24 requests them for himself or at the request of any  
 25 interested person, when the department determines that such

1 person is a developmentally disabled person who would  
 2 benefit from services provided in this act, and that the  
 3 department is currently able to supply services to such  
 4 person. A parent may name the department as guardian of the  
 5 ~~mentally developmentally~~ disabled person in his will. A  
 6 parent may also name the department as guardian or trustee  
 7 of the ~~mentally developmentally~~ disabled person, to assume  
 8 such duties during the ~~parents' parents'~~ lifetime. Voluntary  
 9 services may be discontinued upon the written request of the  
 10 ward or any personal representative of the ward.

11 (2) Application for protective services under this act  
 12 shall be made to the designated field staff of the  
 13 department or other designated state agency in the county in  
 14 which the applicant resides, and the application shall be  
 15 transmitted promptly to the department. Such application  
 16 shall be in writing or reduced to writing in the manner and  
 17 upon the form prescribed by the department and shall contain  
 18 the name, age, and residence of the applicant and such other  
 19 information as may be required by the rules ~~and regulations~~  
 20 of the department. The rules ~~and regulations~~ of the  
 21 department shall simplify the application process in order  
 22 that protective services may be furnished as soon as  
 23 possible. Adequate safeguards shall be established by the  
 24 department to insure that only eligible persons receive  
 25 protective services under this act. The department shall

1 notify the applicant and the designated field staff of the  
 2 department or other designated state agency in writing of  
 3 its decision concerning eligibility for protective  
 4 services."

5 Section 40. Section 71-2304, R.C.M. 1947, is amended  
 6 to read as follows:

7 "71-2304. Definitions. As used in this act the  
 8 following definitions apply:

9 (1) "Department" means the department of social and  
 10 rehabilitation services.

11 (2) "Adult foster family care homes" means private  
 12 homes owned by one or more persons ~~over the age of eighteen~~  
 13 ~~(18) years of age or older~~ which offer light personal care  
 14 or custodial care to aged persons or disabled adults who are  
 15 not related to the owner by blood or marriage.

16 (3) "Aged person" means a person defined by the  
 17 department as aged.

18 (4) "Disabled adult" means a person ~~over the age of~~  
 19 ~~eighteen~~ ~~(18) years of age or older~~ defined by the  
 20 department as disabled.

21 (5) "Light personal care" means assisting the aged  
 22 person or disabled adult in accomplishing such personal  
 23 hygiene tasks as bathing, dressing, hair grooming, and  
 24 supervision of prescriptive medicine administration but not  
 25 administration of prescriptive medications.

1 (6) "Custodial care" means providing a sheltered  
 2 ~~family-type~~ family-type setting for an aged person or  
 3 disabled adult so as to provide for ~~their~~ his basic needs of  
 4 food, and shelter and having a specific person available to  
 5 help ~~them~~ him meet ~~their~~ his basic needs.

6 (7) "Skilled nursing care" means ~~twenty-four (24) hour~~  
 7 24-hour care supervised by a registered nurse or a licensed  
 8 practical nurse under orders of an attending physician."

9 Section 41. Section 71-2404, R.C.M. 1947, is amended  
 10 to read as follows:

11 "71-2404. ~~Rules and regulations~~ Department to adopt  
 12 rules. The department shall control developmental  
 13 disabilities programs which receive any state assistance by  
 14 adopting rules, for providing developmental disabilities  
 15 facilities and services. It shall set minimum standards for  
 16 programs, and establish appropriate qualifications, and  
 17 compensation scales, and personnel policies for persons  
 18 employed in such programs. All developmental disabilities  
 19 facilities and services shall comply with existing federal  
 20 guidelines and with requirements which will enable the  
 21 services and facilities to qualify for available aid funds.  
 22 However, nothing herein ~~shall imply the necessity for~~  
 23 requires facilities serving the developmentally disabled to  
 24 meet the same or equal standards as licensed medical  
 25 facilities, unless the developmental disabilities facility

1 is providing professional or skilled medical care."

2 Section 42. Section 71-2405, R.C.M. 1947, is amended  
 3 to read as follows:

4 "71-2405. Community services. (1) The department may  
 5 establish and administer community comprehensive services,  
 6 programs, clinics, or other facilities throughout the state  
 7 for the purpose of aiding in the prevention, diagnosis,  
 8 amelioration, or treatment of developmental disabilities.  
 9 Programs, clinics, or other services may be provided  
 10 directly by state agencies; ~~or~~ indirectly through contract  
 11 or ~~co-operative~~ cooperative arrangements with other agencies  
 12 of government, regional or local, private or public  
 13 agencies, or private professional persons; or in accredited  
 14 health or ~~long-term~~ long-term care facilities.

15 (2) Comprehensive services, programs, clinics, or  
 16 other facilities established or provided by the department  
 17 under this chapter shall conform, as nearly as possible, to  
 18 the plans of the advisory council created under 71-2406, and  
 19 the regional councils provided for in 71-2407."

20 Section 43. Section 80-1405, R.C.M. 1947, is amended  
 21 to read as follows:

22 "80-1405. Powers and duties of department. The  
 23 department shall:

24 (1) ~~Adopt~~ adopt rules for the admission, custody,  
 25 transfer, and release of residents of institutions except as

1 otherwise provided by law; ~~However~~ however, no such rules  
 2 ~~shall~~ may amend or alter the statutory powers and duties of  
 3 the state board of pardons;

4 (2) ~~Subject~~ subject to the functions of the department  
 5 of administration, lease or purchase lands for use by  
 6 institutions, and classify those lands to determine which  
 7 are of such character as to be most profitably used for  
 8 agricultural purposes, taking into consideration the needs  
 9 of all institutions for the food products that can be grown  
 10 or produced on the lands, and the relative value of  
 11 agricultural programs in the treatment or rehabilitation of  
 12 the persons confined in the institutions;

13 (3) ~~Utilize~~ utilize the staff and services of other  
 14 state agencies and units of the ~~university of~~ Montana  
 15 university system, within their respective statutory  
 16 functions, to carry out ~~the purpose of this act, its~~  
 17 functions under this title;

18 (4) ~~Propose~~ propose programs to the legislative  
 19 ~~assembly~~ legislature to meet the projected long-range needs  
 20 of institutions, including programs and facilities for the  
 21 diagnosis, treatment, care, and aftercare of persons placed  
 22 in institutions; and

23 (5) ~~Encourage~~ encourage the establishment of programs  
 24 at the local level for the prevention and rehabilitation of  
 25 physical and mental disability."

1 Section 44. Section 80-1410, R.C.M. 1947, is amended  
 2 to read as follows:

3 "80-1410. Establishment of juvenile correctional  
 4 facilities. The department, within the annual or ~~biannual~~  
 5 biennial budgetary appropriation, may establish, maintain,  
 6 and operate facilities to properly diagnose, care for,  
 7 train, educate, and rehabilitate children in need of these  
 8 services. The children must be ~~ten~~ (10) years of age or  
 9 older and under ~~twenty-one~~ (21) years of age. The facilities  
 10 include but are not limited to the Mountain View school, the  
 11 Pine Hills school, and the youth forest camp."

12 Section 45. Section 80-1413, R.C.M. 1947, is amended  
 13 to read as follows:

14 "80-1413. Participation by ~~governing~~ ~~boards~~  
 15 institutions in research programs. The department may direct  
 16 a penal, and ~~corrective, or custodial~~ institution of the  
 17 state to participate in and ~~co-operate~~ cooperate with  
 18 programs of research and development being conducted and  
 19 carried on by any units of the Montana university system, by  
 20 any of the other educational institutions of the state of  
 21 Montana, or by any foundation or agency thereof, in the  
 22 fields of science, health, education, and natural resources.  
 23 These programs may include the voluntary participation of  
 24 the inmates of the institution in testing and experimental  
 25 work conducted as a part thereof. Any funds received from

1 the authorized programs may be shared with the participating  
 2 inmates or otherwise held and used for the welfare and  
 3 rehabilitation thereof, and shall not become a part of  
 4 the regular budgeted operation of the institution."

5 Section 46. Section 80-1603, R.C.M. 1947, is amended  
 6 to read as follows:

7 "~~80-1603. Monthly assessment of charges annual~~  
 8 ~~computation of rate investigation claim of~~  
 9 ~~state review deposit of receipts~~ Computation of per diem  
 10 rate, monthly assessment, and disposition of receipts.

11 (1) The department shall assess monthly against each  
 12 resident or responsible person, the full per diem charge, a  
 13 proportionate share of the per diem charge, or no per diem  
 14 charge, plus full ancillary charge, a proportionate share of  
 15 the ancillary charge, or no ancillary charge, based upon  
 16 financial information given to the department during its  
 17 investigation. The per diem shall be computed on July 1 of  
 18 each year by the department.

19 (2) An assessment made by the department under this  
 20 section shall be based on the resident's or responsible  
 21 person's ability to pay. The department shall not make  
 22 an assessment which would place an undue financial burden on  
 23 the resident or the responsible person.

24 (3) For the purpose of these investigations, every  
 25 agency of the state is required to render all reasonable

1 assistance to the department in obtaining all information  
 2 necessary for the proper implementation of the purposes of  
 3 this investigation. A representative of the department, duly  
 4 authorized by the director, may administer oaths, take  
 5 testimony, and subpoena and compel the attendance of  
 6 witnesses and the production of books, papers, records, and  
 7 documents in connection with the duty of securing payments  
 8 for support as provided by this act. A person who fails to  
 9 obey the subpoena, upon petition of the department, to any  
 10 judge of the district court of the state, may be ordered by  
 11 the judge to appear and show cause for his disobedience of  
 12 the subpoena. The judge, after the hearing, may order that  
 13 the subpoena be obeyed, or, if it is made to appear to the  
 14 judge that the subpoena was for any reason inappropriately  
 15 issued, may dismiss the petition. A person who fails to obey  
 16 the subpoena when ordered to do so by the judge may be  
 17 punished for contempt of court on application of the  
 18 district court by the department.

19 (4) The state has a claim against the estate of a  
 20 patient and against the estate of a responsible person, for  
 21 an amount due to the state at the date of death of the  
 22 resident or the responsible person. The claim against the  
 23 estate of a responsible person does not have priority  
 24 against the estate for the amount necessary to rear and  
 25 educate surviving children of the responsible person.

1 (5) The attorney general shall collect any claim which  
 2 the state may have against such estate. This claim may not  
 3 be enforced against any real estate while it is occupied as  
 4 a home by the surviving spouse ~~or~~ of the resident or  
 5 responsible person.

6 (6) If a resident or responsible person disagrees with  
 7 the determination of the department as to the ability of the  
 8 resident or responsible person to pay any part of the per  
 9 diem or ancillary charge, an appeal may be filed within  
 10 ~~thirty-(30)~~ days of the determination with the board ~~of~~  
 11 ~~institutions~~. If the resident disagrees with the  
 12 determination of the appeal by the board ~~of institutions~~, an  
 13 appeal may be filed in any court of record in Montana having  
 14 jurisdiction of the resident or responsible person liable  
 15 for the payment.

16 (7) The department may, at any time, review and change  
 17 a determination for per diem or ancillary charge payments.  
 18 In any case, however, a resident of an institution may not  
 19 be released by reason of the nonpayment of the per diem or  
 20 the ancillary charge, if, in the judgment of the  
 21 superintendent of the institution at which he is a resident,  
 22 this release is medically inadvisable.

23 (8) A per diem payment received by the department  
 24 shall be deposited in the state treasury to the credit of  
 25 the general fund."

1 Section 47. Section 80-1912, R.C.M. 1947, is amended  
 2 to read as follows:

3 "80-1912. Expense of trial for ~~escape offenses~~  
 4 committed in prison. Whenever a trial takes place of any  
 5 person under any of the provisions of ~~section~~ 94-7-306, and  
 6 whenever a prisoner in the state prison ~~shall be~~ is tried  
 7 for any crime committed therein, the county clerk of the  
 8 county where such trial is ~~had held~~ shall make out a  
 9 statement of all the costs incurred by the county for the  
 10 trial of such case, and of guarding and keeping such  
 11 prisoner, properly certified by a district judge of said  
 12 county, which statement shall be sent to the ~~board of state~~  
 13 ~~prison-commissioners~~ department of institutions for ~~their~~  
 14 its approval, and after such approval, ~~said-board the~~  
 15 department must cause the amount of such costs to be paid  
 16 out of the money appropriated for the support of the state  
 17 prison to the county treasurer of the county where such  
 18 trial was ~~had held~~."

19 Section 48. Section 80-2412, R.C.M. 1947, is amended  
 20 to read as follows:

21 "80-2412. Interstate compact on mental health enacted  
 22 ~~text. The interstate-compact-on-mental-health~~ Interstate  
 23 Compact on Mental Health as contained herein is hereby  
 24 enacted into law and entered into by this state with all  
 25 other jurisdiction legally joining therein in the form

1 substantially as follows:

2 The contracting states solemnly agree, that:

3 Article I

4 ~~Article I.~~ The party states find that the proper and  
 5 expeditious treatment of the mentally ill and mentally  
 6 deficient can be facilitated by ~~co-operative~~ cooperative  
 7 action, to the benefit of the patients, their families, and  
 8 society as a whole. Further, the party states find that the  
 9 necessity of and desirability for furnishing such care and  
 10 treatment bears no primary relation to the residence or  
 11 citizenship of the patient but that, on the contrary, the  
 12 controlling factors of community safety and humanitarianism  
 13 require that facilities and services be made available for  
 14 all who are in need of them. Consequently, it is the purpose  
 15 of this compact and of the party states to provide the  
 16 necessary legal basis for the institutionalization or other  
 17 appropriate care and treatment of the mentally ill and  
 18 mentally deficient under a system that recognizes the  
 19 paramount importance of patient welfare and to establish the  
 20 responsibilities of the party states in terms of such  
 21 welfare.

22 Article II

23 ~~Article II.~~ As used in this compact:

24 ~~(a)(1)~~ "Sending sending state" shall ~~mean~~ means a  
 25 party state from which a patient is transported pursuant to

1 the provisions of the compact or from which it is  
 2 contemplated that a patient may be so sent;

3 ~~(b)(2)~~ "Receiving receiving state" shall ~~mean~~ means a  
 4 party state to which a patient is transported pursuant to  
 5 the provisions of the compact or to which it is contemplated  
 6 that a patient may be so sent;

7 ~~(c)(3)~~ "Institution institution" shall ~~mean~~ means any  
 8 hospital or other facility maintained by a party state or  
 9 political subdivision thereof for the care and treatment of  
 10 mental illness or mental deficiency;

11 ~~(d)(4)~~ "Patient patient" shall ~~mean~~ means any person  
 12 subject to or eligible, as determined by the laws of the  
 13 sending state, for institutionalization or other care,  
 14 treatment, or supervision pursuant to the provisions of this  
 15 compact;

16 ~~(e)(5)~~ "Aftercare aftercare" shall ~~mean~~ means care,  
 17 treatment, and services provided a patient, as defined  
 18 herein, on convalescent status or conditional release;

19 ~~(f)(6)~~ "Mental mental illness" shall ~~mean~~ means mental  
 20 disease to such extent that a person so afflicted requires  
 21 care and treatment for his own welfare, ~~or~~ the welfare of  
 22 others, or of the community;

23 ~~(g)(7)~~ "Mental mental deficiency" shall ~~mean~~ means  
 24 mental deficiency as defined by appropriate clinical  
 25 authorities to such extent that a person so afflicted is

1 incapable of managing himself and his affairs, but shall not  
2 include mental illness as defined herein; and

3 ~~(b)(8)~~ "State state" shall ~~mean~~ means any state,  
4 territory, or possession of the United States, the District  
5 of Columbia, and the Commonwealth of Puerto Rico.

6 Article III

7 ~~Article III--(a)(1)~~ Whenever a person physically  
8 present in any party state shall be in need of  
9 institutionalization by reason of mental illness or mental  
10 deficiency, he shall be eligible for care and treatment in  
11 an institution in that state irrespective of his residence,  
12 settlement, or citizenship qualifications.

13 ~~(b)(2)~~ The provisions of ~~paragraph (a) subsection (1)~~  
14 of this article to the contrary notwithstanding, any patient  
15 may be transferred to an institution in another state  
16 whenever there are factors based upon clinical  
17 determinations indicating that the care and treatment of  
18 said patient would be facilitated or improved thereby. Any  
19 such institutionalization may be for the entire period of  
20 care and treatment or for any portion or portions thereof.  
21 The factors referred to in this ~~paragraph~~ subsection shall  
22 include the patient's full record with due regard for the  
23 location of the patient's family, character of the illness  
24 and probable duration thereof, and such other factors as  
25 shall be considered appropriate.

1 ~~(e)(3)~~ No state shall be obliged to receive any  
2 patient pursuant to the provisions of ~~paragraph--(b)~~  
3 subsection (2) of this article unless the sending state ~~has~~  
4 given gives advance notice of its intention to send the  
5 patient, ~~furnished furnishes~~ all available medical and  
6 other pertinent records concerning the patient, ~~given gives~~  
7 the qualified medical or other appropriate clinical  
8 authorities of the receiving state an opportunity to examine  
9 the patient if said authorities so wish, and unless the  
10 receiving state ~~shall agree agrees~~ to accept the patient.

11 ~~(d)(4)~~ In the event that the laws of the receiving  
12 state establish a system of priorities for the admission of  
13 patients, an interstate patient under this compact shall  
14 receive the same priority as a local patient and shall be  
15 taken in the same order and at the same time that he would  
16 be taken if he were a local patient.

17 ~~(e)(5)~~ Pursuant to this compact, the determination as  
18 to the suitable place of institutionalization for a patient  
19 may be reviewed at any time and such further transfer of the  
20 patient may be made as seems likely to be in the best  
21 interest of the patient.

22 Article IV

23 ~~Article IV--(a)(1)~~ Whenever, pursuant to the laws of  
24 the state in which a patient is physically present, it shall  
25 be determined that the patient should receive aftercare or



1 supervision, such care or supervision may be provided in a  
 2 receiving state. If the medical or other appropriate  
 3 clinical authorities having responsibility for the care and  
 4 treatment of the patient in the sending state shall have  
 5 reason to believe that aftercare in another state would be  
 6 in the best interest of the patient and would not jeopardize  
 7 the public safety, they shall request the appropriate  
 8 authorities in the receiving state to investigate the  
 9 desirability of affording the patient such aftercare in said  
 10 receiving state, and such investigation shall be made with  
 11 all reasonable speed. The request for investigation shall  
 12 be accompanied by complete information concerning the  
 13 patient's intended place of residence and the identity of  
 14 the person in whose charge it is proposed to place the  
 15 patient, the complete medical history of the patient, and  
 16 such other documents as may be pertinent.

