

MANUAL FOR THE SCREENING OF PERSONS BEING CONSIDERED FOR CIVIL COMMITMENT TO THE MONTANA DEVELOPMENTAL CENTER OR TO A COMMUNITY TREATMENT PLAN

STATE OF MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES DISABILITY SERVICES DIVISION

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I. PURPOSE:

This manual presents the criteria and procedures adopted by the Department of Public Health and Human Services for implementation of the civil commitment of a person with a developmental disability to the Montana Developmental Center or imposition of a community services treatment plan.

Montana law at Title 53, chapter 20, Montana Code Annotated (MCA) provides that a person with a developmental disability may be civilly committed under limited circumstances to the state operated residential facility for persons with developmental disabilities, the Montana Developmental Center (MDC). In addition, under this set of laws a person with a developmental disability who could be committed to MDC may instead be civilly committed to receive developmental disabilities community services through a court ordered treatment plan. When a civil commitment order is sought for these purposes, a state administered review committee provided for in 53-20-133, MCA, the residential facility screening team (RFST), must make an initial determination of whether the person is to be committed to MDC or to a court ordered community services treatment plan that meets the statutory criteria for commitment.

Under the civil commitment law, a person may not be committed to MDC or to a court ordered community services treatment plan unless the RFST, and in turn the state district court in accordance with the statutory criteria, determines the person is seriously developmental disabled and in need of habilitation at MDC or needs to receive developmental disabilities community treatment services by order of the court.

This manual provides the criteria and procedures used by the RFST in determining whether the proposed commitment of a person with a developmental disability to MDC or a court ordered community services treatment plan is appropriate. In addition, the manual denotes the responsibilities of staff employed by the department and by providers contracting to deliver developmental disabilities

services in relation to possible commitments. Departmental and contractor staff involved in possible commitments must comply, as applicable, with the requirements of this manual.

A person may only be civilly committed to MDC or a court ordered community services treatment plan if they are determined by the RFST and the state district court to be seriously developmentally disabled and in need of the setting and services of MDC or of the proposed community services treatment plan. Eligibility for developmental disabilities services must be based on the current protocol established by the Developmental Disabilities Program (DDP). The statutory definition of developmental disability at 53-20-102, MCA, is used to determine whether a person has a developmental disability.

THIS MANUAL DOES NOT GOVERN THE COMMITMENT OF PERSONS BY A COURT ACTING UNDER THE AUTHORITY OF THE CRIMINAL LAW STATUTES.

A person subject to court jurisdiction in a criminal proceeding may be subject to commitment to MDC through the criminal law statutes. Those commitments are not subject to the review of the RFST. According to criminal statutes, persons committed through a criminal proceeding must be found by the court to meet the criteria of having a developmental disability as defined in 53-20-202(3) MCA.

II. DEFINITIONAL CRITERIA FOR PURPOSES OF CIVIL COMMITMENT:

- (1) "Applicant" means a person seeking certification as a developmental disabilities professional.
- (2) "Certification committee" means as provided in ARM 37.91.106(6)
- (3) "Community-based facilities" or "community-based services" means those services and facilities which are available for the habilitation of persons with developmental disabilities in a community setting.
- (4) "Court" means a district court of the state of Montana.
- (5) "Department" means the department of public health and human services (DPHHS).
- (6) "Developmental disability" means a disability as defined at 53-20-102(8), MCA.
- (7) "Developmental disabilities professional" means a professional as defined at 53-20-102(7), MCA.
- (8) "Qualified mental retardation professional (QMRP)" means a professional program staff person for the residential facility whom the department determines meets the professional requirements necessary for federal certification of the facility.
- (9) "Residential facility" means the Montana Developmental Center (MDC).
- (10) "Seriously developmentally disabled" means a person who:
 - (a) has a developmental disability;
 - (b) is impaired in cognitive functioning; and
 - (c) cannot be safely and effectively habilitated in voluntary community-based services because of behaviors that pose an imminent risk of serious harm to self or others.

