



October 6, 2025

Dan Villa
Executive Director
Montana Board of Investments
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Executive Director Villa,

I write regarding the following language from House Bill 5, passed by the 2025 Montana Legislature and signed into law by Governor Gianforte on June 19, 2025:

Section 17. Transfer of funds -- plan and reporting. (1) *By June 30, 2026, the state treasurer shall transfer \$26.5 million from the capital developments long-range building program account established in 17-7209 to the board of investments for the purposes of building a behavioral health facility.*

(2) *Prior to the transfer in subsection (1) taking place, the budget director shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location. The board of investments and the department of public health and human services shall report to the health and human services interim budget committee established in 5-12-501 on the progress of choosing the facility type and location. Once a plan is adopted by the budget director, the board of investments and the department of public health and human services shall provide a progress report at each subsequent meeting of the health and human services interim budget committee and each subsequent meeting of the long-range planning budget committee that are held prior to December 31, 2026.*

(3) *Any unspent funds must revert to the capital developments long-range building program account.*

Pursuant to these statutory requirements, the Department of Public Health and Human Services (DPHHS) looks forward to continuing our collaboration with the Board of Investments (BOI) to build a much-needed behavioral health facility for Montanans. As we enter the next phase of this critical project, I am providing you with the following guidance concerning DPHHS's preferred location for the facility, as well as the type and purpose of the facility that we believe should be built based on our observed demand for state psychiatric services.

Site Location

While DPHHS remains interested in site opportunities in Yellowstone County, it is important that all Eastern Montana communities equipped with adequate infrastructure and a potential workforce are afforded the opportunity to submit proposals for hosting our new facility. As

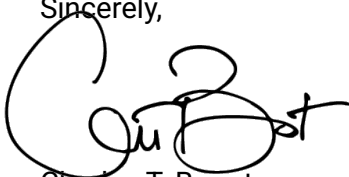
we've agreed, a Due Diligence Questionnaire process would help solicit input from all communities in Eastern Montana, and the Department authorizes BOI to proceed on our behalf with that process. In light of anticipated future demand for state psychiatric services, communities and stakeholders should be aware that any site selected must allow for potential expansion in future years. Working together, I am confident that both of our agencies will facilitate robust engagement with local stakeholders when appropriate and prior to final site selection.

Facility Type and Purpose

As demonstrated in the enclosed analysis, DPHHS seeks to construct and operationalize a 32-bed forensic mental health facility. The facility would be designed with scalability in mind should the agency determine a need to leverage beds for the civil population in the future. From our perspective, it is most appropriate to "build up" to forensic facility standards and be able to scale down as deemed necessary. As many Montanans know, DPHHS has experienced surging demand for forensic psychiatric services over the past several years, resulting in a problematic statewide waitlist that adversely impacts local communities. While we have taken a variety of steps to try to address this issue operationally, our bed capacity remains severely limited, and the agency believes that the funds granted to us by the Legislature must be prioritized for the forensic population.

I thank you and BOI for your partnership and support of our work on behalf of the Montanans we serve.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Brereton", with a large, stylized "C" at the beginning.

Charles T. Brereton
Director

Enclosure: Building a Foundation for Future Generations: Montana's New Behavioral Health Facility

BUILDING A FOUNDATION FOR FUTURE GENERATIONS: MONTANA'S NEW BEHAVIORAL HEALTH FACILITY

Prioritizing Forensic Capacity to Resolve a Systemic Bottleneck

October 2025



DEPARTMENT OF
**PUBLIC HEALTH &
HUMAN SERVICES**

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EXECUTIVE SUMMARY

Montana's behavioral health system is facing an ongoing and critical challenge: a growing forensic psychiatric population is overwhelming the state's limited capacity, resulting in delayed treatment and adjudication, as well as admission waitlists that adversely impact local detention facilities. In response to this issue, the Montana Department of Public Health and Human Services (DPHHS) seeks to prioritize the construction of a 32-bed forensic psychiatric facility in Eastern Montana. This expansion will address urgent legal, clinical, and operational needs while improving geographic equity and system efficiency. Importantly, the facility will be strategically designed to allow DPHHS to convert wings or pods for civil commitment use if demand shifts in the future.