17 ~~(b)~~ (2) If the medical or other appropriate clinical  
 18 authorities having responsibility for the care and treatment  
 19 of the patient in the sending state and the appropriate  
 20 authorities in the receiving state find that the best  
 21 interest of the patient would be served thereby, and if the  
 22 public safety would not be jeopardized thereby, the patient  
 23 may receive aftercare or supervision in the receiving state.

24 ~~(c)~~ (3) In supervising, treating, or caring for a  
 25 patient on aftercare pursuant to the terms of this article,

1 a receiving state shall employ the same standards of  
 2 visitation, examination, care, and treatment that it  
 3 employs for similar local patients.

4 Article V

5 ~~Article V.~~ Whenever a dangerous or potentially  
 6 dangerous patient escapes from an institution in any party  
 7 state, that state shall promptly notify all appropriate  
 8 authorities within and without the jurisdiction of the  
 9 escapee in a manner reasonably calculated to facilitate the  
 10 speedy apprehension of the escapee. Immediately upon the  
 11 apprehension and identification of any such dangerous or  
 12 potentially dangerous patient, he shall be detained in the  
 13 state where found pending disposition in accordance with  
 14 law.

15 Article VI

16 ~~Article VI.~~ The duly accredited officers of any state  
 17 party to this compact, upon the establishment of their  
 18 authority and the identity of the patient, shall be  
 19 permitted to transport any patient being moved pursuant to  
 20 this compact through any and all states party to this  
 21 compact, without interference.

22 Article VII

23 ~~Article VII.~~ ~~(a)~~ (1) No person shall be deemed a patient  
 24 of more than one ~~(a)~~ institution at any given time.  
 25 Completion of transfer of any patient to an institution in a

1 receiving state shall have the effect of making the person a  
2 patient of the institution in the receiving state.

3 ~~(b)~~ (2) The sending state shall pay all costs of and  
4 incidental to the transportation of any patient pursuant to  
5 this compact, but any two ~~(2)~~ or more party states may, by  
6 making a specific arrangement for that purpose, arrange for  
7 a different allocation of costs as among themselves.

8 ~~(c)~~ (3) No provision of this compact shall be construed  
9 to alter or affect any internal relationships among the  
10 departments, agencies, and officers of and in the government  
11 of a party state, or between a party state and its  
12 subdivisions, as to the payment of costs, or  
13 responsibilities therefor.

14 ~~(d)~~ (4) Nothing in this compact shall be construed to  
15 prevent any party state or subdivision thereof from  
16 asserting any right against any person, agency, or other  
17 entity in regard to costs for which such party state or  
18 subdivision thereof may be responsible pursuant to any  
19 provision of this compact.

20 ~~(e)~~ (5) Nothing in this compact shall be construed to  
21 invalidate any reciprocal agreement between a party state  
22 and a nonparty state relating to institutionalization, care,  
23 or treatment of the mentally ill or mentally deficient, or  
24 any statutory authority pursuant to which such agreements  
25 may be made.

1 Article VIII

2 ~~Article VIII. (a)~~ (1) Nothing in this compact shall be  
3 construed to abridge, diminish, or in any way impair the  
4 rights, duties, and responsibilities of any patient's  
5 guardian on his own behalf or in respect of any patient for  
6 whom he may serve, except that, where the transfer of any  
7 patient to another jurisdiction makes advisable the  
8 appointment of a supplemental or substitute guardian, any  
9 court of competent jurisdiction in the receiving state may  
10 make such supplemental or substitute appointment and the  
11 court which appointed the previous guardian shall, upon  
12 being duly advised of the new appointment, and upon the  
13 satisfactory completion of such accounting and other acts as  
14 such court may by law require, relieve the previous guardian  
15 of power and responsibility to whatever extent shall be  
16 appropriate in the circumstances, ~~provided, however, that~~  
17 ~~is~~ In the case of any patient having settlement in the  
18 sending state, the court of competent jurisdiction in the  
19 sending state shall have the sole discretion to relieve a  
20 guardian appointed by it or continue his power and  
21 responsibility, whichever it shall deem advisable. The court  
22 in the receiving state may, in its discretion, confirm or  
23 reappoint the person or persons previously serving as  
24 guardian in the sending state in lieu of making a  
25 supplemental or substitute appointment.

1 ~~(b) (2)~~ The term "guardian" as used in ~~paragraph (a)~~  
2 subsection (1) of this article shall include any guardian,  
3 trustee, legal committee, conservator, or other person or  
4 agency however denominated who is charged by law with power  
5 to act for or responsibility for the person or property of a  
6 patient.

7 Article II

8 ~~Article II. (a) (1)~~ No provisions of this compact except  
9 Article V shall apply to any person institutionalized while  
10 under sentence in a penal or correctional institution or  
11 while subject to trial on a criminal charge, or whose  
12 institutionalization is due to the commission of an offense  
13 for which, in the absence of mental illness or mental  
14 deficiency, said person would be subject to incarceration in  
15 a penal or correctional institution.

16 ~~(b) (2)~~ To every extent possible, it shall be the  
17 policy of states party to this compact that no patient shall  
18 be placed or detained in any prison, jail, or lockup, but  
19 such patient shall, with all expedition, be taken to a  
20 suitable institutional facility for mental illness or mental  
21 deficiency.

22 Article I

23 ~~Article I. (a) (1)~~ Each party state shall appoint a  
24 "compact administrator" who, on behalf of his state, shall  
25 act as general ~~co-ordinator~~ coordinator of activities under

1 the compact in his state and who shall receive copies of all  
2 reports, correspondence, and other documents relating to any  
3 patient processed under the compact by his state either in  
4 the capacity of a sending or receiving state. The compact  
5 administrator or his duly designated representative shall be  
6 the official with whom other party states shall deal in any  
7 matter relating to the compact or any patient processed  
8 thereunder.

9 ~~(b) (2)~~ The compact administrators of the respective  
10 party states shall have power to promulgate reasonable rules  
11 ~~and regulations~~ to carry out more effectively the terms and  
12 provisions of this compact.

13 Article XI

14 ~~Article--XI.~~ The duly constituted administrative  
15 authorities of any two ~~(2)~~ or more party states may enter  
16 into supplementary agreements for the provision of any  
17 service or facility or for the maintenance of any  
18 institution on a joint or ~~co-operative~~ cooperative basis  
19 whenever the states concerned ~~shall~~ find that such  
20 agreements will improve services, facilities, or  
21 institutional care and treatment in the fields of mental  
22 illness or mental deficiency. No such supplementary  
23 agreement shall be construed so as to relieve any party  
24 state of any obligation which it otherwise would have under  
25 other provisions of this compact.

Article III

~~Article III.~~ This compact shall enter into full force and effect as to any state when enacted by it into law, and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article IIII

~~Article IIII.~~ (a) (1) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one (1) year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) (2) Withdrawal from any agreement permitted by Article VII (b) (2) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article IV

~~Article IV.~~ (1) This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party

state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(2) The director of the department of institutions, hereafter called "the director," shall be the compact administrator and shall have the power to make any rules and ~~regulations~~ necessary for the administration of this article. The director shall ~~co-operate~~ cooperate with all departments, agencies, and officers of the state and any political subdivision thereof to facilitate the proper administration of the ~~interstate compact on mental health~~ Interstate Compact on Mental Health or of any supplementary agreement or agreements entered into by this state thereunder.

(3) The director may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact.

(4) The department of institutions in its annual budget shall include such amounts necessary to discharge the

1 financial obligations incurred by it to carry out the  
 2 purposes of the ~~interstate compact on mental health~~  
 3 Interstate Compact on Mental Health, and the general  
 4 assembly shall appropriate such sums necessary therefor.

5 (5) The compact administrator is hereby directed to  
 6 consult with the immediate family of any proposed transferee  
 7 and, in the case of a proposed transferee from an  
 8 institution in this state to an institution in another party  
 9 state, to make no transfer out of the state without approval  
 10 of the district or probate court. Before granting such  
 11 approval the court shall hold such hearings as it ~~deems~~  
 12 considers appropriate. In addition, the court shall  
 13 designate some appropriate person to deliver written notice  
 14 of the proposed transferee's right to a hearing to the  
 15 proposed transferee and his guardian ad litem. The person  
 16 serving such notices shall make a written return to the  
 17 court that such has been done. At the conclusion of such  
 18 hearing, if any, the court may approve the proposed  
 19 transfer, order the release of the proposed transferee, or  
 20 enter any other suitable order.

21 (6) Duly authenticated copies of the article shall,  
 22 upon its approval, be transmitted by the secretary of state  
 23 to the governor of each state, the attorney general, and the  
 24 secretary of state of the United States, and the Council of  
 25 State Governments."

1 Section 49. Section 80-2701, R.C.M. 1947, is amended  
 2 to read as follows:

3 "~~80-2701. Purpose and intent of act -- policy of state~~  
 4 Legislative purpose. It is the purpose of this act and the  
 5 policy of this state to recognize ~~alcohol~~ alcoholism and  
 6 drug dependence as problems affecting the health, safety,  
 7 morals, economy, and general welfare of this state; to  
 8 recognize ~~alcohol~~ alcoholism and drug dependence as problems  
 9 subject to treatment; and to recognize the sufferer of  
 10 ~~alcohol~~ alcoholism, drug dependence, or both, as worthy of  
 11 treatment and rehabilitation. It is the intent of this act  
 12 to establish means whereby the appropriate resources of this  
 13 state may be focused fully and effectively upon the problems  
 14 of ~~alcohol~~ alcoholism and drug dependence and utilized in  
 15 implementing programs for the control and treatment of these  
 16 problems."

17 Section 50. Section 80-2702, R.C.M. 1947, is amended  
 18 to read as follows:

19 "80-2702. Duties of department -- department  
 20 authorized to accept gifts -- enter into contracts --  
 21 acquire and dispose of property. (1) The department of  
 22 institutions, hereafter referred to as department in this  
 23 chapter, shall:

24 (a) Plan, promote, and assist in the support of  
 25 ~~alcohol~~ alcoholism and drug dependence prevention,

1 treatment, and control programs;

2 (b) ~~Conduct~~ conduct, sponsor, and support research,  
3 investigations, and studies, including evaluation, of all  
4 phases of ~~alcohol~~ alcoholism and drug dependence;

5 (c) ~~Assist~~ assist the development of educational and  
6 training programs relative to ~~alcohol~~ alcoholism and drug  
7 dependence, and carry on programs to assist the public, and  
8 technical and professional groups, in becoming fully  
9 informed about ~~alcohol~~ alcoholism and drug dependence;

10 (d) ~~Promote~~ promote, develop, and assist, financially  
11 and otherwise, ~~alcohol~~ alcoholism and drug dependence  
12 programs administered by other state agencies, local  
13 government agencies, and private nonprofit organizations and  
14 agencies; and

15 (e) ~~Encourage~~ encourage and promote effective use of  
16 facilities, resources, and funds in the planning and conduct  
17 of programs and activities for prevention, treatment, and  
18 control of ~~alcohol~~ alcoholism and drug dependence and, in  
19 this respect, cooperate with and utilize to the maximum  
20 possible extent the resources and services of federal,  
21 state, and local agencies.

22 (2) To carry out this act, the department may:

23 (a) ~~Accept~~ accept gifts, grants, and donations of  
24 money and property from public and private sources;

25 (b) ~~Enter~~ enter into contracts; and

1 (c) ~~Acquire~~ acquire and dispose of property."

2 Section 51. Section 80-2717, R.C.M. 1947, is amended  
3 to read as follows:

4 "80-2717. Emergency commitment of intoxicated persons.

5 (1) An intoxicated person who ~~is~~ has threatened, attempted,  
6 or inflicted physical harm on another and is likely to  
7 inflict physical harm on another unless committed, or ~~who~~  
8 who is incapacitated by alcohol, may be committed to an  
9 approved public treatment facility for emergency treatment.  
10 A refusal to undergo treatment does not constitute evidence  
11 of lack of judgment as to the need for treatment.

12 (2) The certifying physician, spouse, guardian, or  
13 relative of the person to be committed, or any other  
14 responsible person, may make a written application for  
15 commitment under this section, directed to the administrator  
16 of the approved public treatment facility. The application  
17 shall state facts to support the need for emergency  
18 treatment and be accompanied by a physician's certificate  
19 stating that he has examined the person sought to be  
20 committed within ~~two~~ (2) days before the certificate's date  
21 and facts supporting the need for emergency treatment. A  
22 physician employed by the admitting facility or the  
23 department is not eligible to be the certifying physician.

24 (3) Upon approval of the application by the  
25 administrator of the approved public treatment facility, the

1 person shall be brought to the facility by a peace officer,  
 2 health officer, the applicant for commitment, the patient's  
 3 spouse, the patient's guardian, or any other interested  
 4 person. The person shall be ~~retained~~ detained at the  
 5 facility to which he was admitted, or transferred to another  
 6 appropriate public or private treatment facility, until  
 7 discharged under subsection (5).

8 (4) The administrator of an approved public treatment  
 9 facility shall refuse an application if in his opinion the  
 10 application and certificate fail to sustain the grounds for  
 11 commitment.

12 (5) When on the advice of the medical staff the  
 13 administrator determines that the grounds for commitment no  
 14 longer exist, he shall discharge a person committed under  
 15 this section. No person committed under this section may be  
 16 detained in any treatment facility for more than ~~five~~ (5)  
 17 days. If a petition for involuntary commitment under ~~section~~  
 18 69-6221 has been filed within the ~~five~~ (5) days and the  
 19 administrator in charge of an approved public treatment  
 20 facility finds that grounds for emergency commitment still  
 21 exist, he may detain the person until the petition has been  
 22 heard and determined, but no longer than ~~ten~~ (10) days after  
 23 filing the petition.

24 (6) A copy of the written application for commitment  
 25 and of the physician's certificate, and a written

1 explanation of the person's right to counsel, shall be given  
 2 to the person within ~~twenty-four~~ (24) hours after commitment  
 3 by the department, ~~who~~. The department shall provide a  
 4 reasonable opportunity for the person to consult counsel."

5 Section 52. Section 80-2802, R.C.M. 1947, is amended  
 6 to read as follows:

7 "80-2802. Duties of department. The department shall:

8 (1) take cognizance of matters affecting the mental  
 9 health of the citizens of the state;

10 (2) initiate preventive mental health activities of  
 11 the statewide mental health programs, including, but not  
 12 limited to, the implementation of mental health care and  
 13 treatment, prevention, and research as can best be  
 14 accomplished by ~~community-centered~~ community-centered  
 15 services. Such means shall be utilized to initiate and  
 16 operate these services in cooperation with local agencies as  
 17 established under this act.

18 (3) make scientific and medical research  
 19 investigations relative to the incidence, cause, prevention,  
 20 treatment, and care of the mentally ill;

21 (4) collect and disseminate information relating to  
 22 mental health;

23 (5) prepare and maintain a comprehensive plan for the  
 24 development of public mental health services in the state.  
 25 The public mental health services shall include, but not be

1 limited to, community comprehensive mental health centers,  
2 mental health clinics, traveling service units, and  
3 consultative and educational services.

4 (6) provide by regulations for the examination of  
5 persons, who apply for examination or who are admitted  
6 either as inpatients or outpatients into Warm Springs state  
7 hospital or other public mental health facilities;

8 (7) receive from agencies of the United States and  
9 other state agencies, persons or groups of persons,  
10 associations, firms, or corporations, grants of money,  
11 receipts from fees, gifts, supplies, materials, and  
12 contributions, for the development of mental health services  
13 within the state;

14 (8) establish standards for public mental health  
15 facilities; and

16 (9) evaluate performance of public mental health  
17 facilities in compliance with federal and state standards."

18 Section 53. Repealer. Sections ~~38-210~~, 71-101, 71-107,  
19 71-118, and 71-233.5, R.C.M. 1947, are repealed.

-End-



## 1 HOUSE BILL NO. 30

2 INTRODUCED BY BARDANOSKI

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
5 CLARIFY THE LAWS RELATING TO VOCATIONAL REHABILITATION,  
6 PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY  
7 DISABLED, AND THE MENTALLY ILL; AMENDING SECTIONS 38-110,  
8 38-120, ~~38-240~~, 38-506, 38-1202, 38-1205, 38-1206, 38-1208,  
9 38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211,  
10 71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226,  
11 71-230, 71-233.1, 71-233.3, 71-302.2, 71-303, 71-305,  
12 71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509,  
13 71-710, 71-901, 71-1401, 71-1516, 71-1903, 71-2304, 71-2404,  
14 71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912,  
15 80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, B.C.M.  
16 1947; AND REPEALING SECTIONS ~~38-210~~, 71-101, 71-107, 71-118,  
17 AND 71-233.5, R.C.M. 1947."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:20 Section 1. Section 38-110, R.C.M. 1947, is amended to  
21 read as follows:22 "38-110. Maintenance of indigent persons patients on  
23 discharge. Prior to the discharge of a patient from a mental  
24 health facility, the professional person in charge of the  
25 facility shall notify the welfare department of the county

There are no changes in H.B. 30, and due to length will not  
be reprinted. Please refer to yellow copy for complete text.

1 from which the patient was committed. The county welfare  
2 department shall at once ascertain whether the discharged  
3 patient is in financial need. If the patient is found to be  
4 in financial need, the county welfare department shall  
5 properly care for and maintain the discharged patient under  
6 the laws of this state relating to public ~~welfare~~ assistance  
7 until the patient is able to care for himself, or until  
8 another provision has been made for care of the patient."