III. THE RESIDENTIAL FACILITY SCREENING TEAM (RFST):

A. APPOINTMENT AND COMPOSITION:

The RFST, appointed in accordance with 53-20-133, MCA by the Director of the Department of Public Health and Human Services (DPHHS) includes a consumer-interests representative, a service provider representative, a staff person from DPHHS familiar with institutional settings, and a staff person from DPHHS familiar with community services.

B. DUTIES AND RESPONSIBILITIES:

The RFST has the following duties and responsibilities:

- (1) To develop and publish procedures which describe the operation of the committee and the process by which decisions are made;
- (2) To carry out its statutory mission of conducting reviews in accordance with the statutory criteria and procedures to determine whether a person for whom a civil commitment petition has been filed is seriously developmentally disabled and appropriate for placement into MDC or a court ordered community services treatment plan.
- (3) To conduct its review of proposed commitments through a review of diagnostic, treatment, social, placement, and other records appropriate for purposes of a sound determination and also in reliance upon a report from a Developmental Disabilities Professional, certified in accordance with state law, a QMRP or, if the matter pertains to a possible commitment to a court ordered community services treatment plan, then a DDP case manager;
- (4) To prepare a report for the state district court memorializing the RFST's determination. The report is to state the factual bases for the determination and describe any tests or devices used to evaluate the person.
- (5) To have a member available to appear at a commitment hearing in the state district court;
- (6) To provide:
 - (a) the RFST's recommendation and report to the state district court;
 - (b) notice of the RFST's determination to the parties specified in 53-20-125(3) MCA; and
 - (c) the social and placement information relied upon by the RFST to the state district court, the county attorney, the respondent's attorney, and, if release is permissible under legal authorities governing the privacy of materials, any other requesting party. Any other party for purposes of release is limited to those parties receiving notice as specified in 53-20-125(3), MCA; and
- (7) To develop and maintain a register of persons who have been reviewed for possible commitment by the RFST and a record of the determination made in their case.

IV. TERM OF CIVIL COMMITMENT:

A standard commitment may not exceed a term of one year. If continued commitment to MDC or a court ordered community services treatment plan is desired, a petition must be filed with the state district court and a proceeding conducted to obtain recommitment.

A petition for civil commitment or recommitment may seek a shorter commitment term to MDC when appropriate to provide treatment for purposes such as resolution of prescription drug effects or to provide a more secure environment while behavioral changes are resolved.

If immediate placement into MDC is desirable due to exigent circumstances, then an emergency admission must be arranged through a certified developmental disabilities professional or a petition for an emergency commitment must be filed and the procedures for that type of proceeding complied with. An emergency commitment is limited to a term of 30 days.

A PERSON MAY NOT BE PHYSICALLY PLACED INTO MDC OR IN A COMMUNITY SERVICES TREATMENT PLAN UNTIL A CIVIL COMMITMENT ORDER HAS BEEN ENTERED BY THE STATE DISTRICT COURT.

If a person is currently committed to MDC and the RFST does not approve of recommitment, the person cannot remain in the service and must be referred for placement and return to their home community or to an alternative service or community if one has been found.

V. ASSESSMENT OF A PERSON FOR PURPOSES OF CIVIL COMMITMENT:

A. ASSESSMENT STEPS:

Assessing a person to determine whether civil commitment of the person to MDC or alternatively to a court ordered community services treatment plan is necessary involves the following steps:

- (1) confirmation that the person has been determined by DDP to have a developmental disability along with cognitive impairment;
- (2) an imminent risk of serious harm to self or others due to the person's behaviors must be present;
- (3) the person's behaviors must prevent safe and effective habitation in voluntary community based services;
- (4) with respect to commitment to MDC, a further determination must be made by the court that the setting and the services of the institution are appropriate to meet the needs of the person or in the best interest of the person; and
- (5) with respect to commitment to a court-ordered community services treatment plan, a further determination must be made that there is a proposed individual treatment plan for treatment that:
 - (a) adequately assures that the behaviors of the person are managed to provide for the safety of the community and the person;
 - (b) effectively provides for the person's habilitation;
 - (c) is fully funded; and
 - (d) provides for the delivery of the necessary services from committed qualified providers.