BACKGROUND

DPHHS is responsible for providing inpatient psychiatric care to individuals who require involuntary treatment due to severe mental illness. These individuals fall into two primary categories: forensic and civil patients.

- **Forensic patients** are individuals who are involved in the criminal justice system. They may be:
 - Awaiting trial but in need of a mental health evaluation to determine if they are competent to stand trial.
 - Found Unfit to Proceed (UTP) and in need of inpatient restoration services.
 - Sentenced under Montana Code Annotated (MCA) 46-14-312, which mandates DPHHS to provide treatment for individuals found Guilty but Mentally Ill (GBMI) or Not Guilty by Reason of Mental Illness (NGMI).
- **Civil patients** are individuals who, due to a mental illness, pose a danger to themselves or others, and/or are unable to care for their basic needs. These individuals are typically admitted through civil commitment proceedings.

To meet the needs of both populations, the Gianforte administration has secured funding for renovations and expansions at Montana State Hospital (MSH), MSH Grasslands, and the Montana Mental Health Nursing Care Center (MMHNCC), which will increase total state psychiatric bed capacity to 307 beds, with a potential net increase of 40 beds.

In addition to funding provided to MSH during the 2025 Legislative Session, the Gianforte administration secured funding to reopen the D wing at MMHNCC. Reopening the D wing will add 24 civil beds to serve the geriatric psychiatric population, including some patients previously served on the Spratt Unit.

This ultimately maintains the existing number of civil beds in the civil care continuum.

Wing/Unit	Type	Current	Proposed	Difference
Alpha	Civil	31	41	10
Bravo	Civil	26	34	8
Echo	Civil	25	23	-2
Grasslands	Civil	0	20	20
Spratt	Civil	60	0	-60
MMHNCC-D-Wing	Civil	0	24	24
TOTAL		142	142	0
Delta	Forensic	31	41	10
Galen	Forensic	54	54	0
Group Homes	Forensic	40	40	0
Former Spratt	Forensic	0	30	30
TOTAL		125	165	40

SYSTEMS OF CARE

Forensic

At MSH, individuals involved in the criminal justice system may be admitted for forensic psychiatric evaluation or treatment. The typical process for a forensic patient includes the following steps:

1. **Fitness Evaluation/Court-Ordered Evaluation (COE)**

A court may order a mental health evaluation, frequently referred to as a COE, to determine whether a defendant is fit to proceed to trial. This is an initial “fitness” evaluation and is restricted to a diagnosis of the mental condition of the defendant, including opinions as to: a) whether the defendant suffers from a mental disorder and may require commitment or is seriously developmentally disabled, and b) if the defendant suffers from a mental disease or disorder or developmental disability, whether the defendant has the capacity to: i) understand the proceedings against the defendant, and ii) assist in the defendant’s own defense.

- This evaluation can be conducted in the community through an investment made possible by the Behavioral Health System for Future Generations (BHSFG) Commission or may require inpatient admission to the Forensic Mental Health Facility (FMHF) in Galen.
- If the individual is found competent, they are returned to the county of origin to proceed with trial.

2. **Unfit to Proceed (UTP)**

If the initial fitness evaluation (COE) determines the individual is not fit to proceed to trial, they must be ordered to be admitted to the FMHF in Galen for inpatient restoration treatment.

- These individuals do not go to the Delta Unit at this stage.

3. **Non-Restorable Cases**

If the individual cannot be restored to fitness due to a persistent mental illness, their criminal case may be dismissed.

- They may then be ordered to be civilly involuntarily committed for ongoing treatment.

4. **Pre-Sentence Evaluation (PSE)**

In some cases, a PSE is ordered to determine whether the individual met the legal criteria for GBMI at the time of the offense as part of a sentencing proceeding.