9 Section 2. Section 38-120, R.C.M. 1947, is amended to  
10 read as follows:11 "38-120. Receipt of nonresident ~~insane persons who is~~  
12 seriously mentally ill pending return to home state. ~~As~~  
13 ~~insane~~ A person, who is seriously mentally ill and not a  
14 resident of this state, may be received into the state  
15 hospital for a period not to exceed ~~thirty~~ (30) days pending  
16 return to the state of his residence."
17 Section 3. ~~Section 38-210, R.C.M. 1947, is amended to~~  
18 ~~read as follows:~~19 "~~38-210. Money Disposal of money of a person who is~~  
20 ~~seriously mentally ill insane person disposal of. When a~~  
21 ~~person is adjudged insane to be seriously mentally ill and~~  
22 ~~ordered committed to the state hospital, or is adjudged to~~  
23 ~~be in such a condition of mind that he should be placed in~~  
24 ~~the state hospital for observation, the money found on him~~  
25 ~~at the time he is taken into custody must be certified to by~~

1 ~~the judge, and sent with the person to the state hospital.~~  
 2 ~~The money must be delivered to the superintendent of the~~  
 3 ~~state hospital, whose receipt for the money shall be taken~~  
 4 ~~by the officer or other person delivering him the patient to~~  
 5 ~~the hospital, and the officer must file the receipt with~~  
 6 ~~the clerk of the district court of the county in which the~~  
 7 ~~proceedings were held. If the amount exceeds one hundred~~  
 8 ~~dollars (\$100), the excess must be applied to the payment of~~  
 9 ~~the expenses of the person while in the hospital. If the~~  
 10 ~~amount is one hundred dollars (\$100) or less, it must be~~  
 11 ~~kept and delivered to the person when discharged or released~~  
 12 ~~from the hospital or applied in payment of funeral expenses~~  
 13 ~~if the person dies while in the hospital. If an amount~~  
 14 ~~remains to the credit of a person paroled, discharged, or~~  
 15 ~~released, or after payment of the funeral expenses of the~~  
 16 ~~person who dies while in the hospital, and the amount~~  
 17 ~~remains unclaimed for one (1) year after the parole,~~  
 18 ~~discharge, release, or death, fifty per cent (50%) of the~~  
 19 ~~amount, but not in any event exceeding fifty dollars (\$50),~~  
 20 ~~shall be withdrawn from the account and placed in the agency~~  
 21 ~~fund in the state treasury, to be expended for indigent~~  
 22 ~~patients at the times and in the manner and for such~~  
 23 ~~purposes as may be prescribed by the superintendent of the~~  
 24 ~~hospital. A balance which remains to the credit of the~~  
 25 ~~person, shall be transmitted to the county treasurer of the~~

1 ~~county from which the person was sent, and if a sum remains~~  
 2 ~~after paying the costs of hearing, and transportation to the~~  
 3 ~~hospital, the balance shall be paid into the state treasury~~  
 4 ~~to the credit of the general fund."~~

5 Section 3. Section 38-506, R.C.M. 1947, is amended to  
 6 read as follows:

7 "38-506. Support of patient conditionally released.  
 8 When a mental health facility conditionally releases a  
 9 patient committed to its care, it is not liable for his  
 10 support while conditionally released. Liability devolves  
 11 upon the legal guardian, parent, or person under whose care  
 12 the patient is placed when conditionally released, or upon  
 13 any other person legally liable for his support. The public  
 14 welfare officials of the county where the patient resides or  
 15 is found, are responsible for providing relief and care for  
 16 a conditionally released patient who is unable to maintain  
 17 himself, or who is unable to secure support from the person  
 18 under whose care he was placed on convalescent leave, like  
 19 any other person in need of relief and care, under the  
 20 public welfare assistance laws."

21 Section 4. Section 38-1202, R.C.M. 1947, is amended to  
 22 read as follows:

23 "38-1202. Definitions. As used in this act the  
 24 following definitions apply:

25 (1) "Board" means the mental disabilities board of

HOUSE BILL NO. 30

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO VOCATIONAL REHABILITATION, PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY DISABLED, AND THE MENTALLY ILL; AMENDING SECTIONS 38-110, 38-120, ~~38-210~~, 38-506, 38-1202, 38-1205, 38-1206, 38-1208, 38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211, 71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226, 71-230, 71-233.1, 71-233.3, 71-302.2, 71-303, 71-305, 71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509, 71-710, 71-901, 71-1401, 71-1516, 71-1903, 71-2304, 71-2404, 71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912, 80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, R.C.M. 1947; AND REPEALING SECTIONS ~~38-210~~, 71-101, 71-107, 71-118, AND 71-233.5, R.C.M. 1947."

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

Section 1. Section 38-110, R.C.M. 1947, is amended to read as follows:

"38-110. Maintenance of indigent persons patients on discharge. Prior to the discharge of a patient from a mental health facility, the professional person in charge of the facility shall notify the welfare department of the county

from which the patient was committed. The county welfare department shall at once ascertain whether the discharged patient is in financial need. If the patient is found to be in financial need, the county welfare department shall properly care for and maintain the discharged patient under the laws of this state relating to public welfare assistance until the patient is able to care for himself, or until another provision has been made for care of the patient."

Section 2. Section 38-120, R.C.M. 1947, is amended to read as follows:

"38-120. Receipt of nonresident ~~insane person who is seriously mentally ill~~ pending return to home state. An ~~insane~~ A person, who is seriously mentally ill and not a resident of this state, may be received into the state hospital for a period not to exceed ~~thirty~~ 30 days pending return to the state of his residence."

~~Section 3. Section 38-210, R.C.M. 1947, is amended to read as follows:~~

~~"38-210. Moneys Disposal of moneys of on-person who is seriously mentally ill insane person--disposal of--when a person--is--adjudged--insane to-be-seriously-mentally-ill ad-ordered-committed-to-the-state-hospital-or-is--adjudged--to-be--in--such-a-condition-of-mind-that-he-should-be-placed-in-the-state-hospital-for-observation--the-money-found--on--him-at-the-time-he-is-taken-into-custody-must-be-certified-to-by~~

1 the judge and sent with the person to the state hospital.  
 2 The money must be delivered to the superintendent of the  
 3 state hospital whose receipt for the money shall be taken  
 4 by the officer or other person delivering him the patient to  
 5 the hospital; who the officer must file the receipt with  
 6 the clerk of the district court of the county in which the  
 7 proceedings were held; if the amount exceeds one hundred  
 8 dollars (\$100) the excess must be applied to the payment of  
 9 the expenses of the person while in the hospital; if the  
 10 amount is one hundred dollars (\$100) or less it must be  
 11 kept and delivered to the person when discharged or released  
 12 from the hospital or applied in payment of general expenses  
 13 if the person dies while in the hospital; if an amount  
 14 remains to the credit of a person paroled, discharged, or  
 15 released, or after payment of the funeral expenses of the  
 16 person who dies while in the hospital, and the amount  
 17 remains unclaimed for one (1) year after the parole,  
 18 discharge, release, or death, fifty per cent (50%) of the  
 19 amount, but not in any event exceeding fifty dollars (\$50),  
 20 shall be withdrawn from the account and placed in the agency  
 21 fund in the state treasury, to be expended for indigent  
 22 patients at the times and in the manner and for such  
 23 purposes as may be prescribed by the superintendent of the  
 24 hospital. A balance which remains to the credit of the  
 25 person shall be transmitted to the county treasurer of the

1 county from which the person was sent, and if a sum remains  
 2 after paying the costs of hearing and transportation to the  
 3 hospital, the balance shall be paid into the state treasury  
 4 to the credit of the general fund."

5 Section 3. Section 38-506, R.C.M. 1947, is amended to  
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 8 When a mental health facility conditionally releases a  
 9 patient committed to its care, it is not liable for his  
 10 support while conditionally released. Liability devolves  
 11 upon the legal guardian, parent, or person under whose care  
 12 the patient is placed when conditionally released, or upon  
 13 any other person legally liable for his support. The public  
 14 welfare officials of the county where the patient resides or  
 15 is found, are responsible for providing relief and care for  
 16 a conditionally released patient who is unable to maintain  
 17 himself or who is unable to secure support from the person  
 18 under whose care he was placed on convalescent leave, like  
 19 any other person in need of relief and care, under the  
 20 public welfare assistance laws."

21 Section 4. Section 38-1202, R.C.M. 1947, is amended to  
 22 read as follows:

23 "38-1202. Definitions. As used in this act the  
 24 following definitions apply:

25 (1) "Board" means the mental disabilities board of

1 visitors created by this act.

2 (2) "Community-based facilities" or "community-based  
3 services" ~~include~~ includes those services and facilities  
4 which are available for the evaluation, treatment, and  
5 habilitation of the developmentally disabled in a community  
6 setting, including but not limited to outpatient  
7 facilities, special education services, group homes, foster  
8 homes, ~~day-care~~ day-care facilities, sheltered workshops,  
9 and other community-based services and facilities.

10 (3) "Court" means the a district court of the state of  
11 Montana.

12 (4) "Developmentally disabled" means suffering from  
13 disabilities attributable to mental retardation, cerebral  
14 palsy, epilepsy, autism, or any other neurologically  
15 handicapping condition closely related to mental retardation  
16 and requiring treatment similar to that required by mentally  
17 retarded individuals, which condition has continued or can  
18 be expected to continue indefinitely and constitutes a  
19 substantial handicap of such individuals.

20 (5) "Habilitation" means the process by which a person  
21 who is developmentally disabled is assisted to acquire and  
22 maintain those life skills which enable him to cope more  
23 effectively with the demands of his own person and  
24 environment and to raise the level of his physical, mental,  
25 and social efficiency. Habilitation includes but is not

1 limited to formal, structured education and treatment.

2 (6) "Next of kin" includes but need not be limited to  
3 the spouse, parents, adult children, and adult brothers and  
4 sisters of a person.

5 (7) "Professional person" means:

6 (a) a medical doctor, or

7 (b) a person trained in the field of developmental  
8 disabilities and certified by the department of institutions  
9 or the department of social and rehabilitation services in  
10 accordance with standards of professional licensing boards,  
11 federal regulations, and the joint commissions on  
12 accreditation of hospitals.

13 (8) "Resident" means a person admitted to a  
14 residential facility for a course of evaluation, treatment,  
15 or habilitation.

16 (9) "Residential facility" or "facility" means any  
17 residential hospital or hospital and school which exists for  
18 the purpose of evaluating, treating, and habilitating the  
19 developmentally disabled on an inpatient basis, including  
20 the Boulder River School, ~~school~~ hospital and  
21 the Eastmont ~~training-center~~ training center. The term does  
22 not include a group home, or foster home, or a halfway  
23 house. A correctional facility or a facility for the  
24 treatment of the mentally ill shall not be a "residential  
25 facility" within the meaning of this act.

1 (10) "Respondent" means a person alleged in a petition  
 2 filed pursuant to this act to be developmentally disabled  
 3 and in need of developmental ~~disabilities~~ disability  
 4 services.

5 (11) "Responsible person" means any person willing and  
 6 able to assume responsibility for a person who is  
 7 developmentally disabled or alleged to be developmentally  
 8 disabled. Whenever in any proceeding under this act the  
 9 court believes that a conflict of interest may exist between  
 10 a person who is developmentally disabled or alleged to be  
 11 developmentally disabled and his parents or guardian or  
 12 that the parents or guardian are unable to protect the  
 13 interests of such person or whenever there is no parent or  
 14 guardian, the court shall appoint a responsible person to  
 15 protect the interests of the person who is developmentally  
 16 disabled or alleged to be developmentally disabled. Only  
 17 one person shall at any one time be the responsible person  
 18 within the meaning of this act. In appointing a responsible  
 19 person, the court shall consider the preference of the  
 20 respondent or patient. The court may at any time, for good  
 21 cause shown, change its designation of who is the  
 22 responsible person.

23 (12) "Seriously developmentally disabled" means  
 24 developmentally disabled due to developmental or physical  
 25 disability or a combination of both rendering a person

1 unable to function in a community-based setting."

2 Section 5. Section 38-1205, R.C.M. 1947, is amended to  
 3 read as follows:

4 "~~38-1205. Procedure for reporting developmentally~~  
 5 ~~disabled~~ Petition for involuntary treatment. (1) Any person  
 6 who believes that there is a person who is developmentally  
 7 disabled and in need of developmental disability services  
 8 may report the situation to a professional person. If the  
 9 professional person believes from the facts given to him  
 10 that the person may be developmentally disabled and in need  
 11 of developmental disability services, he shall contact the  
 12 parents or guardian of the person alleged to be  
 13 developmentally disabled or the person himself. If any of  
 14 the persons so contacted refuse to cooperate with the  
 15 professional person and if the professional person believes  
 16 from all the circumstances of the case that the person may  
 17 be developmentally disabled and in need of developmental  
 18 ~~disabilities~~ disability services, he shall request the  
 19 county attorney to file a petition alleging that there is a  
 20 person in the county who is developmentally disabled and in  
 21 need of developmental ~~disabilities~~ disability services.

22 (2) The petition shall contain ~~the name and address~~  
 23 of:

24 (a) ~~the name and address of~~ the professional person  
 25 and any other person requesting the petition, and their

1 interest in the case;

2 (b) the name and address of the respondent;

3 (c) the name and address of the parents or guardian of  
 4 the respondent, and of any other person believed to be  
 5 legally responsible for the care, support, and maintenance  
 6 of the respondent;

7 (d) the name and address of the respondent's next of  
 8 kin, to the extent known;

9 (e) the name and address of any person whom the county  
 10 attorney believes might be willing and able to be appointed  
 11 responsible person; and

12 (f) a statement of the rights of the respondent and  
 13 his parents or guardian which shall be in conspicuous print  
 14 and identified by a suitable heading.

15 (3) Upon presentation to the court by the county  
 16 attorney, the court shall immediately consider the petition  
 17 with or without a hearing to determine if there is probable  
 18 cause to believe that the respondent is developmentally  
 19 disabled and in need of evaluation and treatment. If the  
 20 court finds no such probable cause, it shall dismiss the  
 21 petition. If the court finds that probable cause does  
 22 exist, it shall direct a professional person to examine the  
 23 respondent and to make an inquiry concerning the  
 24 circumstances of the case. Such examination shall not  
 25 exceed four-~~(4)~~ hours in length. If probable cause is

1 found, the court may appoint a responsible person other than  
 2 the respondent's parents or guardian to protect the  
 3 interests of the respondent. The responsible person shall  
 4 be notified as soon as possible that a petition has been  
 5 filed. Notice of the petition and the finding of probable  
 6 cause shall be mailed or delivered to the respondent and to  
 7 all other persons named in the petition and to any person  
 8 who would have been named in the petition had his name,  
 9 address, and relationship to the respondent been known at  
 10 the time.

11 (4) When the professional person first contacts the  
 12 respondent, before he begins any examination, he shall give  
 13 the respondent a copy of the petition and explain to the  
 14 respondent the nature of the proceeding and his rights as  
 15 set forth in the petition. If the respondent is incapable  
 16 of understanding the explanation and proceeding, the  
 17 professional person shall give the petition and make the  
 18 explanation to the parents or guardian of the respondent.  
 19 Before making any inquiry of the parents or guardian of the  
 20 respondent, the professional person shall give them a copy  
 21 of the petition, and explain the nature of the proceeding  
 22 and their rights as set forth in the petition.\*

23 Section 6. Section 38-1206, R.C.M. 1947, is amended to  
 24 read as follows:

25 ~~"38-1206. Petition-dismissal---hearing---counsel---~~

1 ~~treatment~~ Action on petition. (1) If the professional  
 2 person, based on his examination and inquiry, determines  
 3 that the respondent is not developmentally disabled or is  
 4 not in need of developmental disability services, he shall  
 5 report this finding in writing to the court and the petition  
 6 shall be dismissed. If the professional person concludes  
 7 that the respondent is developmentally disabled and in need  
 8 of developmental disability services, he shall report this  
 9 conclusion to the court in writing together with his  
 10 recommendations for evaluation and treatment. The report  
 11 shall include an explanation of the basis on which the  
 12 professional person has reached his conclusion and shall  
 13 include a description of any tests or evaluation devices he  
 14 has employed. If the professional person's recommendation  
 15 is for further evaluation and treatment, notice of this  
 16 recommendation shall be sent to the respondent, his parents  
 17 or guardian, the next of kin, the responsible person  
 18 appointed by the court, if any, and any attorney  
 19 representing the respondent or his parents or guardian. If  
 20 no responsible person has yet been appointed, the court may  
 21 appoint one at this time.

22 (2) If the respondent, his parents or guardian, the  
 23 responsible person, if any, or counsel for any party  
 24 requests a hearing on the recommendation, the court shall  
 25 set a time and place for hearing. The hearing shall be

1 before the court without a jury. The rules of civil  
 2 procedure shall apply.

3 (3) Prior to any hearing held pursuant to this  
 4 section, the court shall appoint counsel to represent the  
 5 respondent, if the respondent has not retained independent  
 6 counsel. The parents [or guardian] shall be informed of  
 7 their right to counsel, and if they are indigent, the court  
 8 shall, on their request, appoint counsel for them. In no  
 9 case shall ~~may~~ the same attorney represent the respondent  
 10 and his parents or guardian.

11 (4) If the hearing is waived or if the court finds,  
 12 after hearing, that the respondent is developmentally  
 13 disabled and in need of further evaluation and treatment,  
 14 the court shall order that the respondent undergo such  
 15 evaluation and treatment. Evaluation and treatment ordered  
 16 pursuant to this subsection shall ~~may not~~ be for no more  
 17 than ~~thirty-(30)~~ days. It shall take place in the least  
 18 restrictive environment in which the necessary evaluation  
 19 and treatment can be accomplished. Evaluation and treatment  
 20 in a residential facility shall ~~may~~ be ordered only if the  
 21 necessary evaluation and treatment cannot be accomplished  
 22 through the use of community-based facilities."

23 Section 7. Section 38-1208, R.C.M. 1947, is amended to  
 24 read as follows:

25 \*38-1208. Recommendation to residential facility. (1)



1 If as a result of the evaluation and treatment, either  
 2 agreed to by the parents, guardian, or the person himself  
 3 pursuant to section 38-1204 or ordered by the court, the  
 4 professional person in charge of the case concludes that the  
 5 person evaluated is seriously developmentally disabled and  
 6 recommends that treatment and habilitation be had in a  
 7 residential facility on an extended basis, the professional  
 8 person shall file his written recommendation and report  
 9 with the court and request that the court order the  
 10 admission. The report shall include the factual basis for  
 11 the recommendation, and shall describe any tests or  
 12 evaluation devices which have been employed in evaluating  
 13 the patient. If no responsible person has yet been  
 14 appointed, the court may appoint one at this time. If there  
 15 is no parent or guardian, the court shall appoint a  
 16 responsible person. At the request of the respondent, his  
 17 parents or guardian, or the responsible person, the court  
 18 shall appoint counsel for the respondent. If the parents  
 19 (or guardian) are indigent and if they request it, the court  
 20 shall appoint counsel for the parents or guardian. Notice  
 21 of the recommendation shall be mailed or delivered to the  
 22 respondent, his parents or guardian, the responsible person,  
 23 next of kin, if known, and the attorney for the respondent,  
 24 if any, and for the parents or guardian, if any.

25 (2) The respondent, his parents or guardian, the

1 responsible person, or the attorney for any party may  
 2 request that a hearing be had on the recommendation. If a  
 3 hearing is requested, the court shall mail or deliver notice  
 4 of the date, time, and place of the hearing to each of the  
 5 parties listed at the beginning of this subsection. The  
 6 hearing shall be to the court without jury. The rules of  
 7 civil procedure shall apply.