B. PURPOSES OF TREATMENT IN CIVIL COMMITMENT SETTINGS:

The MDC is an institutional service setting for adults with developmental disabilities whose habilitation needs and potential to harm self or others necessitate provision in a relatively more secure environment with a high ratio of staff and specialized behavioral services. A person meets the criteria for civil commitment to MDC if they exhibit behaviors which make it unsafe or

ineffective to place the person in voluntary community services and the treatment available through MDC is appropriate to the person's treatment needs.

A person who appears appropriate for civil commitment to MDC because the person exhibits habilitation needs and the potential to harm self or others may be considered for civil commitment to an involuntary community services treatment plan if the person can be expected to comply with a court imposed treatment plan, inclusive of any rights restrictions, which would render the placement safe and effective.

C. PERSONS WHO ARE APPROPRIATE FOR CIVIL COMMITMENT:

A person is appropriate for civil commitment if the person

- (1) Is 18 years of age or older;
- (2) Exhibits the following behaviors:
 - (a) **overt acts of physical aggression:** The person exhibits physical aggression, which due to frequency and/or level of severity, has the imminent potential to or does cause serious injury to self or others and the person exhibits these behaviors at a frequency that has not been modified by documented, concerted efforts at intervention;
 - (b) **overt acts of sexual aggression:** The person commits overt acts of sexual aggression which due to frequency and/or level of severity have the imminent potential to or do cause serious harm to self or others;
 - (c) **overt acts of verbal or psychological aggression:** The person which, due to frequency and/or severity level, have the imminent potential to cause mental or psychological injury to self or others;
 - (d) **overt acts that pose an imminent risk of serious physical, sexual, or mental injury** to self, due to the acts of others, including retaliatory aggression by peers, exposure to abuse or exploitation by third parties, or accidents (e.g. pedestrian traffic accidents) resulting from failure to cooperate with necessary supervision; or
 - (e) **need for immediate skilled intervention in a secure setting:** The person exhibits behaviors that present a risk of serious injury to the person or to others and that need to be addressed on an interim basis in a secure setting with additional resources including more skilled staff and professionals.
- (3) Has particular treatment needs based upon the behaviors that can be appropriately and effectively treated at MDC or through a court ordered community services treatment plan; and
- (4) Has exhausted the treatment options available through developmental disabilities and other available appropriate community services, either by inability of the provider to provide sufficient services or by the inability or refusal of the person to cooperate with services offered.

D. COMMUNITY SERVICES OPTIONS FULLY EXHAUSTED:

(1) Existing Services:

For a person for whom commitment is being sought who is currently served in community services, the case manager and others must document to the RFST that there has been a thorough consideration in the individual planning process of all feasible modifications in the setting, the individual delivery of services, housing, staffing, et al that could serve to resolve the person's behaviors and that those modifications that are feasible were implemented but proved to be ineffective. The record should show that consultation with appropriate department staff, behavioral specialists, medical professionals, and others was obtained in the course of the efforts to address the behavioral problems. A person is not considered appropriate for commitment if there has not been adequate consultation and attempts made to modify the service milieu.

(2) Other Community Services:

For a person for whom commitment is being sought or for whom recommitment is being sought but who is referred to be considered for possible placement into community services, there must be documentation of efforts to obtain appropriate community services. Among the efforts that may be appropriate are the following:

- (a) verbal and written contacts with the appropriate case manager and regional DDP offices, seeking help;
- (b) referrals for services accompanied with complete information packets sent to all appropriate parties;
- (c) verbal and written contacts with any family members involved, to seek their help;
- (d) verbal and written contacts in pursuit of foster placement;
- (e) verbal and written contacts with the services coordinator of DDP, seeking help;
- (f) if the person currently is in services, a written request to the services coordinator of DDP for a service exchange; and
- (g) verbal and written inquiry to DDP as to possible temporary vacancies in services that the person could be in for a short time.

