

Memo

From: Anita Roessmann, Staff Attorney, Disability Rights Montana

Re: Legislative Alert for April 16, 2009, PLEASE ACT NOW

Date: April 16, 2009

Hello everyone,

Two of the crisis bills passed the Senate Finance and Claims Committee today. However, HB 132 was tabled after a confusing discussion that seemed to be partly about money and partly about civil rights. The purpose of this email is to enlist your help to “blast” HB 132 out of committee and onto the Senate floor for full discussion and passage.

The three crisis bills had their fourth hearing of this legislative session yesterday. The hearing was in Senate Finance & Claims, which is where the money decisions get made. Today, Senate Finance & Claims took executive action. The Committee approved of HB 130 (the crisis services planning bill) and HB 131 (the crisis beds bill) but rejected HB 132 (diversion from civil commitment). The vote to table HB 132 was 13 to 6.

To understand what is going on here, it is helpful to step back and look at the journey these bills have taken:

- They came out of the Law and Justice Interim Committee after 14 months of study that included discussions with consumers, providers, the Department of Correction and Department of Public Health and Human Services, parole and probation officers, county attorneys, judges, jail detention officers, hospital administrators, Sheriffs and peace officers, family members, advocates, and state administrators—I’m sure I’ve forgotten a few.
- When the bills had their first hearing in January, there was still hope they’d be funded in HB 2, the big budget bill, with on-going funding. The projected cost was \$5.3 million.
- That hope shrank, and advocates looked at funding the bills with one-time money, using some of the federal windfall.
- Using one-time funding actually started to make sense, because legislators had questions we couldn’t answer, like, “What is the actual cost of these beds and services” and “Will these bills save money?” and “Can we afford this?” When the Department and Governor’s office testified against the bills, they raised similar concerns: “We don’t have enough information about cost,” and “We don’t have enough data.”

- So the advocates proposed a “demonstration grant” approach to funding the bills. We said, *We can’t answer all of your questions until we’ve had some experience with funding a community crisis services continuum and gathered information about costs and savings and community benefits.*
- We said, We know that these bills are a good blueprint. These bills call for a bottom-up, community-based planning process and provide the Department with a lot of flexibility to implement them according to local and regional needs. It may take years to develop all the community capacity we need but we need to start this work now.
- We said, *You need to give us a chance to show you this can work. We cannot afford to waste two more years studying. These bills represent our collective wisdom—your wisdom, our wisdom, our communities’ wisdom.*
- We pointed out that nobody is building beds and programs in reliance on new funding. The beds exist or are being opened, the Community Crisis Center in Billings already exists. What these bills do is help fund community crisis services for people without the insurance or the means to pay for them.
- Lawmakers started asking, *“If not now, when is it ever going to ‘the right time’ to start doing this?”*
- The bills have been voted on six times now. Until today’s vote in Senate Finance, HB 132 passed each time with overwhelming majorities. The House Appropriations Committee passed it unanimously, the House of Representatives vote was 79 to 11, and the Senate vote was 42 to 8.

Our voices, and even the will of the Legislature, were overwhelmed this morning by funding concerns. Broadly speaking, a consensus seemed to emerge in the Finance Committee meeting this morning that:

- If these bills are the right thing to do, then they needed to be fully funded now, with on-going funding.
- These bills are currently funded right at less than their estimated cost, with only one-time money.
- Therefore, one of the bills needs to be cut.
- HB 132 is the most expensive of the three bills so it is the logical place to cut.

Sen. John Esp, of Big Timber, also suggested that HB 132 is legally flawed. Without going into an in-depth discussion of Sen. Esp’s concern, I want to assure everyone that HB 132 does not violate the civil rights of people who are in the middle of an involuntary commitment proceeding. HB 132 allows a respondent in a civil commitment proceeding to become a patient

again, without going through a one- to two-week legal proceeding. The procedure includes judicial oversight and review by the patient's own attorney, and allows patients who need short-term care to remain in the community. At the same time, it allows the county attorney to ensure that the patient and the community are protected until the psychiatric crisis is resolved.

For a civil rights advocate, the loss of HB 132 is especially painful because diversion doesn't even need funding to begin making a difference in the lives of people with serious mental illness who find themselves in crisis. We have psychiatric beds that could provide diversion treatment in five communities today, with Helena joining the list in June, Bozeman in December, and Glendive in July 2010. HB 132 would allow the state to contract for diversion beds in communities and pay for them for people who are uninsured, but even without state funding, diversion could benefit people whose insurance pays an inpatient benefit, and patients in Butte, for instance, could even be diverted to the State Hospital.

HOW A BLAST MOTION WORKS:

A blast motion is way to get a tabled bill out of committee and onto the Senate floor. Any Senator can make a blast motion on the Senate Floor. A simple majority--26 votes in the Senate—gets the bill “off the table.” At that point, the bill can be scheduled for second reading, when the bill is debated and voted on. A final, non-debatable vote on third reading follows the next day.

BLASTING HB 132:

The Senate blast motion for HB 132 would have to take place tomorrow, April 17th. The Senate will probably meet tomorrow at 10:00 a.m. and again at 1:00 p.m. If the blast succeeds, HB 132 will probably be scheduled for second reading on Monday. Time is of the essence because this Legislature may adjourn as early as next Wednesday.

WHAT YOU CAN DO:

- Contact your Senator. Look up Senators here:

<http://leg.mt.gov/css/sessions/61st/roster.asp?HouseID=0&SessionID=94> If you click on their names, their legislative face page will open up and you can send emails to their personal accounts.

- You can also use the on-line legislative message system to write to your Senator: <http://leg.mt.gov/css/sessions/61st/legwebmessage.asp>. These messages are printed out and delivered to Senators several times a day.
 - You can also leave a brief message at 406-444-4800, or
 - Fax a letter to 406-444-4875, or
 - Call a Senator on her or his cell phone, if you have that number. (Some Senators list their cell phone numbers on their legislative face pages.)

- Contact your county attorney, Sheriff, local judges, county commissioners, community mental health providers and other community leaders and ask them to contact your Senator/

- Forward this email to other advocates.

Please call me on my cell phone if you have any questions, 406-461-5350, or write to me at anita@disabilityrightsmt.org . I'd be happy to help you figure out who your Senator is.

Thank you for all you do for people with disabilities.

Anita

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