5. **Sentenced Forensic Patients (GBMI)**

Individuals found “Guilty but Mentally Ill” are initially admitted to the FMHF in Galen and placed on a waitlist for transfer to the Delta Unit, which houses sentenced forensic patients.

- These patients progress through a Level 1–10 privilege system at MSH.
- Those reaching Level 6 or higher may be eligible for placement in on-campus group homes or, in the future, the converted Spratt Unit.

Civil

MSH also serves individuals who are civilly involuntarily committed. These are individuals who, due to a mental illness, are considered a danger to themselves or others, and/or are unable to meet their basic needs.

The typical process for a civil patient at MSH or MSH Grasslands is as follows:

1. **Admission through Civil Commitment**

A court orders the individual to receive inpatient psychiatric care based on clinical evidence of risk and/or inability to care for themselves.

2. **Evaluation and Stabilization**

Upon arrival, the patient is admitted to the admissions wing (Echo) at MSH, where they undergo evaluation and receive initial stabilization treatment.

3. **Discharge or Continued Treatment**

- If the patient stabilizes quickly, they may be discharged and returned to their home or community with appropriate supports.

- If further care is needed, the patient is transferred to a treatment wing (Alpha or Bravo) for continued therapy and rehabilitation, with the goal of eventual discharge.

Note: This is a simplified overview intended to illustrate the general continuum of care. Individual treatment plans and legal processes may vary based on clinical needs and statutory requirements.

WHY PRIORITIZE THE FORENSIC POPULATION VS. THE CIVIL POPULATION?

SYSTEM BOTTLENECK

The FMHF in Galen is currently the only facility in the state equipped to restore individuals who a court has determined are UTP. It also serves as the admission point for defendants sentenced as GBMI, and those committed to the custody of the director of DPHHS to be placed in an appropriate mental health facility for custody, care, and treatment after the court has determined they present a danger to themselves or others. This set of defendants, as distinguished from GBMI defendants, is referred to as NGMI patients.

Since 2022, the FMHF in Galen has consistently maintained a waitlist of over 70 patients, creating a significant bottleneck that affects:

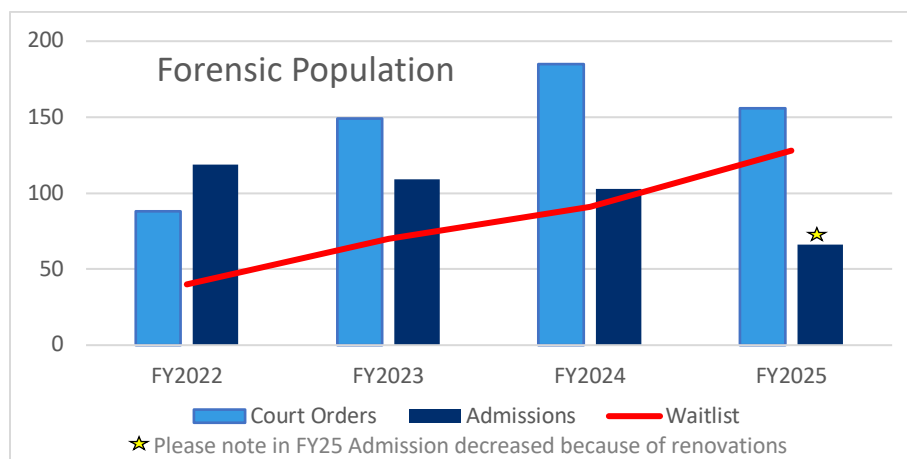
- County court proceedings
- Jail populations
- Local mental health systems

This backlog delays access to treatment, strains public safety systems, and increases the state's legal risk.

RAPID GROWTH IN FORENSIC DEMAND AND WAITLIST

Forensic court orders have surged 77% since FY 2022, with GBMI orders increasing 650%. In contrast, civil admissions have remained relatively stable, aided by the MSH Grasslands facility and other community-based supports. The forensic system, however, has no such relief valve, making the sought expansion urgent.