VI. INITIATING A CIVIL COMMITMENT:

A. TYPES OF JUDICIAL ORDERS:

In a developmental disabilities civil commitment proceeding there are four (4) possible types of commitments that may be petitioned:

- (1) A standard commitment to MDC that may not exceed one year;
- (2) An emergency commitment to MDC for 30 days to be used when a person must be removed from their current situation while the commitment process is pursued;
- (3) A court ordered community services treatment plan, that may not exceed one year, with treatment provided in the community by a qualified provider using a written community services treatment plan approved by the court and

the RFST as a less restrictive alternative to commitment in a residential facility; and

(4) An emergency court ordered community services treatment plan for up to 30 days.

Except for a court-ordered community services treatment plan as authorized under developmental disabilities civil commitment law, a state district court is prohibited from ordering the placement of a person into developmental disabilities community services or ordering the delivery of community services to a person.

B. CRISIS MANAGEMENT AND INITIATING JUDICIAL PROCEEDINGS:

(1) FOR A PERSON CURRENTLY IN DEVELOPMENTAL DISABILITIES COMMUNITY SERVICES:

(a) Precommitment Crisis Management: If a person exhibits behaviors that cannot be met by their current developmental disabilities community services, the case manager and personal supports planning team should be attempting to manage such behaviors by seeking assistance, identifying alternative resources that can be used in their current placement, and/or seeking service alternatives and other means of intervention that will allow the person to remain in the community. Those efforts must be documented as denoted in Section V.

(b) Initiating a Civil Commitment Petition: A person's planning team may direct a person's case manager to pursue a civil commitment or a court-ordered community services treatment plan. The case manager must in turn request that the county attorney file a petition in State district court.

Any other person may request the county attorney file a petition for civil commitment. The person's planning team should attempt to meet with any person who is seeking to petition for commitment. The team may also meet with the county attorney to discuss the appropriateness of the petition.

Since by law the RFST must review and recommend a civil commitment to MDC before a state district court may consider the petition for commitment, the matter must be submitted to and acted upon by the RFST. The clerk of district court sends a copy of the petition to the chairperson of the RFST. The RFST will report back to the court by the close of the 15th judicial day after the court order referring the petition to the RFST, unless it is an emergency commitment.

When seeking a court-ordered community services treatment plan, a copy of the proposed community services treatment plan must accompany the petition.

(c) Developmental Disabilities Professional's Report: The case manager must contact a certified developmental disabilities professional to complete a report on the person. The certified

developmental disabilities professional must provide a report to the RFST in the event a commitment or emergency commitment to the residential facility is needed.

(2) FOR A PERSON NOT CURRENTLY IN DEVELOPMENTAL DISABILITIES COMMUNITY SERVICES:

- (a) **Pre-commitment Crisis Management:** If a person is not in services, initially a case manager must be assigned. The case manager must contact DDP, and must refer the person for evaluation by DDP for purposes of determining eligibility for developmental disabilities services. The case manager should also assist the person in seeking any other available services. Those efforts must be documented as denoted in Section V.
- (b) **Initiating a Civil Commitment Petition:** The case manager must request that a county attorney file a petition in State district court. The court must send a copy of the petition to the chairperson of the RFST.
- (c) **Developmental Disabilities Professional Report:** The case manager must contact a certified developmental disabilities professional to complete a report on the person. The developmental disabilities professional must provide the report to the RFST.

(3) FOR A PERSON CURRENTLY CIVILLY COMMITTED TO MDC:

For a person who is currently civilly committed to MDC, a petition for recommitment is filed in the state district court where venue is located, either county of residence at time of commitment or Jefferson County. A QMRP, not a certified developmental disabilities professional, completes a report and includes a copy of the current treatment plan. Copies of the petition for recommitment and the QMRP report must be sent to the court, the RFST, the resident.

When seeking to change the status of a person from civil commitment to MDC to civil commitment to a court ordered community services treatment plan, a copy of the proposed community services treatment plan must accompany the petition for recommitment.

