

Unofficial Draft Copy - CJOC 2.2

For review by the Criminal Justice Oversight Council on 8/30/2022

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Drafter: Milly Allen, 406-444-9280

67th Legislature

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**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING REQUIREMENTS AND PROHIBITED PRACTICES FOR RECOVERY RESIDENCES; CREATING A REGISTRY OF RECOVERY RESIDENCES IN MONTANA; REQUIRING CERTIFICATION FOR A RECOVERY RESIDENCE TO RECIEVE RENTAL VOUCHERS AND TRANSITIONAL ASSISTANCE FUNDS FROM THE DEPARTMENT OF CORRECTIONS; PROVIDING DEFINITIONS; AMENDING SECTION 46-23-1041, MCA; PROVIDING A DELAYED EFFECTIVE DATE."

WHEREAS, Montanans facing addiction deserve the highest quality of care and support;

WHEREAS, recovery residences can provide a healthy, sober living environment that helps individuals with substance use disorder achieve and maintain sobriety;

WHEREAS, it is crucial that recovery residences implement best practices and sound operating procedures that enable and empower residents to gain access to community supports, public services, and therapeutic treatments to advance their recovery and develop independence.

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

NEW SECTION. **Section 1. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Alcohol and drug prevention or treatment facility" means a recovery residence, hospital, health or counseling center, or other entity providing alcohol and drug services.

(2) "Alcohol and drug services" includes evaluation, treatment, residential personal care, habilitation, rehabilitation, counseling, or supervision of persons with substance use disorder, or services to persons designed to prevent substance use disorder that either receive funds from the department of health or assess fees for services provided.

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1 (3) "Certified recovery residence" means a recovery residence, as defined in subsection (8), that has
2 received certification or another form of approval from a certifying organization, as defined in subsection (4).

3 (4) "Certifying organization" means a recovery residence standards organization or an affiliate of a
4 recovery residence standards organization that operates in the state of Montana and is recognized by the
5 department of health and human services.

6 (5) "Levels of care" means the continuum of support ranging from nonclinical recovery residences to
7 licensed clinical treatment.

8 (6) "Minor" means an individual under 18 years of age without regard to sex.

9 (7) "Qualified health care provider" means a person licensed as a physician, psychologist, social
10 worker, clinical professional counselor, marriage and family therapist, addiction counselor, or another
11 appropriate licensed health care practitioner.

12 (8) "Recovery residence" means a sober living home with a safe, family-like environment that
13 promotes recovery from substance use disorder through services including, but not limited to, peer support,
14 mutual support groups, and recovery services.

15 (9) "Sober" means free of alcohol and drugs, except for prescription medications taken as directed by
16 a licensed prescriber, including medications approved by the federal food and drug administration for the
17 treatment of opioid use disorder.

18 (10) "Substance use disorder" means the use of any chemical substance, legal or illegal, that creates
19 behavioral or health problems, or both, resulting in operational impairment. This term includes alcoholism, drug
20 dependency, or both, that endanger the health, interpersonal relationships, or economic functions of an
21 individual or the public health, welfare, or safety.

22

23 **NEW SECTION. Section 2. Recovery residence requirements.** (1) Recovery residences must
24 register with the department of health and human services.

25 (2) Recovery residences may seek certification from a certifying organization.

26 (3) Recovery residences must have policies and protocols for the following:

27 (a) administrative oversight;

28 (b) quality standards;

1 (c) its residents;

2 (d) emergencies, including fire, natural disasters, and health emergencies including overdose;

3 (e) eviction of a resident, including the return of the resident's personal effects and property.

4 (4) Recovery residences must meet state and municipal requirements, including but not limited to
5 safety requirements, building codes, zoning regulations, and local ordinance requirements, that apply to a
6 residence's dwelling size and occupancy.

7 (5) Recovery residences must keep opioid-overdose drugs on site in an easily accessible place, and
8 train staff and residents on the use of opioid-overdose drugs.

9 (6) Minor children of residents may reside with their parent in a certified recovery residence, if allowed
10 in the residence's policies and protocols and if the residence maintains an environment consistent with the
11 welfare of minor residents.

12 (7) The recovery residence may not limit a resident's duration of stay to an arbitrary or fixed amount
13 of time. Each resident's duration of stay is determined by the resident's needs, progress, and willingness to
14 abide by the recovery residence's protocols, in collaboration with the recovery housing's owner and operator,
15 and, if appropriate, in consultation with a qualified health provider.

16 (8) The recovery residence may permit residents to receive medication-assisted treatment.