8 (3) If the court finds that the respondent is  
 9 seriously developmentally disabled and that available  
 10 community-based services are not adequate, it shall order  
 11 the respondent admitted to a residential facility for an  
 12 extended course of treatment and habilitation. If the court  
 13 finds that the respondent is developmentally disabled, and  
 14 in need of developmental ~~disabilities~~ disability services,  
 15 but ~~and~~ that available community-based services are  
 16 adequate, it shall order the respondent to undertake a  
 17 community-based course of treatment and habilitation. If  
 18 the court finds that the respondent is not developmentally  
 19 disabled or is not in need of developmental disability  
 20 services, it shall dismiss the request.

21 (4) If none of the parties notified of the  
 22 recommendation request a hearing, the court may issue an  
 23 order authorizing the person to be admitted to the  
 24 residential facility for an extended period of treatment and  
 25 habilitation, or the court may initiate its own inquiry as

1 to whether the order should be granted. The court may  
 2 refuse to authorize admission of a person to a residential  
 3 facility for an extended period of treatment and  
 4 habilitation if such admission is not in the best interests  
 5 of the person.

6 (5) If any person is admitted to a residential  
 7 facility for an extended course of habilitation without a  
 8 hearing, and if subsequent to such admission one of the  
 9 parties who could have requested a hearing learns that an  
 10 alternative course of treatment is available which is more  
 11 suitable to the needs of the resident, the party may request  
 12 the professional person in charge of the residential facility to release  
 13 the resident to the alternative, if it is a community-based  
 14 alternative, or transfer the resident to the alternative, if  
 15 it is a residential alternative. Any such transfer or  
 16 release shall comply with the requirements of section  
 17 38-1209. If the professional person in charge of the  
 18 resident refuses to authorize the release or transfer, then  
 19 the party may petition the court for a hearing to determine  
 20 whether the present residential alternative should be  
 21 continued. The hearing shall comply with the procedures set  
 22 forth in subsection (2) of this section."

23 Section 8. Section 38-1222, R.C.M. 1947, is amended to  
 24 read as follows:

25 "38-1222. ~~Other rights while in a residential facility~~

1 ~~Right to habilitation.~~ (1) Persons admitted to residential  
 2 facilities shall have a right to habilitation, including  
 3 medical treatment, education, and care, suited to their  
 4 needs, regardless of age, degree of retardation, or  
 5 handicapping condition. Each resident has a right to a  
 6 habilitation program which will maximize his human abilities  
 7 and enhance his ability to cope with his environment. Every  
 8 residential facility shall recognize that each resident,  
 9 regardless of ability or status, is entitled to develop and  
 10 realize his fullest potential. The facility shall implement  
 11 the principle of normalization so that each resident may  
 12 live as normally as possible.

13 (2) Residents shall have a right to the least  
 14 restrictive conditions necessary to achieve the purposes of  
 15 habilitation. To this end, the facility shall make every  
 16 attempt to move residents from:

- 17 (a) more to less structured living;
- 18 (b) larger to smaller facilities;
- 19 (c) larger to smaller living units;
- 20 (d) group to individual residence;
- 21 (e) segregated from the community to integrated into  
 22 the community living;
- 23 (f) dependent to independent living.

24 (3) Within ~~thirty~~ (30) days of his admission to a  
 25 residential facility, each resident shall have an evaluation

1 by appropriate specialists for programming purposes.

2 (4) Each resident shall have an individualized

3 habilitation plan formulated by the facility. This plan

4 shall be developed by appropriate professional persons and

5 implemented as soon as possible but no later than fourteen

6 {14} days after the resident's admission to the facility.

7 An interim program of habilitation, based on the

8 preadmission evaluation conducted pursuant to this act,

9 shall commence promptly upon the resident's admission. Each

10 individualized habilitation plan shall contain:

11 (a) a statement of the nature of the specific

12 limitations and specific needs of the resident;

13 (b) a description of intermediate and long-range

14 habilitation goals with a projected timetable for their

15 attainment;

16 (c) a statement of, and an explanation for, the plan

17 of habilitation for achieving these intermediate and

18 long-range goals;

19 (d) a statement of the least restrictive setting for

20 habilitation necessary to achieve the habilitation goals of

21 the resident;

22 (e) a specification of the professional persons and

23 other staff members who are responsible for the particular

24 resident's attaining these habilitation goals;

25 (f) criteria for release to less restrictive settings

1 for habilitation, including criteria for discharge and a

2 projected date for discharge.

3 (5) As part of his habilitation plan, each resident

4 shall have an individualized ~~post-institutionalization~~

5 ~~postinstitutionalization~~ plan. This plan shall be developed

6 by a professional person who shall begin preparation of such

7 plan upon the resident's admission to the institution and

8 shall complete such plan as soon as practicable. The

9 parents or guardian or next of kin of the resident, the

10 responsible person appointed by the court, if any, and the

11 resident, if able to give informed consent, shall be

12 consulted in the development of such plan and shall be

13 informed of the content of such plan.

14 (6) In the interests of continuity of care, one

15 professional person shall whenever possible be responsible

16 for supervising the implementation of the habilitation plan,

17 integrating the various aspects of the habilitation

18 program, and recording the resident's progress as measured

19 by objective indicators. This professional person shall

20 also be responsible for ensuring that the resident is

21 released when appropriate to a less restrictive habilitation

22 setting.

23 (7) The habilitation plan shall be continuously

24 reviewed by the professional person responsible for

25 supervising the implementation of the plan and shall be

1 modified if necessary. In addition, ~~six--(6)~~ months after  
 2 admission and at least annually thereafter, each resident  
 3 shall receive a comprehensive psychological, social,  
 4 educational, and medical diagnosis and evaluation, and his  
 5 habilitation plan shall be reviewed by an interdisciplinary  
 6 team of no less than two ~~(2)~~ professional persons and such  
 7 resident care workers as are directly involved in his  
 8 habilitation and care. A habilitation plan shall be  
 9 reviewed monthly.

10 (8) Each resident discharged to the community shall  
 11 have a program of transitional habilitation assistance.

12 (9) The professional person in charge of the  
 13 residential facility shall report in writing to the parents  
 14 or guardian of the resident, or the responsible person, at  
 15 least every ~~six--(6)~~ months on the resident's educational,  
 16 vocational, and living skills progress and medical  
 17 condition. Such report shall also state any appropriate  
 18 habilitation program which has not been afforded to the  
 19 resident because of inadequate habilitation resources.

20 (10) The parents or guardian of each resident, or the  
 21 responsible person appointed by the court, shall promptly  
 22 upon the resident's admission receive a written copy of all  
 23 the above standards for adequate habilitation. Each  
 24 resident, if the resident is able to comprehend, shall  
 25 promptly upon his admission be orally informed in clear

1 language of the above standards and, where appropriate, be  
 2 provided with a written copy."

3 Section 9. Section 38-1302, R.C.M. 1947, is amended to  
 4 read as follows:

5 "38-1302. Definitions. As used in this act the  
 6 following definitions apply:

7 (1) "Board" means the mental disabilities board of  
 8 visitors created by this act.

9 (2) "Court" means the a district court of the state of  
 10 Montana.

11 (3) "Department" means the department of institutions  
 12 provided for in Title 82A, chapter 10.

13 (4) "Emergency situation" means a situation in which  
 14 any person is in imminent danger of death or serious bodily  
 15 harm from the activity of a person who appears to be  
 16 seriously mentally ill.

17 (5) "Mental disorder" means any organic, mental, or  
 18 emotional impairment which has substantial adverse effects  
 19 on an individual's cognitive or volitional functions.

20 (6) "Mental health facility" or "facility" means a  
 21 public hospital or a licensed private hospital or a  
 22 community mental health center, or any mental health clinic  
 23 or treatment center approved by the department. No  
 24 correctional institution or facility, or jail, is a mental  
 25 health facility within the meaning of this act.

1 (7) "Next of kin" shall include, but need not be  
 2 limited to, the spouse, parents, adult children, and adult  
 3 brothers and sisters of a person.

4 (8) "Patient" means a person committed by the court to  
 5 a ~~seventy-two--(72)-hour~~ 12-hour evaluation or treatment or  
 6 for a longer period.

7 (9) "Peace officer" means any sheriff, deputy sheriff,  
 8 marshal, policeman, or other peace officer.

9 (10) "Professional person" means:

10 (a) a medical doctor; or

11 (b) a person trained in the field of mental health and  
 12 certified by the department of--institutions in accordance  
 13 with standards of professional licensing boards, federal  
 14 regulations, and the joint commission on accreditation of  
 15 hospitals.

16 (11) "Respondent" means a person alleged in a petition  
 17 filed pursuant to this act to be seriously mentally ill.

18 (12) "Responsible person" means any person willing and  
 19 able to assume responsibility for a seriously mentally ill  
 20 person, or person alleged to be seriously mentally ill,  
 21 including next of kin; the person's conservator or legal  
 22 guardian, if any; representatives of a charitable or  
 23 religious organization; or any other person appointed by  
 24 the court to perform the functions of a "responsible person"  
 25 set out in this act. Only one person shall at any one time

1 be the "responsible person" within the meaning of this act.  
 2 In appointing a responsible person, the court shall consider  
 3 the preference of the respondent. The court may, at any  
 4 time for good cause shown, change its designation of the  
 5 "responsible person".

6 (13) "Seriously mentally ill" means suffering from a  
 7 mental disorder which has resulted in self-inflicted injury  
 8 or injury to others, or the imminent threat thereof, or  
 9 which has deprived the person afflicted of the ability to  
 10 protect his life or health. No person may be involuntarily  
 11 committed to a mental health facility nor or detained for  
 12 evaluation and treatment because he is an epileptic,  
 13 mentally deficient, mentally retarded, senile, or suffering  
 14 from a mental disorder unless the condition causes the  
 15 person to be seriously mentally ill within the meaning of  
 16 this act."

17 Section 10. Section 41-817, R.C.M. 1947, is amended to  
 18 read as follows:

19 "41-817. Definitions. (1) "Severely handicapped  
 20 person" means any individual:

21 (a) who has a physical or mental impairment which  
 22 requires multiple services over an extended period of time  
 23 and results from amputation, blindness, cancer, cerebral  
 24 palsy, cystic fibrosis, deafness, heart disease, hemiplegia,  
 25 respiratory or pulmonary dysfunction, mental retardation,

1 mental illness, multiple sclerosis, muscular dystrophy,  
 2 neurological disorders (including stroke and epilepsy),  
 3 paraplegia, quadriplegia, and other spinal cord conditions,  
 4 renal failure, and any other disability specified by the  
 5 department in regulations it shall prescribe; and/or

6 (b) who, because of lack of social competence,  
 7 mobility, experience, skills, training, or other successful  
 8 characteristics, is in need of sheltered employment or work  
 9 activity services in a protective setting.

10 (2) "Physical or mental disability" means a physical  
 11 or mental condition which materially limits, contributes to  
 12 limiting, or if not corrected, will probably result in  
 13 limiting an individual's activities or functioning. The term  
 14 includes behavioral disorders characterized by deviant  
 15 social behavior or impaired ability to carry out normal  
 16 relationships with family and community which may result  
 17 from vocational, educational, cultural, social,  
 18 environmental, or other factors.

19 (3) "Vocational rehabilitation services" means goods  
 20 or services provided handicapped persons to enable such  
 21 persons to be fit for gainful occupation or to attain or  
 22 maintain a maximum degree of self-support or self-care and  
 23 includes every type of goods and services for which federal  
 24 funds are available for vocational rehabilitation purposes,  
 25 including, but not limited to, the establishment,

1 construction, development, operation, and maintenance of  
 2 workshops and rehabilitation facilities.

3 (4) "Self-care" means a reasonable degree of  
 4 restoration from dependency upon others for personal needs  
 5 and care and includes but is not limited to ability to live  
 6 in own home, rather than requiring nursing home care and  
 7 care for self rather than requiring attendant care.

8 (5) "Department" means the department of social and  
 9 rehabilitation services.

10 (6) "Sheltered workshop" means a charitable  
 11 organization or institution conducted not for profit, but  
 12 for the purpose of carrying out a recognized program of  
 13 rehabilitation for handicapped workers, and/or providing  
 14 such individuals with remunerative employment or other  
 15 occupational rehabilitating activity of an educational or  
 16 therapeutic nature.

17 (7) "Work activity center" means a physically  
 18 separated department of a workshop having an identifiable  
 19 program, separate supervision and records, and which is  
 20 planned and designed exclusively to provide therapeutic  
 21 activities for handicapped workers whose physical or mental  
 22 impairment is so severe as to make their productive capacity  
 23 inconsequential. Therapeutic activities include custodial  
 24 activities (such as activities where the focus is on teaching  
 25 the basic skills of living) and any purposeful activity

1 so long as work or production is not the main purpose."

2 Section 11. Section 71-113, R.C.M. 1947, is amended to  
3 read as follows:

4 "71-113. Bond of contractor -- duty of physician to  
5 examine and notify contractor. Any A person with whom any a  
6 such contract ~~for the maintenance or medical attendance of~~  
7 ~~the poor or indigent sick~~ is made must execute a bond to the  
8 state in a sum not less than ~~one-thousand \$1,000~~ nor ~~or~~ more  
9 than ~~five-thousand-dollars \$5,000~~, with two or more  
10 sureties, conditioned for the faithful performance of his  
11 contract. ~~said~~ ~~the~~ bond ~~is~~ to be approved by and filed with  
12 the chairman of the board. ~~it-is-the-duty-of-the~~ ~~the~~  
13 physician with whom ~~the~~ a contract for medical attendance is  
14 made ~~to-examine~~ shall each week ~~examining~~ any person who is a  
15 charge upon the county, and if, after ~~such~~ ~~the~~ examination  
16 he is satisfied that ~~such~~ ~~the~~ person is able to support and  
17 maintain himself, he must so notify the contractor having  
18 the person in charge, by leaving with the contractor a  
19 notice of the fact that ~~such~~ ~~the~~ person requires no further  
20 medical attendance, and ~~he~~ shall file a duplicate thereof  
21 notice with the clerk of the board. After the serving--of  
22 ~~said~~ ~~physician~~ ~~serves~~ the notice and ~~fitting~~ files the  
23 duplicate thereof with the clerk, the person mentioned  
24 therein ceases to be a charge upon the county."

25 Section 12. Section 71-207, R.C.M. 1947, is amended to

1 read as follows:

2 "71-207. ~~Legal--services~~ Attorney general to act as  
3 legal adviser to department. The attorney general of the  
4 state shall act as legal adviser to the state department,  
5 and shall perform such legal services as may be required,  
6 and ~~ne--is--hereby--empowered--to~~ may employ such other and  
7 additional counsel as may be necessary for this purpose, and  
8 may fix the compensation therefor, ~~provided,--however--that~~  
9 ~~the~~ the total yearly sum per annum for the service shall ~~not~~ may  
10 not exceed ~~twenty-four--hundred--(\$2,400.00)--dollars~~, which  
11 compensation shall be paid out of state public welfare  
12 assistance funds."

13 Section 13. Section 71-210, R.C.M. 1947, is amended to  
14 read as follows:

15 "71-210. ~~Authority~~ Powers and ~~activities~~ duties of the  
16 state department. (1) ~~the--state--department--has--authority~~  
17 ~~over--and--administration--or--supervision--of--all--the--purposes~~  
18 ~~and--operations--as--set--forth--under--title--71.~~ The state  
19 department shall:

20 (a) ~~Administer~~ administer or supervise all forms of  
21 public assistance, child protection, and child welfare,  
22 including the provision of medical care payments in behalf  
23 of recipients of public assistance;

24 (b) ~~Administer~~ administer or supervise all child  
25 welfare activities, including importation and exportation of

1 children; licensing and supervising of private and local  
 2 child-caring agencies; the care of dependent, neglected, and  
 3 delinquent children in foster family homes, especially  
 4 children placed for adoption or those of illegitimate birth;

5 (c) ~~Give~~ give consultant service to private  
 6 institutions providing care for the needy, indigent,  
 7 handicapped, or dependent adults;

8 (d) ~~Develop and~~ cooperate with other state agencies  
 9 and develop provisions for services to the blind, including  
 10 the prevention of blindness, the location of blind persons,  
 11 medical services for eye conditions, and vocational guidance  
 12 and training of the blind;

13 (e) ~~Provide~~ provide services in respect to  
 14 organization and supervise county departments of public  
 15 welfare and county boards of public welfare in the  
 16 administration of public ~~welfare~~ assistance functions, and  
 17 for efficiency and economy;

18 (f) ~~Assist~~ assist and cooperate with other state and  
 19 federal departments, bureaus, agencies, and institutions,  
 20 when so requested, by performing services in conformity with  
 21 ~~the purposes of this act,~~ public assistance purposes; and

22 (g) ~~Administer~~ administer and supervise all federal  
 23 funds allocated to this state and all state funds  
 24 appropriated to ~~this~~ the state department for ~~the activities~~  
 25 ~~set forth in Title 71~~ public assistance activities. The

1 state department shall do all things necessary, in  
 2 conformity with federal and state law, for the proper  
 3 fulfillment of ~~the purposes set forth in Title 71~~ public  
 4 assistance purposes.

5 (L) The state department may:

6 (a) ~~Purchase~~ purchase, exchange, condemn, or receive  
 7 by gift, either real or personal property which is necessary  
 8 to carry out its public assistance functions ~~under Title 71.~~  
 9 Title to property obtained under this subsection shall be  
 10 taken in the name of the state of Montana, for the use and  
 11 benefit of the state department.

12 (b) ~~Contract~~ contract with the federal government to  
 13 carry out its public assistance functions ~~under Title 71.~~  
 14 The state department may do all things necessary in order to  
 15 avail itself of federal aid and assistance."

16 Section 14. Section 71-211, R.C.M. 1947, is amended to  
 17 read as follows:

18 "71-211. State department to act as agency of federal  
 19 government -- assistance to ward Indians. (1) The state  
 20 department shall act as the agent of the federal government  
 21 in public ~~welfare~~ assistance matters of mutual concern in  
 22 conformity with this act and the ~~Federal~~ federal Social  
 23 Security Act, and in the administration of any federal funds  
 24 granted to the state to aid in the purposes and functions of  
 25 the state department.



1       (2) The counties shall not be required to reimburse  
 2 the state department for any portion of old-age assistance,  
 3 medical assistance, aid to needy dependent children, or aid  
 4 to needy blind, or aid to the totally disabled paid to ward  
 5 Indians or for any payment on behalf of any person in a  
 6 state-operated medical institution, further--provided--that  
 7 the the federal government may reimburse the state of  
 8 Montana in behalf of counties, providing general relief to  
 9 ward Indians, a sum in lieu of taxes which the counties  
 10 would collect if the lands of such ward Indians were not in  
 11 trust status. A "ward Indian" is hereby defined as an Indian  
 12 who is living on an Indian reservation set aside for tribal  
 13 use, or is a member of a tribe or nation accorded certain  
 14 rights and privileges by treaty or by federal statutes. If  
 15 and when the Federal federal Social Security Act is amended  
 16 to define a "ward Indian", such definition shall supersede  
 17 the foregoing definition."