(4) FOR A PERSON CURRENTLY CIVILLY COMMITTED TO A COURT IMPOSED COMMUNITY SERVICES TREATMENT PLAN:

For a person currently civilly committed to a court ordered community services treatment plan, the case manager responsible for habilitation under the court ordered community services treatment plan may request the county attorney file a petition for extension of the court ordered community services treatment plan. A copy of the proposed community services treatment plan must accompany the petition to the court along with a written report by the case manager.

- C. INFORMATION REQUIRED:** The case manager or other party who is requesting a petition for civil commitment or civil recommitment must compile the appropriate information necessary for adjudicating the commitment and provide copies to the following parties no more than three days after the filing of the petition:

- (1) The **residential facility screening team**, c/o the **DD services coordinator** in the DD central office in Helena;
- (2) The **certified developmental disabilities professional**, if a certified developmental disabilities professional is needed; and
- (3) The **residential facility**, in care of the **medical records department**, if commitment to the residential facility is sought.

If the person is already in the residential facility, QMRP at the residential facility provides a written report to the RFST. If the person is under a court ordered community services treatment plan, the case manager provides a written report containing the recommendation and a summary of the current community services treatment plan to the RFST.

D. EMERGENCY CIVIL COMMITMENTS:

(1) INITIATING AN EMERGENCY CIVIL COMMITMENT PETITION TO THE MONTANA DEVELOPMENTAL CENTER:

- (a) A person may be admitted to MDC on an emergency basis if a person needs to be removed immediately from their current situation because of serious risk of harm to others or to the person. By law an emergency placement may only be initiated by a certified developmental disabilities professional. MDC cannot accept an emergency admission of a person unless it is authorized by a certified developmental disabilities professional. Arrangements for admission must be made with the client services director at MDC by the certified developmental disabilities professional. The immediate admission of a person to MDC on an emergency basis does **not** constitute a commitment of the person to MDC.
- (b) The certified developmental disabilities professional must, prior to the admission at MDC, contact the facility superintendent or designee to confirm that the person has a developmental disability and that it is an emergency placement that is necessary to protect the person or others from death or serious bodily injury.
- (c) The county attorney must file a petition for emergency civil commitment by the close of business (5:00 pm) on the next judicial day following the person's admission to the residential facility.

If a person is admitted to MDC on an emergency basis but a civil commitment petition is not properly filed before the close of business on the next judicial day, the DD Professional who requested the emergency admission, or the case manager, is responsible for assuring that the person is immediately returned to their home community and their prior placement unless other arrangements have been agreed to by all parties, including the person and any new service provider.

- (d) The party physically delivering the person must ensure that the person being admitted arrives at MDC with basic necessities, such as an appropriate amount of clothing adequate to the season, at least a five (5) day supply of medications, a signed doctor's order for medications, and any adaptive or medical equipment needed for the person's daily medical or nutritional care. The delivering person must meet with the staff at MDC to review the person's needs and functioning level or the case manager must complete a conference call with MDC staff to review needs in order for an admission to occur. Once the person arrives at MDC, physical custody and control transfers immediately and completely to MDC staff and use of MDC procedures and behavior control.
- (e) The completed packet of the admission and other information on the person's status and service needs is required at the time of or prior to arrival to the residential facility in order for the person to be admitted. It must be sent to the attention of the medical records department.
- (f) The RFST and the certified developmental disabilities professional must receive the required information (see section VIII) within two (2) working days of the petition being filed.
- (g) An order for an emergency civil commitment to a residential facility may be entered without a hearing before the court if the court finds the record supports the order.
- (h) The RFST must report back to the court by the close of business (5:00 pm) on the seventh (7th) judicial day following the emergency placement. The original court order expires by statute at that time. If the RFST recommends continued commitment, the court may extend the emergency order for no more than 30 days from the date of placement.
- (i) An emergency civil commitment to the residential facility may not continue longer than 30 days after placement unless a petition for an extended commitment has been filed.