As noted above, Montana has experienced a sharp increase in forensic court orders over the past four years, which has consequently increased DPHHS's forensic waitlist. As the state's population grows, the number of individuals requiring forensic evaluation and treatment is expected to rise proportionally in accordance with national trends.



The following table reflects the court orders, by type, issued in each fiscal year.

TYPE	FY 2022	FY 2023	FY 2024	FY 2025	% Change FY 2022 to FY 2025	AAGR FY 2022- FY 2025
COE	55	93	81	67	21.80%	13.00%
UTP	23	42	52	43	86.90%	29.70%
PSE	6	7	13	20	333%	52.10%
GBMI	4	7	39	26	650%	166%
NGMI	0	0	0	0	N/A	N/A
TOTAL	88	149	185	156	77.20%	25.90%

Note: Not all COE orders result in admission to the FMHF in Galen. Some evaluations are being completed in the community through the aforementioned BHSFG initiative launched in 2024.

Forensic Waitlist Growth and Contributing Factors

The forensic waitlist for the FMHF in Galen has grown significantly in recent years; however, this growth is not a straightforward function of court orders minus admissions. The waitlist is shaped by a variety of operational and legal factors, including court orders from multiple fiscal years.

Why Waitlist Numbers Are Complex

Several factors contribute to the growing waitlist:

- **Community-Based Evaluations:** Some COEs and PSEs are completed by DPHHS-approved providers in the community, without requiring admission to the FMHF in Galen.
- **Dismissed Cases:** A defendant's case may be dismissed by a court due to a determination that a defendant cannot be made fit within the reasonably foreseeable future and that alternatives to forensic commitment are inappropriate, due to speedy trial violations, or due to other Constitutional considerations. This may remove the defendant from the system before admission, which is an outcome that DPHHS seeks to avoid through expanding forensic bed capacity.
- **Non-Court-Ordered/Emergency Admissions:** Some admissions are for patients who are held up to 72 hours in connection with an "emergency detention." An emergency detention is coordinated with a county attorney, the state hospital, and other mental health facilities for individuals who are experiencing acute crises, have rapidly decompensated, or require higher security, even if they are not tied to a court order.

The following table reflects the waitlist at the end of the fiscal year and the fiscal year in which the court order was initially issued.

FY	Waitlist	Year the Court Order was Issued				
		FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
2022	40	4	36			
2023	70		4	66		
2024	91		1	5	85	
2025	128*			1	26	101

**Note: FY 2025 totals were impacted by renovations and pod reconfigurations that temporarily reduced forensic admissions capacity.*

The waitlist is not just a backlog. It is a dynamic, multi-year accumulation of unmet forensic service needs. This underscores the importance of expanding capacity and building flexible infrastructure that can absorb fluctuations in demand and operational disruptions.

Conversely, DPHHS has not observed a corresponding rapid increase in the waitlist for the civil population. When operating at full capacity, MSH typically admits around 650 civil patients per year. While admissions declined in FY 2025 due to limited bed space associated with renovations required for CMS certification, by the end of FY 2025, only five individuals were on the civil waitlist, and they were ultimately cleared for admission.

While infrastructure upgrades have temporarily impacted civil admissions, the system is functioning effectively and has adapted through initiatives such as opening MSH Grasslands. This reinforces the need to prioritize forensic expansion, where the misalignment between demand and capacity is more acute.

OPERATIONAL CONSTRAINTS AT THE FMHF IN GALEN

Renovations, pod closures, and gender-based housing needs have further reduced forensic capacity. Internal transfers (e.g., from Delta Unit to Galen) consume bed space without reducing the waitlist, furthering the need for dedicated additional capacity.

The following table reflects the number of admissions and the fiscal year in which the known court order was issued.

FY	Number of Admissions	Year the Court Order was Issued					
		Unknown	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
2022	119	76	4	39			
2023	109	26		14	69		
2024	103			1	43	59	
2025	66*					47	19

Admissions Are Not Always Court-Driven

- Annual admissions include individuals with court orders from multiple fiscal years, not just the current one.
- Some admissions are not tied to new court orders. For example, patients from the Delta Unit may be temporarily transferred back to Galen if they decompensate and require a higher-security setting.