18       Section 15. Section 71-212, R.C.M. 1947, is amended to  
 19 read as follows:

20       "71-212. State Power of state department in  
 21 administering state grants-in-aid. In administering or  
 22 supervising any state or federal funds appropriated or made  
 23 available to the state department for public welfare  
 24 assistance purposes, the state department shall have the  
 25 authority to:

1       (1) Require require as a condition for receiving  
 2 grants-in-aid that the county shall bear the proportion of  
 3 the total of local public assistance as is fixed by law  
 4 relating to such assistance;

5       (2) Make make use of all legal processes to enforce  
 6 the minimum standards prescribed by the state department  
 7 under laws providing for grants-in-aid, provided that such  
 8 standards shall not exceed in cost the amount derived from  
 9 levies established by state law; and

10       (3) Require require that each part of ~~this act~~ the  
 11 public assistance laws shall be in effect in all counties of  
 12 the state."

13       Section 16. Section 71-213, R.C.M. 1947, is amended to  
 14 read as follows:

15       "71-213. County departments to be established. There  
 16 shall be established in each county of the state a county  
 17 department of public welfare which shall consist of a county  
 18 board of public welfare and such staff personnel as may be  
 19 necessary for the efficient performance of the public  
 20 welfare assistance activities of the county. Provided,  
 21 however--if If conditions warrant and if two or more county  
 22 boards enter into an agreement, two or more counties may  
 23 combine into one administrative unit and use the same staff  
 24 personnel throughout the administrative unit."

25       section 17. Section 71-214, R.C.M. 1947, is amended to

1 read as follows:

2 "71-214. County commissioners ex officio county  
 3 welfare board -- compensation. The board of county  
 4 commissioners, ex officio, shall be the county welfare board  
 5 and is hereby authorized to devote such additional time for  
 6 public welfare assistance matters as may be found necessary.  
 7 The members of the county welfare board shall receive the  
 8 same compensation for their services and the same mileage  
 9 when acting as the county board of public welfare as they  
 10 receive when acting as the board of county commissioners and  
 11 shall be limited as to meetings as now provided by law, and  
 12 the compensation and mileage of the members of the board  
 13 shall be paid from county funds. They may transact business  
 14 as a board of county commissioners and as a county welfare  
 15 board on the same day, and in such cases they shall be paid  
 16 as a board of county commissioners, but ~~shall in no case~~ may  
 17 not receive compensation for more than one 1 day's work for  
 18 all services performed on the same calendar day."

19 Section 18. Section 71-216, R.C.M. 1947, is amended to  
 20 read as follows:

21 "71-216. Powers and duties of the county board. The  
 22 county board of public welfare ~~shall be~~ is responsible for  
 23 establishing local policies and such rules ~~and regulations~~  
 24 as are necessary to govern the county department and local  
 25 administration of public welfare assistance activities

1 except that all such policies and rules ~~and regulations~~ must  
 2 be in conformity with general policies and rules ~~and~~  
 3 ~~regulations~~ established by the state department. The county  
 4 board of public welfare shall review the determinations of  
 5 eligibility and amount of payment to or on behalf of  
 6 individuals made by the staff of the county department for  
 7 conformity with the aforesaid rules ~~and regulations~~.  
 8 Determinations not in conformity will be referred to the  
 9 staff by the county welfare board for appropriate action as  
 10 authorized by ~~said the~~ board."

11 Section 19. Section 71-217, R.C.M. 1947, is amended to  
 12 read as follows:

13 "71-217. Staff personnel -- how selected, paid, and  
 14 controlled -- dismissal. (1) Each county board shall select  
 15 and appoint from a list of qualified persons furnished by  
 16 the state department such staff personnel as are necessary.  
 17 The staff personnel in each county shall consist of at least  
 18 one qualified staff worker (or investigator) and such clerks  
 19 and stenographers as may be decided necessary. If conditions  
 20 warrant, the county board, with the approval of the state  
 21 department, may appoint some fully qualified person listed  
 22 by the state department as supervisor of its staff  
 23 personnel. The staff personnel of each county department are  
 24 directly responsible to the county board, but the state  
 25 department ~~shall have the authority to~~ may supervise such

1 county employees in respect to the efficient and proper  
 2 performance of their duties. The county board of public  
 3 welfare ~~shall~~ may not dismiss any member of the staff  
 4 personnel without the approval of the state department~~s~~, but  
 5 the state department ~~shall have the authority to~~ may request  
 6 the county board to dismiss any member of the staff  
 7 personnel for inefficiency, incompetence, or similar cause.

8 (2) Public assistance staff personnel attached to the  
 9 county board shall be paid from state public welfare  
 10 assistance funds, both their salaries and their travel  
 11 expenses, as provided for in ~~sections~~ 59-538, 59-539, and  
 12 59-801, when away from the county seat in the performance of  
 13 their duties~~s~~, but the county board of public welfare shall  
 14 reimburse the state department~~s~~ from county poor funds~~v~~  
 15 one-half of the payments so made to its public assistance  
 16 staff personnel, except that, under circumstances prescribed  
 17 by the state department, the reimbursement by the county  
 18 board of public welfare may be less than one-half. All other  
 19 administrative costs of the county department shall also be  
 20 paid from county poor funds.

21 (3) On or before the 20th day of the month following  
 22 the month for which the payments to the public assistance  
 23 staff personnel of the county were made, the state  
 24 department shall present to the county department of public  
 25 welfare a claim for the required reimbursements. The county

1 board shall make such reimbursements within ~~twenty~~ {20} days  
 2 after the presentation of the claim, and the state  
 3 department shall credit (add) all such reimbursements to its  
 4 account for administrative costs."

5 Section 20. Section 71-222, R.C.M. 1947, is amended to  
 6 read as follows:

7 "~~71-222. Millage taxes to be levied~~  
 8 ~~expenditures--budgets~~ County to levy taxes, budget, and make  
 9 expenditures for public assistance activities. (1) The board  
 10 of county commissioners in each county shall levy ~~seventeen~~  
 11 ~~{17}~~ 13.5 mills for the county poor fund as provided by law  
 12 or so much thereof as may be necessary. The board shall  
 13 budget and expend so much of the funds in the county poor  
 14 fund for ~~the~~ public assistance purposes ~~of this act~~ as will  
 15 enable the county welfare department to pay the general  
 16 relief activities of the county and to reimburse the state  
 17 department for the county's proportionate share of the  
 18 administrative costs of the county welfare department and of  
 19 all public assistance and its proportionate share of any  
 20 other ~~welfare~~ public assistance activity that may be carried  
 21 on jointly by the state and the county.

22 (2) The amounts set up in the budget for the  
 23 reimbursements to the state department shall be sufficient  
 24 to make all of these reimbursements in full. The budget  
 25 shall make separate provision for each one of these public

1 assistance activities, and proper accounts shall be  
 2 established for the funds for all such activities.

3 (3) As soon as the preliminary budget provided for in  
 4 ~~section~~ 16-1903 has been agreed upon, a copy thereof shall  
 5 without delay be mailed to the state department, and at any  
 6 time before the final adoption of the budget, the department  
 7 shall make such recommendations with regard to changes in  
 8 any part of the budget relating to the county poor fund as  
 9 considered necessary in order to enable the county to  
 10 discharge its obligations under the ~~Public-Welfare-Act~~  
 11 public assistance laws.

12 (4) The state department shall promptly examine the  
 13 preliminary budget in order to ascertain if the amounts  
 14 provided for reimbursements to the state department are  
 15 likely to be sufficient, and shall notify the county clerk  
 16 of ~~his~~ its findings. The board shall make such changes in  
 17 the amounts provided for reimbursements, if any are  
 18 required, in order that the county will be able to make the  
 19 reimbursements in full.

20 (5) The board of county commissioners may not make any  
 21 transfer from the amounts budgeted for reimbursing the state  
 22 department without having first obtained a statement in  
 23 writing from the state department to the effect that the  
 24 amount to be transferred will not be required during the  
 25 fiscal year for the purposes for which the amounts were

1 provided in the budget.

2 (6) No part of the county poor fund, irrespective of  
 3 the source of any part thereof, may be used directly or  
 4 indirectly for the erection or improvement of any county  
 5 building so long as the fund is needed for general relief  
 6 expenditures by the county or is needed for paying the  
 7 county's proportionate share of public assistance or its  
 8 proportionate share of any other ~~welfare~~ public assistance  
 9 activity that may be carried on jointly by the state and the  
 10 county. Expenditures for improvement of any county buildings  
 11 used directly for care of the poor may be made out of any  
 12 moneys in the county poor fund, whether such moneys are  
 13 produced by ~~the seventeen-(17)-mill~~ 13.5-mill levy provided  
 14 for in ~~paragraph one subsection~~ (1) of this section or from  
 15 any additional levy authorized or to be authorized by law.  
 16 Such expenditure shall be authorized only when any county  
 17 building used for the care of the poor must be improved in  
 18 order to meet legal standards required for such buildings by  
 19 the department of health and environmental sciences, and  
 20 when such expenditure has been approved by the state  
 21 department."

22 Section 21. Section 71-226, R.C.M. 1947, is amended to  
 23 read as follows:

24 "71-226. ~~Fraudulent--acts~~ Fraudulent obtainment of  
 25 public assistance a misdemeanor. Whoever knowingly obtains

1 or attempts to obtain, or aids, or abets any person to  
 2 obtain, by means of a willfully false statement or  
 3 representation or by impersonation, or other fraudulent  
 4 device, public assistance to which he is not entitled, or  
 5 assistance greater than that to which he is justly  
 6 entitled, or whoever aids or abets in buying or in any way  
 7 disposing of the property, either personal or real, of a  
 8 recipient of assistance without the consent of the county  
 9 department and with the intent to defeat the purposes of  
 10 this act, shall be guilty of a misdemeanor. In assessing  
 11 the penalty, the court shall take into consideration, among  
 12 other factors, the amount of money fraudulently received."

13 Section 22. Section 71-230, R.C.M. 1947, is amended to  
 14 read as follows:

15 "71-230. Method of issuing assistance grants --  
 16 reimbursement. ~~(c)(1)~~ Checks in payment of public  
 17 assistance, ~~as provided for in each part of this act,~~ with  
 18 the exception of general relief, shall be issued by the  
 19 state department upon approved certificates of award and  
 20 reports of changes of such eligible grantees as are  
 21 forwarded by the county department to the state department,  
 22 and all such checks will be mailed to the individual  
 23 recipient or the appropriate vendor. The checks in payment  
 24 of public assistance shall be issued in the full approved  
 25 amount for each eligible approved grantee, and the original

1 monthly payment shall be from the state public welfare  
 2 assistance accounts. All public assistance checks shall  
 3 represent cash on demand at full par value to the recipient  
 4 and vendor.

5 ~~(b)(2)~~ Whenever the state department, acting pursuant  
 6 to standards established by said ~~the~~ department, shall  
 7 determine ~~determines~~ that any otherwise eligible recipient  
 8 of ~~old-age~~ old-age assistance, aid to the needy blind, or  
 9 aid to the permanently and totally disabled, has, by reason  
 10 of any physical or mental condition, such inability to  
 11 manage funds that making payments to him would be contrary  
 12 to his welfare, the department may, under standards  
 13 established under the state plan, make the public assistance  
 14 payment on behalf of such recipient to another person found  
 15 by the department to be interested in or concerned with the  
 16 welfare of such needy individual. Before such payments may  
 17 be paid to such other person, such person shall give a bond,  
 18 with adequate corporate surety and in form to be approved by  
 19 the state department, running in favor of the needy  
 20 individual and the state of Montana, conditioned upon the  
 21 faithful use by such other person of the funds for the  
 22 welfare of the said needy individual. Such bond shall be in  
 23 an amount equal to six ~~(6)~~ times the amount of the monthly  
 24 payment involved.

25 ~~(c)(3)~~ On or before the ~~twentieth~~ 20th of each month

1 the state department ~~will~~ shall present a claim for  
 2 reimbursement to each county department for its  
 3 proportionate share of public assistance granted in the  
 4 county to recipients during the month and for vendor medical  
 5 payments made on behalf of recipients in the previous month.  
 6 The county department ~~must~~ shall make such ~~the~~ reimbursement  
 7 to the state department within ~~twenty~~ {20} days after such  
 8 ~~the~~ claim is presented."

9 Section 23. Section 71-233.1, R.C.M. 1947, is amended  
 10 to read as follows:

11 "71-233.1. Investigations and enforcement actions by  
 12 department of revenue ~~--enforcement--actions~~. When requested  
 13 by the department of social and rehabilitation services, the  
 14 department of revenue shall ~~have the power and duty to:~~

15 ~~{b}{1}~~ investigate matters relating to public welfare  
 16 assistance and vendor payments, including but not limited to  
 17 the claim for an acceptance of welfare public assistance  
 18 benefits by welfare public assistance recipients, and the  
 19 receipt and disbursement of welfare public assistance funds by  
 20 state, county, or other governmental agencies;

21 ~~{b}{2}~~ institute civil or criminal actions in the  
 22 appropriate courts to enforce the welfare public assistance  
 23 laws and violations thereof."

24 Section 24. Section 71-233.3, R.C.M. 1947, is amended  
 25 to read as follows:

1 "71-233.3. Information made available to department of  
 2 revenue. (1) The department of social and rehabilitation  
 3 services and its local units shall make available to the  
 4 department of revenue information contained in the welfare  
 5 public assistance files pertinent to the investigations and  
 6 judicial actions described in ~~section 71-233.1~~.

7 (2) Every other state, county, or other governmental  
 8 agency shall make available to the agents or attorneys of  
 9 the department of revenue all records, files, memoranda,  
 10 forms, or other papers relating to public welfare assistance  
 11 matters, including income tax returns filed with the  
 12 department of revenue."

13 Section 25. Section 71-302.2, R.C.M. 1947, is amended  
 14 to read as follows:

15 "71-302.2. Residency requirements. {1} Any person  
 16 otherwise qualified who makes his home in ~~the--state--of~~  
 17 Montana with the intent to become a resident shall be  
 18 eligible for general relief. Upon the filing of his  
 19 application in the county of residence, his a qualified  
 20 applicant's general relief assistance shall be paid entirely  
 21 from state funds until he has resided for ~~one~~ {1} continuous  
 22 year in ~~the--state--of~~ Montana, at which time he shall become  
 23 a financial responsibility of the county in which he resides  
 24 at the expiration of the ~~one--{1}--year~~ 1-year period. A  
 25 person who leaves ~~the--state--of~~ Montana with the intent to

1 reside in another state, and later returns to reside in the  
 2 ~~state of Montana~~ ~~shall be deemed~~ is considered a new  
 3 resident for the purposes of this act. If a recipient moves  
 4 from his original county of residence to reside in another  
 5 county, he shall continue to be a financial responsibility  
 6 of the original county of residence for ~~one (1)~~ year from  
 7 the date of his change of residence. If during this ~~one (1)~~  
 8 year 1-year period, the individual resides in several  
 9 counties, he shall become a financial responsibility of the  
 10 county in which he resides at the expiration of the ~~one (1)~~  
 11 year 1-year period. County medical assistance under ~~section~~  
 12 71-308 shall not be entitled to be paid from state funds.

13 (2) If a person is absent from the state voluntarily,  
 14 he ~~shall be~~ is ineligible for general relief in ~~the state of~~  
 15 Montana. Aliens found to be illegally within the United  
 16 States ~~shall~~ are not be eligible for relief from state  
 17 funds.

18 (3) Recipients of public assistance who become wards  
 19 or patients in a licensed nursing home or hospital, foster  
 20 home, or a private charitable institution shall have the  
 21 county share of financial participation paid entirely from  
 22 state funds for ~~one (1)~~ year from the original date of  
 23 entrustment or the original date of state residency,  
 24 whichever is earlier. At the expiration of such period, the  
 25 appropriate county, as defined by the following guidelines,

1 shall become financially responsible to the extent of its  
 2 legally required share of participation. The county in which  
 3 commitment of an adult is initiated ~~shall be deemed~~ is  
 4 considered the county of financial responsibility except  
 5 where court decree declares the residency to be otherwise.  
 6 Where ~~when~~ an adult is transferred from a facility or  
 7 institution to one of the above-enumerated facilities, the  
 8 county which initiated the original commitment ~~shall be~~  
 9 ~~deemed~~ is considered the county of financial responsibility  
 10 except in the case of an adult transfer from an out-of-state  
 11 institution, in which case the county in which the facility  
 12 is located ~~shall be deemed~~ is considered the county of  
 13 financial responsibility. In all cases where a minor patient  
 14 or ward is involved, the county of financial responsibility  
 15 ~~shall be~~ is the county in which the parent or guardian  
 16 resides. Where ~~if~~ the custody of a minor is entrusted to a  
 17 state agency, the agency ~~shall have the power to~~ may make a  
 18 reasonable declaration of the county residency of its ward  
 19 using applicable guidelines enumerated in this section. A  
 20 person who reaches majority in an institution, ~~shall~~ upon  
 21 release and restoration to competency, ~~have the power to~~ may  
 22 determine his own county residency. Such person shall  
 23 continue to be a financial responsibility of the county  
 24 which initiated the original commitment for ~~one (1)~~ year  
 25 from the date of release, at which time he shall become a

1 financial responsibility of his new county of residence.

2 (4) Nonresidents or interstate transients may receive  
3 temporary relief from county funds in cases of extreme  
4 necessity and destitution until they ~~may be~~ are returned at  
5 state expense to their state of residence or origin. Medical  
6 expenses arising from accidental injury to interstate  
7 transients shall be paid from county funds and reimbursed by  
8 the state upon submission of a proper claim.

9 (5) "Interstate transient", as the term is used in  
10 this act, is defined as an individual who has signed a  
11 declaration that he is unable to pay for his own necessities  
12 or transportation to return to his state of residence or  
13 origin and is en route to a point outside of this state,  
14 being unable, due to unexpected distress, to reach his  
15 destination."

16 Section 26. Section 71-303, R.C.M. 1947, is amended to  
17 read as follows:

18 "71-303. Eligibility for general relief -- based on  
19 investigation of resources. An applicant for general relief  
20 assistance, including medical care and hospitalization,  
21 shall be eligible to receive assistance only after  
22 investigation by the county department reveals that the  
23 income and resources are insufficient to provide the  
24 necessities of life ~~and assistance~~. Assistance shall be  
25 provided to meet a minimum subsistence compatible with

1 decency and health."