(2) INITIATING AN EMERGENCY PETITION FOR CIVIL COMMITMENT TO A COURT IMPOSED COMMUNITY SERVICES TREATMENT PLAN:

- (a) An emergency community services treatment plan may be imposed on an emergency basis without notice to the person or approval by the RFST when necessary to protect the person or others from death or serious bodily injury. The immediate admission of a person to a court ordered community services treatment plan on an emergency basis does **not** constitute a civil commitment of the person.
- (b) A petition for a court ordered community services treatment plan may be filed by the county attorney and must include or attach the written report of a case manager and a copy of the proposed plan. Any emergency court ordered community services treatment plan must meet the conditions set forth in MCA 53-20-133 (4).

- (c) The court may order an emergency civil commitment to a community services treatment plan without notice to the person or approval by the RFST when necessary to protect the person or others from death of serious bodily injury.
- (d) The RFST must receive required information (see section VIII) within two (2) working days of the petition being filed.
- (e) An order for an emergency civil commitment to a community services treatment plan may be entered without a hearing before the court if the court finds the record supports the order.
- (f) The RFST must report back to the court by the close of business (5:00 pm) on the seventh (7th) judicial day following the emergency placement. The original court order expires by statute at that time. If the RFST recommends continued imposition of the court ordered plan, the court may extend the emergency order for no more than 30 days from the date from the first court order imposing the plan.
- (g) The imposition of an emergency civil commitment to a court ordered community services treatment plan may not continue longer than 30 days after imposition of the plan unless a petition for an extended commitment has been filed.

(3) PLANNING FOR A RETURN FROM MDC TO COMMUNITY SERVICES:

- (a) During an emergency civil commitment to MDC, the community DDP is responsible for coordinating a plan for finding an alternative to placement at MDC before the end of the 30 day emergency commitment period.
- (b) The DDP case manager must schedule a meeting at MDC within five (5) working days of emergency admission in order to develop a plan for the person's return to the community, a plan to be put in place before the end of the 30 day emergency commitment period.
- (c) The regulations in accordance with ARM 37.34.2001 through ARM 37.34.2007 (discontinuation of services) are applicable to admissions into state facilities.
- (d) In accordance to 53-20-127, MCA, when a person that is committed to MDC is determined to be ready for placement by the QMRP, the QMRP refers the person for community based services. Once a community provider is identified, a transition plan is put in place and planning meetings are held.
- (e) A transition planning meeting must include at least:
 - the person;
 - the regional manager or designee;
 - the community case manager;
 - a social worker from MDC;
 - a QMRP or other representative from the individual treatment planning team at MDC;

- a representative of DDP, and whenever possible, that representative will be from the regional office in the region the person is from;
- a representative from any provider agency or agencies serving the person, if applicable;
- the person's legal guardian, if applicable;
- the person's advocate, if applicable; and
- any family member involved with the person and any others who have been working with the person should be invited and encouraged to participate in this process (mental health counselors, senior center staff, medical professionals, others).

(f) The MDC transition plan checklist should be used when planning a return to community services.

E. APPROPRIATE USE OF A CIVIL COMMITMENT TO A COURT-IMPOSED COMMUNITY SERVICES TREATMENT PLAN:

(1) CONDITIONS FOR IMPOSITION OF A COURT-IMPOSED COMMUNITY SERVICES TREATMENT PLAN:

Civil commitment to a court ordered community services treatment plan can be sought at the time of the attempt to initially commit a person to MDC or the attempt to recommitment a person to MDC. This type of commitment allows persons treatment, structure, and supervision while giving the person the opportunity to live in the community.

A court ordered community services treatment plan may be considered when community-based services would be safe and effective for a person if the person were under an order compelling the placement in services.

Before commitment to a court ordered community services treatment plan may be pursued it is necessary to develop an actual treatment plan to present to the RFST and the state district court. The plan needs to address the risks to self and others and impose restrictions or other conditions the court finds necessary to protect the person or the community.