Gender-Based Pod Reconfiguration

The growth of Montana's forensic population is further complicated by the need to separate male and female patients, which is a requirement driven by both safety and clinical standards. Over the last five years, roughly 20% of forensic orders have been for female patients.

- The FMHF in Galen consists of two large pods and one small pod.
- This layout limits flexibility in managing gender-specific housing needs, especially when demand fluctuates.

To address a growing female waitlist, over the past four years, one pod has been converted from male to female housing twice. To safely complete the transition, overall male capacity is temporarily reduced, and new male admissions are paused, worsening one component of the statewide forensic waitlist.

LEGAL RISKS OF FORENSIC BED SHORTAGES

A shortage of forensic psychiatric beds poses **serious legal and constitutional risks** for the State of Montana and its counties. These risks stem from the inability to provide timely mental health treatment to individuals who are legally entitled to it.

Due Process Violations

- Defendants found incompetent to stand trial must receive treatment to restore their competency.
- Delays in admission can result in individuals spending more time in jail than they would have if convicted, violating their constitutional right to due process.
- Prolonged incarceration without treatment can lead to worsening mental health and increased suicide risk, potentially protracting treatment at the FMHF in Galen upon admission and worsening the existing bottleneck.

Risk of Federal Intervention and Litigation

- Other states, such as Washington, have faced class-action lawsuits and federal court oversight due to delays in forensic mental health services.
- Courts have required states to:
 - Expand forensic capacity
 - Improve access to treatment
 - Pay damages for constitutional violations

Montana's Current Exposure

While Montana has not yet faced federal intervention, Department leadership believes the risk is growing. The number of **court orders dismissed due to speedy trial violations** – a direct result of forensic bed shortages – demonstrates this legal vulnerability. In FY 2024 and 2025, the number of court orders dismissed totaled 12.

Why This Matters

- Forensic patients are often held in jails while awaiting admission, where they may not receive adequate psychiatric care.
- Delays in restoration can lead to constitutional violations, including speedy trial and due process concerns.
- Civil patients, while also in need, have more diversified treatment pathways (e.g., Grasslands, community-based services), whereas forensic patients rely most exclusively on the FMHF in Galen.

- Each dismissal represents a missed opportunity for treatment, a potential public safety concern, and a legal liability for the state.

ADDITIONAL RATIONALE

National and Regional Benchmarking

By early 2026, MSH is projected to operate with:

- 142 civil beds (including 24 at MMHNCC) – 13.10 civil beds per 100,000 residents
- 125 forensic beds (including those for sentenced patients) – 11.53 beds per 100,000 residents
- Total: 24.63 state psychiatric beds per 100,000 residents

National benchmarks recommend 20–40 state psychiatric beds per 100,000 population (TAC, KFF). Montana's current capacity places it at the lower end of the national benchmark for total civil and forensic beds. The Department's desired changes to system bed capacity, as described above, will ultimately increase state psychiatric beds to 339 in total, bringing Montana's per 100,000 rate to a midpoint of 31.27.

Note: Increase in capacity is a combination of changes referenced in the chart on page 4 and the proposed new forensic facility.

National Trends in Forensic Psychiatric Populations

Across the United States, states are experiencing a sustained surge in forensic psychiatric demand, particularly related to competency to stand trial evaluations and restorations.

Growth in Competency Cases

- From 1999 to 2014, there was a 76% increase in forensic patients in state hospitals.
- From 2017 to 2024, the number of individuals found incompetent to stand trial rose by 23%.
- National forensic waitlists have ballooned — from 883 in 2019 to approximately 2,400 by 2024 — leading to overcrowding in jails and emergency departments.

Other State Responses: Expanding Forensic Capacity

According to a July 2025 report by NRI, Inc., 11 states added over 1,300 forensic beds between 2022 and 2024, and an additional 317 beds were added in 2025 alone.