2 Section 27. Section 71-305, R.C.M. 1947, is amended to  
3 read as follows:

4 "71-305. ~~Equal~~ Right of equal consideration. Persons  
5 eligible for and in need of general relief ~~shall be~~, whether  
6 employable or unemployable, ~~shall be~~ given equal  
7 consideration for public assistance as those persons  
8 eligible for assistance under other parts of this act."

9 Section 28. Section 71-306, R.C.M. 1947, is amended to  
10 read as follows:

11 "71-306. ~~Right of hearing~~ Grievances concerning  
12 general relief assistance. Individuals or committees with  
13 complaints or grievances concerning general relief  
14 assistance may present their complaints or grievances to  
15 either the county board or the state department, and due  
16 consideration shall be given all proven facts presented by  
17 the individuals or committees. The county board or the state  
18 department shall take action to relieve situations brought  
19 to their attention under this section to the extent of funds  
20 available."

21 Section 29. Section 71-307, R.C.M. 1947, is amended to  
22 read as follows:

23 "71-307. Relief by check or disbursing orders. (1) All  
24 general relief disbursements by county departments of public  
25 welfare shall be by warrant or check. However, if the county



1 welfare department finds that a recipient is in the habit of  
 2 dissipating general relief allowances instead of using them  
 3 for the purposes intended, or that for any other reason it  
 4 is better for the recipient and his family to receive the  
 5 allowance through disbursing orders, then disbursing orders  
 6 shall be used instead of cash payments~~but not~~. All such  
 7 disbursing orders must be written in such form that the  
 8 goods and merchandise to be provided may be furnished by any  
 9 regular dealer in such goods and merchandise within the  
 10 county. A recipient of general relief must register for  
 11 employment with the State---~~Employment--Service state~~  
 12 employment service and must accept available employment  
 13 within his or her capability. Refusal to accept such  
 14 employment will render the recipient ineligible for further  
 15 general relief assistance. If the county has work available  
 16 which a recipient of general relief is capable of  
 17 performing, then the county department of public welfare may  
 18 require the recipient to perform the work at the prevailing  
 19 rate of wages paid by that county for similar work, to be  
 20 paid from the county poor fund in place of granting him  
 21 general relief.

22 (2) The county department of public welfare shall  
 23 provide coverage under the ~~Workmen's~~ Workers' Compensation  
 24 Act for those recipients of general relief working under the  
 25 provisions hereof, and may enter into such agreements with

1 the division of ~~workmen's~~ workers' compensation of the  
 2 department of labor and industry as may be necessary to  
 3 carry out the provisions of this section.

4 (3) Any recipient of general relief who is subject to  
 5 the provisions of this section and who without cause refuses  
 6 to perform work assigned to him as herein provided, shall  
 7 lose his eligibility for general relief for ~~one (1)~~ week for  
 8 each refusal."

9 Section 30. Section 71-308, R.C.M. 1947, is amended to  
 10 read as follows:

11 \*71-308. ~~Medicee~~ County to provide medical aid and  
 12 hospitalization to indigent. (1) ~~Medicee~~ Except as provided  
 13 in other parts of this act, medical aid and hospitalization  
 14 for nonresidents within the county and county residents  
 15 unable to provide such necessities for themselves are the  
 16 legal and financial duty and responsibility of the board of  
 17 county commissioners, ~~except as otherwise provided in other~~  
 18 ~~parts--of--this--act,~~ payable from the county poor fund. The  
 19 board of county commissioners shall make provisions for  
 20 competent and skilled medical or surgical services as  
 21 approved by the department of health and environmental  
 22 sciences or the state medical association, or in the case of  
 23 osteopathic practitioners by the state osteopathic  
 24 association or chiropractors by the state chiropractic  
 25 association, or optometrical services as approved by the

1 Montana optometric association and dental services as  
 2 approved by the dental association. "Medical" or "medicine"  
 3 as used in this ~~act~~ section refers to the healing art as  
 4 practiced by licensed practitioners.

5 (2) The board, in arranging for medical care for those  
 6 unable to provide it for themselves, may have the care  
 7 provided by the physicians appointed by the board who shall  
 8 be known as county physicians or deputy county physicians  
 9 and may fix a rate of compensation for the furnishing of the  
 10 medical attendance.

11 (3) The board of county commissioners shall make  
 12 suitable arrangements to provide respectable burial for  
 13 nonresidents within the county and county residents for whom  
 14 such expenses are not otherwise available.

15 (4) The department of social and rehabilitation  
 16 services may promulgate rules to determine under what  
 17 circumstances persons in the county are unable to provide  
 18 medical aid and hospitalization for themselves, including  
 19 the power to define the term "medically needy". ~~Provided,~~  
 20 ~~however--such~~ Such definition may not allow payment by a  
 21 county for general assistance-medical for persons whose  
 22 income exceeds ~~three---hundred--percent--(300%)~~ of the  
 23 limitation for obtaining regular county general relief  
 24 assistance.

25 (5) In any case where the county or state pays medical

1 expenses or hospitalization for an individual, the county or  
 2 state is subrogated to the claims of the physician or  
 3 hospital to the extent of payment."

4 Section 31. Section 71-311, R.C.M. 1947, is amended to  
 5 read as follows:

6 "71-311. Grants from state funds to counties. (1) If  
 7 the whole of a ~~six-(6)-mill~~ the 13.5-mill levy together with  
 8 ~~the--whole--of--the--per--capita--tax~~ authorized by said ~~section~~  
 9 71-106, and the income to the county poor fund from all  
 10 other sources ~~shall--prove~~ is inadequate to pay for the  
 11 general relief in the county actually necessary and to meet  
 12 the county's proportionate share of public assistance and  
 13 its proportionate share of any other ~~welfare~~ public  
 14 assistance activity that may be carried on jointly by the  
 15 state and the county, and if warrants upon the county poor  
 16 fund can no longer lawfully be issued to meet these charges,  
 17 and if the board of county commissioners is unable to  
 18 declare an emergency for the purpose of providing additional  
 19 funds or to provide additional funds from any other source,  
 20 and if the county has in all respects expended the county  
 21 poor fund only for lawful purposes, and if all of these  
 22 conditions ~~actually~~ exist in any county of the state, then  
 23 the state department shall, ~~in--so--for~~ insofar as it has  
 24 funds available, come to the assistance of such county, in  
 25 the following manner:

1           (2) When the county in question has submitted proof to  
 2 the state department, through such reports as it may require  
 3 and through other evidence that may be deemed considered  
 4 necessary, that these conditions exist, then the state  
 5 department ~~may authorize the state department~~ is authorized  
 6 to issue a check to the county treasurer of the county for  
 7 general relief purposes, and the county department of public  
 8 welfare shall make the disbursements of these state funds  
 9 for general relief purposes within the county. These  
 10 grants-in-aid from the state department may be used for any  
 11 relief activity lawfully conducted by the county, including  
 12 medical aid, hospitalization, and institutional care; but no  
 13 part thereof may be used, directly or indirectly, to pay for  
 14 the erection or improvement of any county building or for  
 15 furniture, fixtures, appliances, or equipment for any such  
 16 building.

17           (3) Immediately upon receiving notice that such  
 18 grant-in-aid has been made by the state department, ~~it shall~~  
 19 ~~be the duty of~~ the board of county commissioners to shall  
 20 adopt an emergency budget in accordance with the provisions  
 21 of section 16-1907 but ~~without being~~ are not required to  
 22 publish any notice of intention to adopt such emergency  
 23 budget or to hold a hearing thereon. This emergency budget  
 24 shall appropriate the whole amount of the general relief  
 25 grant from the state department for the various classes of

1 expenditures from the poor fund for which the grant-in-aid  
 2 was made by the state department. The money received through  
 3 such general relief grant from the state department shall be  
 4 placed in a special poor fund account kept separate and  
 5 distinct from the poor fund accounts arising under the  
 6 original poor fund budget, and all expenditures from this  
 7 special poor fund account shall be made by a separate series  
 8 of warrants or checks."

9           Section 32. Section 71-314, R.C.M. 1947, is amended to  
 10 read as follows:

11           "71-314. ~~Granting of assistance~~ Amount of general  
 12 relief assistance to be determined by county board. The  
 13 amount of general relief assistance granted any person or  
 14 family shall be determined by the county board of public  
 15 welfare according to the rules ~~and regulations~~ and standards  
 16 of assistance established by the state department."

17           Section 33. Section 71-501, R.C.M. 1947, is amended to  
 18 read as follows:

19           "71-501. "Dependent child" defined. (1) ~~(a)~~ The term  
 20 "dependent child", for welfare public assistance purposes,  
 21 means:

- 22           (a) ~~(i)~~ a child under the age of ~~eighteen~~ 18; or
- 23           (b) ~~(ii)~~ a person under the age of ~~twenty-one~~ 21 who
- 24           is a student under the regulations prescribed by the state
- 25           department.

1 (b) Such ~~The children child~~ ~~(A)(i) and or B~~ (a)(iii)   
 2 above) must be deprived of parental support or care by   
 3 reason of the death, continued absence from the home,   
 4 continued unemployment, or physical or mental incapacity of   
 5 a parent, and ~~who is living~~ be living with his father,   
 6 mother, grandfather, grandmother, brother, sister,   
 7 stepfather, stepmother, stepbrother, stepsister, uncle,   
 8 aunt, nephew, niece, or first cousin, in a place of   
 9 residence maintained by one or more of such relatives as his   
 10 or their own home.

11 (2) Aid to dependent children may not be denied to or   
 12 for the care of children who would otherwise be entitled to   
 13 such aid under the laws of this state by the fact that the   
 14 child is living in the home of his ~~or her~~ father, who is, in   
 15 the opinion of the county board of public welfare of the   
 16 appropriate county, either unemployable or who is honestly   
 17 and responsibly seeking proper employment and is unable to   
 18 find such employment ~~nor or~~ by the fact that the child is   
 19 living in the home of a head of a household who is, at the   
 20 time, receiving job training under the laws of this state;   
 21 nor ~~shall~~ may the benefits which would otherwise accrue to   
 22 the child for aid to dependent children under the laws of   
 23 the state be reduced by reason of any such cause.

24 (3) Primary factors in determining whether a father is   
 25 honestly and responsibly seeking employment include his

1 willingness to register for employment with the department   
 2 of labor and industry, if that department has a   
 3 representative in his county of residence, and his   
 4 willingness to accept employment in which he is able to   
 5 engage which will increase his ability to maintain himself   
 6 and his family.

7 (4) The state department ~~of social and rehabilitation~~   
 8 ~~services~~ may establish additional criteria for determining   
 9 whether a father is honestly and responsibly seeking   
 10 employment."

11 Section 34. Section 71-509, R.C.M. 1947, is amended to   
 12 read as follows:

13 "71-509. Periodic reconsideration and changes in   
 14 amount of assistance -- appointment of guardian or payment   
 15 to another person. (1) All assistance grants made under this   
 16 chapter shall be reconsidered by the county department as   
 17 frequently as may be required by the rules of the state   
 18 department. After such further investigation as the county   
 19 department may deem consider necessary or the state   
 20 department may require, the amount of assistance may be   
 21 changed or assistance may be entirely withdrawn if the state   
 22 or county departments find that the child's circumstances   
 23 have altered sufficiently to warrant such action, provided,   
 24 ~~however, that if~~ If the county department, after   
 25 investigation, finds that any recipient is not utilizing the

1 grant adequately for the needs of the child or children, or  
 2 is dissipating such grant, or refuses or fails to accept  
 3 employment or training, and payments made to him would not  
 4 be used in the best interests of the child or children, the  
 5 county department may request the county attorney to file a  
 6 petition in the district court for the appointment of such  
 7 recipient as guardian of the assistance grant in behalf of  
 8 the child or children. Such petition shall set forth the  
 9 facts warranting such appointment. Notice of the hearing on  
 10 such petition shall be served upon the recipient and the  
 11 county department not less than five--{5} days before the  
 12 date set for such hearing; such petition may be filed with  
 13 the clerk of the district court and all process issued and  
 14 served without payment of costs. If upon the hearing of such  
 15 petition the court is satisfied that it is for the best  
 16 interests of the child or children, and all parties  
 17 concerned, that such guardian be appointed, he shall order  
 18 such appointment, and may require such guardian to render to  
 19 the court a detailed itemized account of expenditures of  
 20 such assistance payments at such times as the court may deem  
 21 considers advisable.

22 {2} It is the intention of this act section that the  
 23 guardianship herein provided for shall be a special and  
 24 limited guardianship solely for the purpose of safeguarding  
 25 the assistance grants made to dependent children. Such

1 guardianship shall terminate upon the termination of such  
 2 assistance grant, or sooner on order of the court, upon good  
 3 cause shown. In lieu of said guardianship proceedings,  
 4 payments may be made in behalf of the child or children to  
 5 another person found by the county department to be  
 6 interested in or concerned with the welfare of such needy  
 7 child or children in accordance with the rules and  
 8 ~~regulations~~ established by the state department. Before such  
 9 payments may be paid to such other person, such person shall  
 10 give a bond, with adequate corporate surety and in form to  
 11 be approved by the state department, running in favor of the  
 12 needy individual and the state of Montana, conditioned upon  
 13 the faithful use by such other person of the funds for the  
 14 welfare of the needy individual. Such bond shall be in an  
 15 amount equal to six times the amount of the monthly payment  
 16 involved.

17 {3} ~~Providing--however--when~~ When federal law or  
 18 regulations permit--that require any amount in a sum not  
 19 ~~exceeding one hundred dollars--{100.00}~~--in any one--{1}  
 20 calendar year received by an enrolled member of a recognized  
 21 Indian tribe as per capita payments or a share in the  
 22 profits and receipts from tribal lands and interests or  
 23 tribal enterprises ~~shall~~ may not be used to decrease the  
 24 amount of assistance received under this act. ~~Before--such~~  
 25 ~~payments may be paid to such other person, such person shall~~

1 ~~give a bond with adequate corporate surety and in form to~~  
 2 ~~be approved by the state department, running in favor of the~~  
 3 ~~needy individual and the state of Montana, conditioned upon~~  
 4 ~~the faithful use by such other person of the funds for the~~  
 5 ~~welfare of the said needy individual. Such bond shall be in~~  
 6 ~~an amount equal to six (6) times the amount of the monthly~~  
 7 ~~payment involved."~~

8 Section 35. Section 71-710, R.C.M. 1947, is amended to  
 9 read as follows:

10 "71-710. Child rehabilitation. The state department  
 11 shall:

12 ~~(1)~~ enforce all laws pertaining to children  
 13 and take the initiative in all matters involving the  
 14 interest of illegitimate, dependent, neglected, and  
 15 delinquent children where adequate provision therefor has  
 16 not been made by law; ~~and to~~

17 (2) use funds available for cases where special  
 18 medical or material assistance is necessary to rehabilitate  
 19 subnormal or physically handicapped children and where it is  
 20 not otherwise provided for by law; ~~and co-operate~~

21 (3) ~~cooperate~~ for the purposes hereof with all  
 22 reputable ~~child-helping~~ child-helping and ~~child-placing~~  
 23 child-placing agencies; ~~and~~

24 ~~(b)(4)~~ inspect licenses, and supervise public  
 25 and private infants' homes, ~~and child-caring~~ child-caring

1 and ~~child-placing~~ child-placing institutions and agencies."

2 Section 36. Section 71-901, R.C.M. 1947, is amended to  
 3 read as follows:

4 "71-901. ~~Receipt of funds~~ State treasurer to receive  
 5 funds. The treasurer of the state of Montana is hereby  
 6 designated as the appropriate fiscal officer of the state to  
 7 receive federal funds. All money for public assistance  
 8 purposes appropriated by the legislature ~~for public welfare~~  
 9 ~~purposes, all money~~ received from the United States  
 10 government ~~for public welfare purposes, and all money or~~  
 11 received from any other source ~~for the purposes set forth in~~  
 12 ~~the Public Welfare Act~~ shall be paid into the state treasury  
 13 to the credit of the state department."

14 Section 37. Section 71-1401, R.C.M. 1947, is amended  
 15 to read as follows:

16 "71-1401. Definitions. As used in this act ~~the~~  
 17 following definitions apply:

18 (1) "Vocational rehabilitation" and "vocational  
 19 rehabilitation services" mean any services, provided  
 20 directly or through public or private instrumentalities,  
 21 found by the state department ~~of social and rehabilitation~~  
 22 ~~services~~ to be necessary to compensate a blind individual  
 23 for his employment handicap, and to enable him to engage in  
 24 a remunerative occupation including, but not limited to,  
 25 medical and vocational diagnosis, vocational guidance,

1 counseling and placement, rehabilitation training, physical  
2 restoration, transportation, occupational and business  
3 licenses, tools, equipment, initial stocks and supplies,  
4 including livestock, capital advances, maintenance, and  
5 training books and materials.

6 (2) "Rehabilitation services" means any services,  
7 provided directly or through public or private  
8 instrumentalities, found by the state department of ~~society~~  
9 ~~and-rehabilitation-services~~ to be necessary to compensate a  
10 blind individual for his employment handicap or to enable  
11 him to achieve the maximum degree of self-care and to engage  
12 in productive tasks.

13 (3) "Rehabilitation training" means all necessary  
14 training provided to a blind individual to compensate for  
15 his employment handicap, including, but not limited to,  
16 manual, preconditioning, prevocational, and supplementary  
17 training and training provided for the purpose of achieving  
18 broader or more remunerative skills and capacities.

19 (4) "Physical restoration" means any medical,  
20 surgical, or therapeutic treatment necessary to correct or  
21 substantially reduce a blind individual's employment  
22 handicap within a reasonable length of time, including, but  
23 not limited to, medical, psychiatric, dental, and surgical  
24 treatment, nursing services, hospital care, convalescent  
25 home care, drugs, medical and surgical supplies, and

1 prosthetic appliances, but excluding curative treatment for  
2 acute or transitory conditions.

3 (5) "Prosthetic appliance" means an artificial device  
4 necessary to support or take the place of a part of the body  
5 or to increase the acuity of a sense organ.

6 (6) "Occupational licenses" means a license, permit,  
7 or other written authority required by any governmental unit  
8 to be obtained in order to engage in an occupation.

9 (7) "Business licenses" means any license, permit, or  
10 other written authority required by any governmental unit to  
11 be obtained in order to engage in a business.

12 (8) "Maintenance" means money payments not exceeding  
13 the estimated cost of subsistence during the provision of  
14 vocational rehabilitation and rehabilitation services.