The court ordered community services treatment plan must include, but is not limited to requiring the person to do the following:

- (a) participate in a specified set of community-based services;
- (b) participate in services addressing the behaviors that cause risk to self or others, including but limited to group or individual therapy, staff supervision, psychiatric care, or medication; and
- (c) abide by individualized restrictions on behavior or other conditions of continued participation that the court finds necessary to protect the person or the public, including but not limited to residential requirements, restrictions on access to intoxicants or weapons, productive use of free time, limited financial independence, curfew, or authorization for providers to share information about the person with law enforcement.

VII. INFORMATION REQUIRED:

A. ALL SETS OF INFORMATION MUST INCLUDE THE FOLLOWING REGARDLESS OF THE TYPE OF COMMITMENT:

- (1) A cover letter explaining what is desired for the person, why this most restrictive setting is being sought, what has been tried and why it has not worked, generally what has been happening that has led to this request;
- (2) A comprehensive psychological evaluation of the person that includes adaptive and maladaptive behavior;
- (3) A current diagnosis for the person as well as other relevant diagnoses;
- (4) A current comprehensive social history of the person;
- (5) A comprehensive description of the person's current status/situation;
- (6) A comprehensive medical history and information for the person that must include medications history (**see appendix A**);
- (7) The current and recommended treatment plans for the person inclusive of needed staffing ratios (day and night);
- (8) A narrative of attempted solutions to the person's current problems;
- (9) Ancillary service reports available and obtained as needed;
- (10) The names and contact information for involved parties, inclusive of family members and advocates;
- (11) The guardianship status along with the name and contact information for a named guardian;
- (12) If a behavior problem exists, detailed information regarding the severity and frequency of the behavior, what programming has been tried, how many staff must intervene, and any psychological reports or recommendations regarding the behaviors;
- (13) If a self-help deficit exists, detailed information regarding the degree of assistance needed, how much staff intervention is required;
- (14) If a medical need exists, detailed information regarding the care that is needed;
- (15) Any physical limitations requiring adaptive or other special equipment or physical site requirements;
- (16) Any special communication needs (manual sign, communications board);
- (17) For a commitment to community services, a copy of the proposed community services treatment plan.

All information is to be copied one-sided with no staples.

B. A PROPOSED COMMUNITY SERVICES TREATMENT PLAN MUST PROVIDE DETAIL THAT ADEQUATELY CONFORMS TO THE FOLLOWING STATUTORY REQUIREMENTS FOR THIS TYPE OF COMMITMENT:

- (1) adequate assurances of safety from the consequences of the person's behaviors for both the person and the community;
- (2) effective habilitation services for the person's developmental disability;
- (3) funding from public or private sources that is identified, committed, and available to pay for all of the proposed services to the person; and
- (4) services from identified, qualified providers that are committed and available to provide all of the proposed services to the person.

VIII. RESIDENTIAL FACILITY SCREENING TEAM DETERMINATION:

The RFST reviews the materials as well as the certified developmental disabilities professional's report, and assesses whether the person is seriously developmentally disabled, based on the statutory definition.

Prior to making a recommendation to civilly commit or recommit a person, or that the court impose or extend a community services treatment plan, the RFST can require an additional professional evaluation by a treatment professional that provides sexual offender treatment or is Montana Sex Offender Treatment Association (MSOTA) qualified if the RFST determines that it needs such an assessment in order to complete its determination.

A. RESIDENTIAL FACILITY SCREENING PROCESS:

- (1) Upon reviewing a petition for civil commitment or recommitment of a person to MDC or a court ordered community services treatment plan, if the RFST determines that a person meets the criteria for commitment, the RFST can recommend to the State district court that the court order the commitment or recommitment of the person or that the court impose or extend a community services treatment plan.
- (2) If a person does not meet the criteria for civil commitment or recommitment, the RFST may not approve the commitment or recommitment. If the RFST cannot reach consensus, it may not approve the commitment or recommitment or the imposition or extension of a community services treatment plan.
- (3) The RFST sends notification of its determination to the case manager or other party initiating the petition, the person, the responsible person, the person's parent, guardian, or advocate, the attorney for the person, and next of kin, if known.
- (4) If it is an emergency commitment, the person can only be committed for 30 days unless the petition also includes a request for a full one-year commitment. In that case, the RFST issues simultaneous recommendations on both requests.