- Mississippi: Built an 83-bed maximum-security forensic unit, doubling capacity to 123 beds.
- Kansas: Constructed two new state psychiatric hospitals following a legal settlement.
- Pennsylvania: Built a 270-bed forensic facility at Norristown State Hospital.
- New York: Added 125 beds in four months, with 325 total added under the current governor's administration.

PROJECTED IMPACT OF THE 32-BED EXPANSION

- **DPHHS projects that adding 32 forensic beds would increase annual capacity to serve approximately 170 patients.**
- This represents a 60% increase in the availability of care, significantly reducing wait times and improving access to timely evaluation and restoration services.
- Montana's forensic system is under-resourced relative to national benchmarks and uniquely strained by legal sentencing practices.
- Expanding forensic capacity is a strategic, data-driven response to both current deficiencies and future needs.

WHY THE INTEREST IN EASTERN MONTANA?

Geographic Balance and Access

Because Eastern and Central Montana currently lack essential forensic infrastructure, counties are forced to transport patients long distances to the FMHF in Galen, which delays care and increases costs. Establishing a new facility in Eastern Montana would improve geographic balance.

Strategic Advantages

The proposed 32-bed forensic facility is being considered for Eastern Montana, a region with limited access to forensic psychiatric services and one that provides a growing share of the state's forensic admissions. This location is expected to:

- Improve geographic access for law enforcement, court systems, defendants, and families in Eastern and Central Montana.
- Reduce transportation burdens for counties that currently face long distances when transporting defendants to the FMHF in Galen.
- Support regional equity by expanding behavioral health infrastructure beyond the western corridor.

THE IMPORTANCE OF A FLEXIBLE DESIGN

The facility will be designed for medium- to low-security forensic care, which allows for conversion to civil use if future demand shifts and DPHHS determines a need to repurpose pods/units. Designing the new forensic facility with scalability and adaptability in mind offers significant long-term cost savings.

A modular layout and medium- to low-security infrastructure will allow the facility to be scaled up or down based on changing demand, whether that means expanding forensic capacity, converting pods/units for civil use, or adjusting gender-specific housing.

This flexibility reduces the need for costly new construction or major retrofits in the future. By investing in a facility that can evolve with Montana's behavioral health landscape, the state can maximize the return on capital investment, avoid duplication of infrastructure, and ensure that taxpayer dollars are used efficiently and effectively over time.

With the new facility, DPHHS will be better positioned to provide state psychiatric services regardless of what type of capacity (forensic or civil) is most strained in future years.

CONCLUSION

Montana's forensic psychiatric system is under significant and growing strain. Without immediate investment in expanded capacity, the state faces serious and far-reaching consequences not only for individuals with mental illness, but also for the legal system, public safety, and public finances.

County jails are increasingly housing individuals who require psychiatric care, not incarceration. These facilities are not equipped to provide appropriate treatment, leading to worsening symptoms, increased risk of self-harm, and potential violations of constitutional rights. Concurrently, the lack of available forensic beds has forced courts to dismiss charges or release individuals without treatment, contributing to a cycle of relapse, homelessness, and recidivism. These consequences often adversely impact the civil mental health system, which is not designed to manage forensic-level acuity.

The proposed 32-bed forensic facility in Eastern Montana offers a strategic, flexible, and future-ready solution. It will:

- Relieve pressure on local governments and jails, as well as reduce legal exposure
- Improve access to timely, appropriate treatment
- Expand geographic equity in behavioral health services

- Increase forensic evaluation capacity by 60%
- Boost annual forensic care delivery from 106 to 170 patients (estimated)
- Provide long-term adaptability for DPHHS to shift between forensic and civil use as needed

By designing the facility with scalability in mind, Montana can avoid costly retrofits or duplicative construction in the future. This investment not only addresses today's most pressing behavioral health challenge, but it also builds a more resilient, efficient, and balanced system for the future.

Inaction carries a high cost. DPHHS's desired expansion of forensic beds is a fiscally responsible, legally sound, and clinically necessary way to continue building a stronger statewide behavioral health system for future generations.