15 (9) "Blind individual" means an individual whose  
16 central visual acuity does not exceed 20/200 in the better  
17 eye with correcting lenses, or whose visual acuity is  
18 greater than 20/200 but is accompanied by a limitation in  
19 the fields of vision such that the widest diameter of the  
20 visual field subtends an angle no greater than 20 degrees,  
21 or who has other eye conditions which render vision equally  
22 defective, or who has an eye condition which will cause  
23 blindness."

24 Section 38. Section 71-1516, R.C.M. 1947, is amended  
25 to read as follows:

1 "71-1516. Eligibility requirements for---medical  
 2 assistance. Medical assistance shall be granted in behalf of  
 3 all persons:  
 4 (1) who reside in the state of Montana, including  
 5 residents temporarily absent from the state; and  
 6 (2) who meet any of the following requirements:  
 7 (a) Who receive all or part of their income from  
 8 the ~~federally--aided~~ federally-aided public assistance  
 9 programs: old-age assistance, aid to the blind, aid to  
 10 dependent children, and aid to the permanently and totally  
 11 disabled;  
 12 (b) ~~Att--persons--who~~ upon application, would be  
 13 eligible for financial assistance under any one of the  
 14 ~~federally--aided~~ federally-aided programs referred to above;  
 15 (c) ~~Att--persons--who~~ would be entitled to financial  
 16 assistance under one of the ~~federally-aided~~ federally-aided  
 17 categories except that they do not meet the duration-  
 18 residence requirements or relative responsibility  
 19 requirements of any of the public assistance programs above  
 20 enumerated;  
 21 (d) ~~Persons are~~ in medical institutions ~~who~~ and if  
 22 they were no longer in such institutions, would be eligible  
 23 for financial assistance under one of the above programs;  
 24 (e) ~~Att--children are~~ under twenty-one-who 21 years  
 25 or age and meet the conditions of eligibility in the state's

1 plan for aid to dependent children, other than with respect  
 2 to school attendance;  
 3 (f) ~~Att--children are~~ under twenty-one--~~who--are~~ 21  
 4 years of age and in foster care under the supervision of the  
 5 state;  
 6 (g) ~~Att--persons--whose~~ have income is less than one  
 7 hundred-thirty-three-and-one-third-per--cent--~~(133 1/3%)~~  
 8 of the amounts specified as maximum income levels for ~~federally~~  
 9 ~~aided~~ federally-aided categories of assistance;  
 10 (h) ~~Att--medically--needy--children are~~ under  
 11 twenty-one--~~(21)~~ years of age and medically needy, as defined  
 12 by the state department of social and rehabilitation  
 13 services; or  
 14 (i) ~~Att--children are~~ under twenty-one--~~(21)~~ years of  
 15 age, who were in foster care under the supervision of the  
 16 state, and who have been adopted as "hard-to-place"  
 17 children."  
 18 Section 39. Section 71-1903, R.C.M. 1947, is amended  
 19 to read as follows:  
 20 "71-1903. Application for protective services --  
 21 ~~contents--department--as-guardian-or-trustee--decision--as-to~~  
 22 eligibility. (1) Protective services may be provided on a  
 23 voluntary basis for any developmentally disabled person who  
 24 requests them for himself or at the request of any  
 25 interested person, when the department determines that such



1 person is a developmentally disabled person who would  
 2 benefit from services provided in this act, and that the  
 3 department is currently able to supply services to such  
 4 person. A parent may name the department as guardian of the  
 5 ~~mentally developmentally~~ disabled person in his will. A  
 6 parent may also name the department as guardian or trustee  
 7 of the ~~mentally developmentally~~ disabled person, to assume  
 8 such duties during the ~~parents~~ parents' lifetime. Voluntary  
 9 services may be discontinued upon the written request of the  
 10 ward or any personal representative of the ward.

11 (c) Application for protective services under this act  
 12 shall be made to the designated field staff of the  
 13 department or other designated state agency in the county in  
 14 which the applicant resides, and the application shall be  
 15 transmitted promptly to the department. Such application  
 16 shall be in writing or reduced to writing in the manner and  
 17 upon the form prescribed by the department and shall contain  
 18 the name, age, and residence of the applicant and such other  
 19 information as may be required by the rules ~~and regulations~~  
 20 of the department. The rules ~~and regulations~~ of the  
 21 department shall simplify the application process in order  
 22 that protective services may be furnished as soon as  
 23 possible. Adequate safeguards shall be established by the  
 24 department to insure that only eligible persons receive  
 25 protective services under this act. The department shall

1 notify the applicant and the designated field staff of the  
 2 department or other designated state agency in writing of  
 3 its decision concerning eligibility for protective  
 4 services."

5 Section 40. Section 71-2304, R.C.M. 1947, is amended  
 6 to read as follows:

7 "71-2304. Definitions. As used in this act ~~the~~  
 8 following definitions apply:

9 (1) "Department" means the department of social and  
 10 rehabilitation services.

11 (2) "Adult foster family care homes" means private  
 12 homes owned by one or more persons ~~over the age of eighteen~~  
 13 {18} years of age or older which offer light personal care  
 14 or custodial care to aged persons or disabled adults who are  
 15 not related to the owner by blood or marriage.

16 (3) "Aged person" means a person defined by the  
 17 department as aged.

18 (4) "Disabled adult" means a person ~~over the age of~~  
 19 eighteen--{18} years of age or older defined by the  
 20 department as disabled.

21 (5) "Light personal care" means assisting the aged  
 22 person or disabled adult in accomplishing such personal  
 23 hygiene tasks as bathing, dressing, hair grooming, and  
 24 supervision of prescriptive medicine administration but not  
 25 administration of prescriptive medications.

1 (6) "Custodial care" means providing a sheltered  
 2 ~~family-type~~ family-type setting for an aged person or  
 3 disabled adult so as to provide for ~~their~~ his basic needs of  
 4 food, ~~and~~ shelter and having a specific person available to  
 5 help ~~them~~ him meet ~~their~~ his basic needs.

6 (7) "Skilled nursing care" means ~~twenty-four-(24)-hour~~  
 7 24-hour care supervised by a registered nurse or a licensed  
 8 practical nurse under orders of an attending physician."

9 Section 41. Section 71-2404, R.C.M. 1947, is amended  
 10 to read as follows:

11 "71-2404. ~~Rules--and--regulations~~ Department to adopt  
 12 rules. The department shall control developmental  
 13 disabilities programs which receive any state assistance by  
 14 adopting rules, for providing developmental disabilities  
 15 facilities and services. It shall set minimum standards for  
 16 programs, ~~and~~ establish appropriate qualifications, ~~and~~  
 17 compensation scales, and personnel policies for persons  
 18 employed in such programs. All developmental disabilities  
 19 facilities and services shall comply with existing federal  
 20 guidelines and with requirements which will enable the  
 21 services and facilities to qualify for available aid funds.  
 22 However, nothing herein ~~shall imply the necessity for~~  
 23 requires facilities serving the developmentally disabled to  
 24 meet the same or equal standards as licensed medical  
 25 facilities, unless the developmental disabilities facility

1 is providing professional or skilled medical care."

2 Section 42. Section 71-2405, R.C.M. 1947, is amended  
 3 to read as follows:

4 "71-2405. Community services. (1) The department may  
 5 establish and administer community comprehensive services,  
 6 programs, clinics, or other facilities throughout the state  
 7 for the purpose of aiding in the prevention, diagnosis,  
 8 amelioration, or treatment of developmental disabilities.  
 9 Programs, clinics, or other services may be provided  
 10 directly by state agencies, or indirectly through contract  
 11 or co-operative ~~cooperative~~ arrangements with other agencies  
 12 of government, regional or local, private or public  
 13 agencies, or private professional persons, or in accredited  
 14 health or ~~long-term~~ long-term care facilities.

15 (2) Comprehensive services, programs, clinics, or  
 16 other facilities established or provided by the department  
 17 under this chapter shall conform, as nearly as possible, to  
 18 the plans of the advisory council created under 71-2406, and  
 19 the regional councils provided for in 71-2407."

20 Section 43. Section 80-1405, R.C.M. 1947, is amended  
 21 to read as follows:

22 "80-1405. Powers and duties of department. The  
 23 department shall:

24 (1) ~~Adopt~~ adopt rules for the admission, custody,  
 25 transfer, and release of residents of institutions except as

1 otherwise provided by law; ~~However however,~~ no such rules  
 2 ~~shall may~~ amend or alter the statutory powers and duties of  
 3 the state board of pardons;

4 (2) ~~Subject subject~~ to the functions of the department  
 5 of administration, lease or purchase lands for use by  
 6 institutions, and classify those lands to determine which  
 7 are of such character as to be most profitably used for  
 8 agricultural purposes, taking into consideration the needs  
 9 of all institutions for the food products that can be grown  
 10 or produced on the lands, and the relative value of  
 11 agricultural programs in the treatment or rehabilitation of  
 12 the persons confined in the institutions;

13 (3) ~~Utilize utilize~~ the staff and services of other  
 14 state agencies and units of the ~~university--of~~ Montana  
 15 ~~university system,~~ within their respective statutory  
 16 functions, to carry out ~~the--purposes--of--this--act~~ its  
 17 functions under this title;

18 (4) ~~Propose propose~~ programs to the ~~legislative~~  
 19 ~~assembly legislature~~ to meet the projected long-range needs  
 20 of institutions, including programs and facilities for the  
 21 diagnosis, treatment, care, and aftercare of persons placed  
 22 in institutions; ~~and~~

23 (5) ~~Encourage encourage~~ the establishment of programs  
 24 at the local level for the prevention and rehabilitation of  
 25 physical and mental disability."

1 Section 44. Section 80-1410, R.C.M. 1947, is amended  
 2 to read as follows:

3 "80-1410. Establishment of juvenile correctional  
 4 facilities. The department, within the annual or ~~biannual~~  
 5 biennial budgetary appropriation, may establish, maintain,  
 6 and operate facilities to properly diagnose, care for,  
 7 train, educate, and rehabilitate children in need of these  
 8 services. The children must be ~~ten--{10}~~ years of age or  
 9 older and under ~~twenty--one--{21}~~ years of age. The facilities  
 10 include but are not limited to the Mountain View school, the  
 11 Pine Hills school, and the youth forest camp."

12 Section 45. Section 80-1413, R.C.M. 1947, is amended  
 13 to read as follows:

14 "80-1413. Participation by ~~governing---boards~~  
 15 institutions in research programs. The department may direct  
 16 a penal, ~~and~~ corrective--or--custodial institution of the  
 17 state to participate in and ~~co-operate~~ cooperate with  
 18 programs of research and development being conducted and  
 19 carried on by any units of the Montana university system, by  
 20 any of the other educational institutions of the state of  
 21 Montana, or by any foundation or agency thereof, in the  
 22 fields of science, health, education, and natural resources.  
 23 These programs may include the voluntary participation of  
 24 the inmates of the institution in testing and experimental  
 25 work conducted as a part thereof. Any funds received from

1 the authorized programs may be shared with the participating  
2 inmates or otherwise held and used for the welfare and  
3 rehabilitation thereof, and ~~shall~~ may not become a part of  
4 the regular budgeted operation of the institution."

5 Section 46. Section 80-1603, R.C.M. 1947, is amended  
6 to read as follows:

7 "~~80-1603. Monthly assessment of charges annual~~  
8 ~~computation of rate investigation claim of~~  
9 ~~state review deposit of receipts~~ Computation of per diem  
10 rate, monthly assessment, and disposition of receipts.

11 (1) The department shall assess monthly against each  
12 resident or responsible person, the full per diem charge, a  
13 proportionate share of the per diem charge, or no per diem  
14 charge, plus full ancillary charge, a proportionate share of  
15 the ancillary charge, or no ancillary charge, based upon  
16 financial information given to the department during its  
17 investigation. The per diem shall be computed on July 1 of  
18 each year by the department.

19 (2) An assessment made by the department under this  
20 section shall be based on the resident's or responsible  
21 person's ability to pay. The department ~~shall~~ may not make  
22 an assessment which would place an undue financial burden on  
23 the resident or the responsible person.

24 (3) For the purpose of these investigations, every  
25 agency of the state is required to render all reasonable

1 assistance to the department in obtaining all information  
2 necessary for the proper implementation of the purposes of  
3 this investigation. A representative of the department, ~~duy~~  
4 authorized by the director, may administer oaths, take  
5 testimony, and subpoena and compel the attendance of  
6 witnesses and the production of books, papers, records, and  
7 documents in connection with the duty of securing payments  
8 for support as provided by this act. A person who fails to  
9 obey the subpoena, upon petition of the department, to any  
10 judge of the district court of the state, may be ordered by  
11 the judge to appear and show cause for his disobedience of  
12 the subpoena. The judge, after the hearing, may order that  
13 the subpoena be obeyed, or if it is made to appear to the  
14 judge that the subpoena was for any reason inappropriately  
15 issued, may dismiss the petition. A person who fails to obey  
16 the subpoena when ordered to do so by the judge may be  
17 punished for contempt of court on application of the  
18 district court by the department.

19 (4) The state has a claim against the estate of a  
20 patient and against the estate of a responsible person, for  
21 an amount due to the state at the date of death of the  
22 resident or the responsible person. The claim against the  
23 estate of a responsible person does not have priority  
24 against the estate for the amount necessary to rear and  
25 educate surviving children of the responsible person.

1 (5) The attorney general shall collect any claim which  
 2 the state may have against such estate. This claim may not  
 3 be enforced against any real estate while it is occupied as  
 4 a home by the surviving spouse or of the resident or  
 5 responsible person.

6 (6) If a resident or responsible person disagrees with  
 7 the determination of the department as to the ability of the  
 8 resident or responsible person to pay any part of the per  
 9 diem or ancillary charge, an appeal may be filed within  
 10 thirty-(30) days of the determination with the board of  
 11 institutions. If the resident disagrees with the  
 12 determination of the appeal by the board of-institutions, an  
 13 appeal may be filed in any court of record in Montana having  
 14 jurisdiction of the resident or responsible person liable  
 15 for the payment.

16 (7) The department may at any time review and change  
 17 a determination for per diem or ancillary charge payments.  
 18 In any case, however, a resident of an institution may not  
 19 be released by reason of the nonpayment of the per diem or  
 20 the ancillary charge, if in the judgment of the  
 21 superintendent of the institution at which he is a resident,  
 22 this release is medically inadvisable.

23 (8) A per diem payment received by the department  
 24 shall be deposited in the state treasury to the credit of  
 25 the general fund.\*

1 Section 47. Section 80-1912, R.C.M. 1947, is amended  
 2 to read as follows:

3 "80-1912. Expense of trial for escape offenses  
 4 committed in prison. Whenever a trial takes place of any  
 5 person under any of the provisions of ~~section 94-7-306~~ and  
 6 whenever a prisoner in the state prison ~~shall be~~ is tried  
 7 for any crime committed therein, the county clerk of the  
 8 county where such trial is ~~had held~~ shall make out a  
 9 statement of all the costs incurred by the county for the  
 10 trial of such case, and of guarding and keeping such  
 11 prisoner, properly certified by a district judge of said  
 12 county, which statement shall be sent to the ~~board of state~~  
 13 ~~prison-commissioners~~ department of institutions for their  
 14 ~~its~~ approval; and after such approval, ~~said--board the~~  
 15 ~~department~~ must cause the amount of such costs to be paid  
 16 out of the money appropriated for the support of the state  
 17 prison to the county treasurer of the county where such  
 18 trial was ~~had held~~."

19 Section 48. Section 80-2412, R.C.M. 1947, is amended  
 20 to read as follows:

21 "80-2412. Interstate compact on mental health enacted  
 22 -- text. The ~~interstate-compact-on-mental-health~~ Interstate  
 23 Compact on Mental Health as contained herein is hereby  
 24 enacted into law and entered into by this state with all  
 25 other jurisdiction legally joining therein in the form

1 substantially as follows:

2 The contracting states solemnly agree, that:

3 Article I

4 ~~Article--I~~ The party states find that the proper and  
 5 expeditious treatment of the mentally ill and mentally  
 6 deficient can be facilitated by ~~co-operative~~ cooperative  
 7 action, to the benefit of the patients, their families, and  
 8 society as a whole. Further, the party states find that the  
 9 necessity of and desirability for furnishing such care and  
 10 treatment bears no primary relation to the residence or  
 11 citizenship of the patient but that, on the contrary, the  
 12 controlling factors of community safety and humanitarianism  
 13 require that facilities and services be made available for  
 14 all who are in need of them. Consequently, it is the purpose  
 15 of this compact and of the party states to provide the  
 16 necessary legal basis for the institutionalization or other  
 17 appropriate care and treatment of the mentally ill and  
 18 mentally deficient under a system that recognizes the  
 19 paramount importance of patient welfare and to establish the  
 20 responsibilities of the party states in terms of such  
 21 welfare.

22 Article II

23 ~~Article--II~~ As used in this compact:

24 (a)(1) "Sending sending state" shall--mean means a  
 25 party state from which a patient is transported pursuant to

1 the provisions of the compact or from which it is  
 2 contemplated that a patient may be so sent;i

3 (b)(2) "Receiving receiving state" shall--mean means a  
 4 party state to which a patient is transported pursuant to  
 5 the provisions of the compact or to which it is contemplated  
 6 that a patient may be so sent;i

7 (c)(3) "Institution institution" shall--mean means any  
 8 hospital or other facility maintained by a party state or  
 9 political subdivision thereof for the care and treatment of  
 10 mental illness or mental deficiency;i

11 (d)(4) "Patient patient" shall--mean means any person  
 12 subject to or eligible, as determined by the laws of the  
 13 sending state, for institutionalization or other care,  
 14 treatment, or supervision pursuant to the provisions of this  
 15 compact;i

16 (e)(5) "Aftercare aftercare" shall--mean means care,  
 17 treatment, and services provided a patient, as defined  
 18 herein, on convalescent status or conditional release;i

19 (f)(6) "Mental mental illness" shall--mean means mental  
 20 disease to such extent that a person so afflicted requires  
 21 care and treatment for his own welfare, or the welfare of  
 22 others, or of the community;i

23 (g)(7) "Mental mental deficiency" shall--mean means  
 24 mental deficiency as defined by appropriate clinical  
 25 authorities to such extent that a person so afflicted is

1 incapable of managing himself and his affairs, but shall not  
2 include mental illness as defined herein; and

3 ~~(n)(8)~~ "State state" shall ~~mean~~ means any state,  
4 territory, or possession of the United States, the District  
5 of Columbia, and the Commonwealth of Puerto Rico.

6 **Article III**

7 ~~Article III--(a)(1)~~ Whenever a person physically  
8 present in any party state shall be in need of  
9 institutionalization by reason of mental illness or mental  
10 deficiency, he shall be eligible for care and treatment in  
11 an institution in that state irrespective of his residence,  
12 settlement, or citizenship qualifications.

