

To : Members of the Law and Justice Interim Committee  
From : Beth Brenneman, Staff Attorney  
Re : Brief Summary of Montana Involuntary Commitment Laws for Federal Gun Control Law Discussion on February 13, 2014

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Montana law provides for both in-patient involuntary psychiatric treatment as well as community involuntary treatment. M.C.A. § 53-21-127; 53-21-149 (2013). To involuntarily commit someone, the State must prove that the person not only has a mental disorder, but:

- \* the respondent is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety; or
- \* the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others; or
- \* there is an imminent threat of injury to the respondent or to others because of the respondent's acts or omissions; or
- \* the respondent's mental disorder, as demonstrated by the respondent's recent acts or omissions, will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. M.C.A. § 53-21-126 (2013).

If someone meets only the fourth prong, they can only be committed to community treatment and not to in-patient treatment at the Montana State Hospital.<sup>1</sup> M.C.A. § 53-21-126 (7).

These four prongs encompass a wide variety of behaviors from homelessness and malnutrition, to suicidal ideation or suicide attempts, to aggressive violent behavior towards others. These behaviors differ markedly from each other as do the people who engage in these behaviors. They also have very different implications for an individual's likelihood of future aggressive behavior.

Yet all are treated as the same by federal gun control laws including the Brady Handgun Violence Prevention Act, as all individuals who are involuntarily committed are prohibited from owning or using firearms under the Act.

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<sup>1</sup> The Obama Administration's recent ATF rules defining terms in the Gun Control Act of 1968 have clarified who is "mentally defective" or "committed" under the Act, and sought public comment as to whether those under community commitments and people who were involuntarily committed as youth should also be barred from firearm ownership or use.