17
18 **NEW SECTION. Section 3. Recovery residence prohibitions.** (1) The operator or staff of a
19 recovery residence may not:

20 (a) make a materially false or misleading statement or provide materially false or misleading
21 information about the residence's identity, products, goods, services, or geographical locations in its marketing
22 and advertising materials, media, and website;

23 (b) include on a website false information or electronic links, coding, or activation that provides false
24 information or that surreptitiously directs the reader to another website;

25 (c) solicit, receive, or make an attempt to solicit or receive a commission, benefit, rebate, kickback, or
26 bribe, directly or indirectly, in cash or in kind, in return for a referral or an acceptance or acknowledgement of
27 treatment from a qualified healthcare provider, provider of alcohol and drug services, or alcohol and drug
28 prevention and/or treatment facility;

1 (d) engage or make an attempt to engage in a split-fee arrangement in return for a referral or an
2 acceptance or acknowledgement of treatment from a qualified healthcare provider, provider of alcohol and drug
3 services, or alcohol and drug prevention and/or treatment facility;

4 (e) enter into a contract with a marketing provider who agrees to generate referrals or leads for the
5 placement of patients with a qualified healthcare provider, provider of alcohol and drug services, and alcohol
6 and drug prevention or treatment facility through a call center or a web-based presence, unless this contract is
7 disclosed to the prospective patient or resident.

8 (2) In addition to any other punishment authorized by law, a recovery residence that knowingly
9 violates this section is subject to prosecution and penalties pursuant to the Montana Consumer Protection Act,
10 Title 30, Chapter 14, Part 1.

11
12 **NEW SECTION. Section 4. Powers and duties of the department of health and human services.**

13 (1) The department of health and human services must:

14 (a) maintain a registry of recovery residences in Montana;

15 (b) include on its website a public-facing list of certifying organizations that operate in the state of
16 Montana and are recognized by the department;

17 (c) include on its website a public-facing list of recovery residences in Montana, indicating which are
18 certified recovery residences.

19
20 **NEW SECTION. Section 5. Preferential placement at and referral to certified recovery**
21 **residences.**

22 (1) The department of corrections shall establish a preference for certified recovery residences by
23 encouraging and assisting appropriate individuals seek placements in the residences.

24 (2) (a) A qualified health care provider, judge, justice of the peace, or magistrate may not refer an
25 individual to an uncertified recovery residence.

26 (b) When referring an individual to a recovery residence, a qualified health care provider, judge,
27 justice of the peace, or magistrate must consider the:

28 (i) culture of the recovery residence, including, but not limited to, the permissiveness of unhealthy

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1 behaviors, current residents' commitment to recovery and support of other residents, requirements and support
2 to attend and seek clinical treatment and outside non-clinical sobriety support, and the general living
3 environment;

4 (ii) levels of care the recovery residence provides, including the type, nature, and intensity of the
5 therapeutic services and recovery supports provided, and the ability to meet the referee's specific needs;

6 (iii) utilization of certified or appropriately trained peers with relevant lived experience;

7 (iv) geographic area, neighborhood, or external surrounding environment of the recovery residence;

8 (v) physical living environment of the recovery residence;

9 (vi) use of medicated assisted treatment in the recovery residence, including the:

10 (A) operator and other staff support for medicated assisted treatment;

11 (B) proper monitoring of the use of medicated assisted treatment;

12 (C) other residents' support of medicated assisted treatment; and

13 (D) availability of peers with medicated assisted treatment experience for residents with severe opioid
14 use disorder.

15 (vii) level of training and professionalism of residence staff;

16 (viii) recovery residence's reputation regarding ethical business practices, which may include, but is not
17 limited to, fraud and abuse of residents;

18 (ix) recovery residence's relapse policy; and

19 (x) availability of opioid-overdose reversal drugs.

20 (3) Any qualified health provider that violates subsection (2)(a) is subject to the suspension or
21 revocation of the provider's license or certificate by the appropriate licensing or certification board and the
22 imposition of civil penalties pursuant to the relevant chapter of Title 37.

23 (4) Any judge, magistrate, or justice of the peace who violates subsection (2)(a) is subject to
24 disciplinary action by the judicial standards commission pursuant to Title 3, Chapter 1, Part 11.

25 (5) Subsection (2)(a) does not otherwise limit the referral options available for a person in recovery
26 from a substance use disorder to any other appropriate placements or services.

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28 **Section 6.** Section 46-23-1041, MCA, is amended to read:

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1 "46-23-1041. Rental vouchers. (1) If the department does not approve an offender's parole plan
2 because the offender is unable to secure suitable living arrangements, the department may provide rental
3 vouchers to the offender for a period not to exceed 3 months if the rental assistance will result in an approved
4 parole plan.

5 [(2) The department shall provide a rental voucher to a claimant if required by 46-32-106(7).]

6 (3) The voucher [provided pursuant to subsection (1)] must be provided in conjunction with additional
7 transition support that enables the offender to participate in programs and services, including but not limited to
8 substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or
9 employment programming." (Bracketed language terminates June 30, 2023--sec. 15, Ch. 574, L. 2021.)"

10 (4) To receive rental vouchers and transitional assistance funds from the department of corrections, a
11 recovery residence must:

12 (a) be a certified recovery residence, as defined in [section 1 (3)]; and

13 (b) notify a resident's probation or parole officer within 24 hours of the resident moving out, if a
14 resident is on probation or parole when the resident moves out of the residence.

15
16 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 6] are intended to be
17 codified as an integral part of Title 53, chapter 24, part 3, and the provisions of Title 53, chapter 24, part 3,
18 apply to [sections 1 through 6].

19
20 NEW SECTION. Section 8. Effective date. [This act] is effective October 1, 2023.

21 - END -