(5) The RFST may approve and the state district court may impose a community services treatment plan if the plan meets the statutory conditions noted above in Section VII.B. The court may not impose a community services treatment plan unless the RFST certifies all services in the proposed plan meet the above conditions.

B. AMENDMENT TO COMMITMENT ORDER OR TREATMENT PLAN:

- (1) A court ordered community services treatment plan may be amended with the consensus of the person's planning team, including the person, without further court order. The RFST must certify that the amended plan meets the conditions previously noted in Section VII. B.
- (2) An order of commitment to MDC may be amended to an order imposing a community services treatment plan with the consensus of the personal supports planning team, including the person, and the court shall issue an order imposing the agreed upon community services treatment plan. The RFST must certify that the proposed community services treatment plan meets the conditions previously noted in Section VII. B.
- (3) Any party may request amendment of a commitment ordered or a community services treatment plan imposed by bringing the matter to the attention of the person's treatment planning team. If consensus is not reached, any party may request a hearing on the proposed amendment. The court shall request an evaluation of any proposed amendment by the RFST prior to the hearing.
- (4) After a hearing or upon the agreement of the parties on an amendment of a commitment or an order imposing a community services treatment plan, the court may make any order which is authorized in the code including:
 - adding, removing, or modifying conditions of a community services treatment plan;
 - substituting commitment to MDC for a court imposed community services treatment plan; or
 - substituting imposition of a court imposed community services treatment plan for commitment to a residential facility (MDC).
- (5) Any community services treatment plan imposed as a result of a request for amendment must meet the conditions previously noted. The court may not impose a community services treatment plan unless the RFST certifies that all services in the proposed plan meet the conditions previously noted in Section VII. B.
- (6) If the court finds probable cause to believe that the person or others are in imminent risk of death or serious bodily injury, the court may order a temporary amendment to a community services treatment plan, for a period of up to 7 calendar days, without notice to the person. A hearing must be scheduled within the 7-day period of the temporary amendment. Any temporary amended community services treatment plan must meet the conditions previously noted.

IX. DECISION BY THE JUDGE:

The RFST files its determination with the state district court where the petition was filed. The judge issues an order regarding commitment of the person, after the person has an opportunity to request a hearing. The judge cannot order commitment if the RFST finds the respondent is not seriously developmentally disabled or recommends against commitment. The judge cannot order a community services treatment plan unless the RFST finds the person is seriously DD and certifies that the plan meets the criteria of 53-20-133(4) (c) and (d). The judge can decline the petition even if the RFST has recommended commitment or imposition of a community services treatment plan, if the court finds that commitment or imposition of a community services treatment plan is not in the best interest of the respondent.

If either the RFST or the court finds the person has a developmental disability but is not seriously developmentally disabled, the court must dismiss the petition and refer the person to DPHHS to be considered for placement in voluntary community-based services according to 53-20-209, MCA.

APPENDIX A

The following original documents need to be sent with persons transferring to the Montana Developmental Center:

- Social security card
- Birth certificate
- Medicaid card, if applicable

This medical information needs to be sent with persons transferring to the Montana Developmental Center:

- List of current primary care physician, psychiatrist, and other physicians
- Reports by physician visits for the last year, including psychiatry
- Latest vision, hearing, and dental exams
- A minimum of 5 days of medications and treatment supplies
- A written doctor's order for medications
- Immunization records
- Last month of vital signs and weights
- Latest lab reports (include where performed) including PAP and mammogram, if applicable
- Reports of any X-rays or other tests done within the past year
- Medication profile (below)

MEDICATION PROFILE

Name _____ Date of Birth _____

Address _____

Allergies _____

Adverse Reactions _____

DATE STARTED	MEDICATION	DOSING SCHEDULE	INDICATION	ORDERING MD