

1 SENATE BILL NO. 24

2 INTRODUCED BY J. SHOCKLEY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE COUNTY ATTORNEY OF THE COUNTY IN
5 WHICH AN ALCOHOLIC INDIVIDUAL RESIDES TO PETITION THE DISTRICT COURT FOR INVOLUNTARY
6 COMMITMENT OF THE INDIVIDUAL FOR TREATMENT OF ALCOHOLISM; AND AMENDING SECTION
7 53-24-302, MCA."

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

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11 **Section 1.** Section 53-24-302, MCA, is amended to read:
12 **"53-24-302. Involuntary commitment of alcoholics -- rights.** (1) A person may be committed to the
13 custody of the department by the district court upon the petition of the person's spouse or guardian, a relative,
14 the certifying physician, the county attorney of the county in which the person resides when a written request is
15 made by any person having direct knowledge of the facts, or the chief of any approved public treatment facility.
16 The petition must allege that the person is an alcoholic who habitually lacks self-control as to the use of alcoholic
17 beverages and that the person has threatened, attempted, or inflicted physical harm on another and that unless
18 committed is likely to inflict physical harm on another or is incapacitated by alcohol. A refusal to undergo
19 treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition must be
20 accompanied by a certificate of a licensed physician who has examined the person within 2 days before
21 submission of the petition unless the person whose commitment is sought has refused to submit to a medical
22 examination, in which case the fact of refusal must be alleged in the petition. The certificate must set forth the
23 physician's findings in support of the allegations of the petition. A physician employed by the admitting facility or
24 the department is not eligible to be the certifying physician.

25 (2) Upon filing the petition, the court shall fix a date for a hearing no later than 10 days after the date the
26 petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, must
27 be served on the petitioner, the person whose commitment is sought, the person's next of kin other than the
28 petitioner, a parent or the person's legal guardian if the person is a minor, the administrator in charge of the
29 approved public treatment facility to which the person has been committed for emergency care, and any other
30 person the court believes advisable. A copy of the petition and certificate must be delivered to each person

1 notified.

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

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

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

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