13 ~~(b)(2)~~ The provisions of ~~paragraph (a)~~ subsection (1)  
14 of this article to the contrary notwithstanding, any patient  
15 may be transferred to an institution in another state  
16 whenever there are factors based upon clinical  
17 determinations indicating that the care and treatment of  
18 said patient would be facilitated or improved thereby. Any  
19 such institutionalization may be for the entire period of  
20 care and treatment or for any portion or portions thereof.  
21 The factors referred to in this ~~paragraph~~ subsection shall  
22 include the patient's full record with due regard for the  
23 location of the patient's family, character of the illness  
24 and probable duration thereof, and such other factors as  
25 shall be considered appropriate.

1 ~~(c)(3)~~ No state shall be obliged to receive any  
2 patient pursuant to the provisions of ~~paragraph (b)~~  
3 subsection (2) of this article unless the sending state has  
4 given gives advance notice of its intention to send the  
5 patient; ~~it~~ furnished furnishes all available medical and  
6 other pertinent records concerning the patient; ~~it~~ given gives  
7 the qualified medical or other appropriate clinical  
8 authorities of the receiving state an opportunity to examine  
9 the patient if said authorities so wish; ~~it~~ and unless the  
10 receiving state ~~shall~~ agrees to accept the patient.

11 ~~(d)(4)~~ In the event that the laws of the receiving  
12 state establish a system of priorities for the admission of  
13 patients, an interstate patient under this compact shall  
14 receive the same priority as a local patient and shall be  
15 taken in the same order and at the same time that he would  
16 be taken if he were a local patient.

17 ~~(e)(5)~~ Pursuant to this compact, the determination as  
18 to the suitable place of institutionalization for a patient  
19 may be reviewed at any time and such further transfer of the  
20 patient may be made as seems likely to be in the best  
21 interest of the patient.

22 **Article IV**

23 ~~Article IV--(a)(1)~~ Whenever, pursuant to the laws of  
24 the state in which a patient is physically present, it shall  
25 be determined that the patient should receive aftercare or

1 supervision, such care or supervision may be provided in a  
 2 receiving state. If the medical or other appropriate  
 3 clinical authorities having responsibility for the care and  
 4 treatment of the patient in the sending state shall have  
 5 reason to believe that aftercare in another state would be  
 6 in the best interest of the patient and would not jeopardize  
 7 the public safety, they shall request the appropriate  
 8 authorities in the receiving state to investigate the  
 9 desirability of affording the patient such aftercare in said  
 10 receiving state, and such investigation shall be made with  
 11 all reasonable speed. The request for investigation shall  
 12 be accompanied by complete information concerning the  
 13 patient's intended place of residence and the identity of  
 14 the person in whose charge it is proposed to place the  
 15 patient, the complete medical history of the patient, and  
 16 such other documents as may be pertinent.

17 ~~(b)(2)~~ If the medical or other appropriate clinical  
 18 authorities having responsibility for the care and treatment  
 19 of the patient in the sending state and the appropriate  
 20 authorities in the receiving state find that the best  
 21 interest of the patient would be served thereby, and if the  
 22 public safety would not be jeopardized thereby, the patient  
 23 may receive aftercare or supervision in the receiving state.

24 ~~(c)(1)~~ In supervising, treating, or caring for a  
 25 patient on aftercare pursuant to the terms of this article,

1 a receiving state shall employ the same standards of  
 2 visitation, examination, care, and treatment that it  
 3 employs for similar local patients.

4 Article V

5 ~~Article--V~~ Whenever a dangerous or potentially  
 6 dangerous patient escapes from an institution in any party  
 7 state, that state shall promptly notify all appropriate  
 8 authorities within and without the jurisdiction of the  
 9 escapee in a manner reasonably calculated to facilitate the  
 10 speedy apprehension of the escapee. Immediately upon the  
 11 apprehension and identification of any such dangerous or  
 12 potentially dangerous patient, he shall be detained in the  
 13 state where found pending disposition in accordance with  
 14 law.

15 Article VI

16 ~~Article-VI~~ The duly accredited officers of any state  
 17 party to this compact, upon the establishment of their  
 18 authority and the identity of the patient, shall be  
 19 permitted to transport any patient being moved pursuant to  
 20 this compact through any and all states party to this  
 21 compact, without interference.

22 Article VII

23 ~~Article-VII--(a)(1)~~ No person shall be deemed a patient  
 24 of more than one ~~(1)~~ institution at any given time.  
 25 Completion of transfer of any patient to an institution in a



1 receiving state shall have the effect of making the person a  
2 patient of the institution in the receiving state.

3 ~~(b)(2)~~ The sending state shall pay all costs of and  
4 incidental to the transportation of any patient pursuant to  
5 this compact, but any two ~~(2)~~ or more party states may, by  
6 making a specific arrangement for that purpose, arrange for  
7 a different allocation of costs as among themselves.

8 ~~(c)(1)~~ No provision of this compact shall be construed  
9 to alter or affect any internal relationships among the  
10 departments, agencies, and officers of and in the government  
11 of a party state, or between a party state and its  
12 subdivisions, as to the payment of costs, or  
13 responsibilities therefor.

14 ~~(d)(4)~~ Nothing in this compact shall be construed to  
15 prevent any party state or subdivision thereof from  
16 asserting any right against any person, agency, or other  
17 entity in regard to costs for which such party state or  
18 subdivision thereof may be responsible pursuant to any  
19 provision of this compact.

20 ~~(e)(5)~~ Nothing in this compact shall be construed to  
21 invalidate any reciprocal agreement between a party state  
22 and a nonparty state relating to institutionalization, care,  
23 or treatment of the mentally ill or mentally deficient, or  
24 any statutory authority pursuant to which such agreements  
25 may be made.

1 Article VIII  
2 ~~Article VIII--(e)(1)~~ Nothing in this compact shall be  
3 construed to abridge, diminish, or in any way impair the  
4 rights, duties, and responsibilities of any patient's  
5 guardian on his own behalf or in respect of any patient for  
6 whom he may serve, except that, where the transfer of any  
7 patient to another jurisdiction makes advisable the  
8 appointment of a supplemental or substitute guardian, any  
9 court of competent jurisdiction in the receiving state may  
10 make such supplemental or substitute appointment and the  
11 court which appointed the previous guardian shall, upon  
12 being duly advised of the new appointment, and upon the  
13 satisfactory completion of such accounting and other acts as  
14 such court may by law require, relieve the previous guardian  
15 of power and responsibility to whatever extent shall be  
16 appropriate in the circumstances, ~~provided, however, that~~  
17 ~~in~~ in the case of any patient having settlement in the  
18 sending state, the court of competent jurisdiction in the  
19 sending state shall have the sole discretion to relieve a  
20 guardian appointed by it or continue his power and  
21 responsibility, whichever it shall deem advisable. The court  
22 in the receiving state may, in its discretion, confirm or  
23 reappoint the person or persons previously serving as  
24 guardian in the sending state in lieu of making a  
25 supplemental or substitute appointment.

1       ~~(b)(2)~~ The term "guardian" as used in ~~paragraph--(e)~~  
 2       ~~subsection (1)~~ of this article shall include any guardian,  
 3       trustee, legal committee, conservator, or other person or  
 4       agency however denominated who is charged by law with power  
 5       to act for or responsibility for the person or property of a  
 6       patient.

7                               Article IX

8       ~~Article IX--(a)(1)~~ No provisions of this compact except  
 9       Article V shall apply to any person institutionalized while  
 10       under sentence in a penal or correctional institution or  
 11       while subject to trial on a criminal charge or whose  
 12       institutionalization is due to the commission of an offense  
 13       for which, in the absence of mental illness or mental  
 14       deficiency, said person would be subject to incarceration in  
 15       a penal or correctional institution.

16       ~~(b)(2)~~ To every extent possible it shall be the  
 17       policy of states party to this compact that no patient shall  
 18       be placed or detained in any prison, jail, or lockup, but  
 19       such patient shall with all expedition be taken to a  
 20       suitable institutional facility for mental illness or mental  
 21       deficiency.

22                               Article X

23       ~~Article X--(a)(1)~~ Each party state shall appoint a  
 24       "compact administrator" who, on behalf of his state, shall  
 25       act as general ~~co-ordinator~~ coordinator of activities under

1       the compact in his state and who shall receive copies of all  
 2       reports, correspondence, and other documents relating to any  
 3       patient processed under the compact by his state either in  
 4       the capacity of a sending or receiving state. The compact  
 5       administrator or his duly designated representative shall be  
 6       the official with whom other party states shall deal in any  
 7       matter relating to the compact or any patient processed  
 8       thereunder.

9       ~~(b)(2)~~ The compact administrators of the respective  
 10       party states shall have power to promulgate reasonable rules  
 11       and regulations to carry out more effectively the terms and  
 12       provisions of this compact.

13                               Article XI

14       ~~Article XI--(a)~~ The duly constituted administrative  
 15       authorities of any two ~~(2)~~ or more party states may enter  
 16       into supplementary agreements for the provision of any  
 17       service or facility or for the maintenance of any  
 18       institution on a joint or ~~co-operative~~ cooperative basis  
 19       whenever the states concerned ~~shall~~ find that such  
 20       agreements will improve services, facilities, or  
 21       institutional care and treatment in the fields of mental  
 22       illness or mental deficiency. No such supplementary  
 23       agreement shall be construed so as to relieve any party  
 24       state of any obligation which it otherwise would have under  
 25       other provisions of this compact.

Article XII

~~Article XII~~ This compact shall enter into full force and effect as to any state when enacted by it into law, and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

~~Article XIII~~ (1) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one (1) year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(2) Withdrawal from any agreement permitted by Article VII (2) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

~~Article XIV~~ (1) This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party

state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(2) The director of the department of institutions, hereafter called "the director", shall be the compact administrator and shall have the power to make any rules and regulations necessary for the administration of this article. The director shall cooperate with all departments, agencies, and officers of the state and any political subdivision thereof to facilitate the proper administration of the ~~interstate compact on mental health~~ Interstate Compact on Mental Health or of any supplementary agreement or agreements entered into by this state thereunder.

(3) The director may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact.

(4) The department of institutions in its annual budget shall include such amounts necessary to discharge the

1 financial obligations incurred by it to carry out the  
 2 purposes of the ~~interstate compact on mental health~~  
 3 Interstate Compact on Mental Health, and the general  
 4 assembly shall appropriate such sums necessary therefor.

5 (5) The compact administrator is hereby directed to  
 6 consult with the immediate family of any proposed transferee  
 7 and, in the case of a proposed transferee from an  
 8 institution in this state to an institution in another party  
 9 state, to make no transfer out of the state without approval  
 10 of the district or probate court. Before granting such  
 11 approval the court shall hold such hearings as it ~~deems~~  
 12 considers appropriate. In addition, the court shall  
 13 designate some appropriate person to deliver written notice  
 14 of the proposed transferee's right to a hearing to the  
 15 proposed transferee and his guardian ad litem. The person  
 16 serving such notices shall make a written return to the  
 17 court that such has been done. At the conclusion of such  
 18 hearing, if any, the court may approve the proposed  
 19 transfer, order the release of the proposed transferee, or  
 20 enter any other suitable order.

21 (6) Duly authenticated copies of the article shall  
 22 upon its approval, be transmitted by the secretary of state  
 23 to the governor of each state, the attorney general, and the  
 24 secretary of state of the United States, and the Council of  
 25 State Governments."

1 Section 49. Section 80-2701, R.C.M. 1947, is amended  
 2 to read as follows:

3 "~~80-2701. Purpose and intent of act --- policy of state~~  
 4 legislative purpose. It is the purpose of this act and the  
 5 policy of this state to recognize ~~alcohol~~ alcoholism and  
 6 drug dependence as problems affecting the health, safety,  
 7 morals, economy, and general welfare of this state; to  
 8 recognize ~~alcohol~~ alcoholism and drug dependence as problems  
 9 subject to treatment; and to recognize the sufferer of  
 10 ~~alcohol~~ alcoholism, drug dependence, or both, as worthy of  
 11 treatment and rehabilitation. It is the intent of this act  
 12 to establish means whereby the appropriate resources of this  
 13 state may be focused fully and effectively upon the problems  
 14 of ~~alcohol~~ alcoholism and drug dependence and utilized in  
 15 implementing programs for the control and treatment of these  
 16 problems."

17 Section 50. Section 80-2702, R.C.M. 1947, is amended  
 18 to read as follows:

19 "~~80-2702. Duties of department -- department~~  
 20 authorized to accept gifts -- enter into contracts --  
 21 acquire and dispose of property. (1) The department of  
 22 institutions, hereafter referred to as department in this  
 23 chapter, shall:

24 (a) ~~Plan plan~~, promote, and assist in the support of  
 25 ~~alcohol~~ alcoholism and drug dependence prevention,

1 treatment, and control programs;

2 (b) ~~Conduct~~ ~~conduct~~, sponsor, and support research,  
3 investigations, and studies, including evaluation, of all  
4 phases of ~~etecohol~~ alcoholism and drug dependence;

5 (c) ~~Assist~~ ~~assist~~ the development of educational and  
6 training programs relative to ~~etecohol~~ alcoholism and drug  
7 dependence, and carry on programs to assist the public, and  
8 technical and professional groups, in becoming fully  
9 informed about ~~etecohol~~ alcoholism and drug dependence;

10 (d) ~~Promote~~ ~~promote~~, develop, and assist, financially  
11 and otherwise, ~~etecohol~~ alcoholism and drug dependence  
12 programs administered by other state agencies, local  
13 government agencies, and private nonprofit organizations and  
14 agencies; and

15 (e) ~~Encourage~~ ~~encourage~~ and promote effective use of  
16 facilities, resources, and funds in the planning and conduct  
17 of programs and activities for prevention, treatment, and  
18 control of ~~etecohol~~ alcoholism and drug dependence and, in  
19 this respect, cooperate with and utilize to the maximum  
20 possible extent the resources and services of federal,  
21 state, and local agencies.

22 (2) To carry out this act, the department may:

23 (a) ~~Accept~~ ~~accept~~ gifts, grants, and donations of  
24 money and property from public and private sources;

25 (b) ~~Enter~~ ~~enter~~ into contracts; and

1 (c) ~~Acquire~~ ~~acquire~~ and dispose of property."

2 Section 51. Section 80-2717, R.C.M. 1947, is amended  
3 to read as follows:

4 "80-2717. Emergency commitment of intoxicated persons.

5 (1) An intoxicated person who ~~to~~ has threatened, attempted,  
6 or inflicted physical harm on another and is likely to  
7 inflict physical harm on another unless committed, or ~~to~~  
8 who is incapacitated by alcohol, may be committed to an  
9 approved public treatment facility for emergency treatment.  
10 A refusal to undergo treatment does not constitute evidence  
11 of lack of judgment as to the need for treatment.

12 (2) The certifying physician, spouse, guardian, or  
13 relative of the person to be committed, or any other  
14 responsible person, may make a written application for  
15 commitment under this section, directed to the administrator  
16 of the approved public treatment facility. The application  
17 shall state facts to support the need for emergency  
18 treatment and be accompanied by a physician's certificate  
19 stating that he has examined the person sought to be  
20 committed within ~~two~~ ~~to~~ days before the certificate's date  
21 and facts supporting the need for emergency treatment. A  
22 physician employed by the admitting facility or the  
23 department is not eligible to be the certifying physician.

24 (3) Upon approval of the application by the  
25 administrator of the approved public treatment facility, the

1 person shall be brought to the facility by a peace officer,  
 2 health officer, the applicant for commitment, the patient's  
 3 spouse, the patient's guardian, or any other interested  
 4 person. The person shall be ~~retained~~ detained at the  
 5 facility to which he was admitted, or transferred to another  
 6 appropriate public or private treatment facility, until  
 7 discharged under subsection (5).

8 (4) The administrator of an approved public treatment  
 9 facility shall refuse an application if in his opinion the  
 10 application and certificate fail to sustain the grounds for  
 11 commitment.

12 (5) When on the advice of the medical staff the  
 13 administrator determines that the grounds for commitment no  
 14 longer exist, he shall discharge a person committed under  
 15 this section. No person committed under this section may be  
 16 detained in any treatment facility for more than ~~five--(5)~~  
 17 days. If a petition for involuntary commitment under section  
 18 69-6221 has been filed within the ~~five-(5)~~ days and the  
 19 administrator in charge of an approved public treatment  
 20 facility finds that grounds for emergency commitment still  
 21 exist, he may detain the person until the petition has been  
 22 heard and determined, but no longer than ~~ten-(10)~~ days after  
 23 filing the petition.

24 (6) A copy of the written application for commitment  
 25 and of the physician's certificate, and a written

1 explanation of the person's right to counsel, shall be given  
 2 to the person within ~~twenty-four-(24)~~ hours after commitment  
 3 by the department--~~who~~. The department shall provide a  
 4 reasonable opportunity for the person to consult counsel."

5 Section 52. Section 80-2802, R.C.M. 1947, is amended  
 6 to read as follows:

7 "80-2802. Duties of department. The department shall:

8 (1) take cognizance of matters affecting the mental  
 9 health of the citizens of the state;

10 (2) initiate preventive mental health activities of  
 11 the statewide mental health programs, including, but not  
 12 limited to, the implementation of mental health care and  
 13 treatment, prevention, and research as can best be  
 14 accomplished by ~~community--~~centered community-centered  
 15 services. Such means shall be utilized to initiate and  
 16 operate these services in cooperation with local agencies as  
 17 established under this act.

18 (3) make scientific and medical research  
 19 investigations relative to the incidence, cause, prevention,  
 20 treatment, and care of the mentally ill;

21 (4) collect and disseminate information relating to  
 22 mental health;

23 (5) prepare and maintain a comprehensive plan for the  
 24 development of public mental health services in the state.  
 25 The public mental health services shall include, but not be

1 limited to community comprehensive mental health centers,  
2 mental health clinics, traveling service units, and  
3 consultative and educational services;

4 (6) provide by regulations for the examination of  
5 persons who apply for examination or who are admitted  
6 either as inpatients or outpatients into Warm Springs state  
7 hospital or other public mental health facilities;

8 (7) receive from agencies of the United States and  
9 other state agencies, persons or groups of persons,  
10 associations, firms, or corporations, grants of money,  
11 receipts from fees, gifts, supplies, materials, and  
12 contributions for the development of mental health services  
13 within the state;

14 (8) establish standards for public mental health  
15 facilities; and

16 (9) evaluate performance of public mental health  
17 facilities in compliance with federal and state standards."

18 Section 53. Repealer. Sections ~~38-210~~, 71-101, 71-107,  
19 71-118, and 71-233.5, R.C.M. 1947, are repealed.

-End-