HJ 23 Youth Court Act Reform

Major changes to simplify and streamline the Montana Youth Court Act

1. Move transfer hearings to the end of the youth court process.

Our current law plays "ping-pong" by having some offenses start in youth court and other more serious offenses start in district court, also known as "being tried as an adult," and then holding a transfer hearing to go between the courts. A transfer hearing is a contentious process, especially in the early stages of the case when not much is known. District courts and youth courts have the same judges, the same courtrooms, and very similar pretrial and trial procedures. It is sentencing where the two courts have the biggest divergence. It would be simpler to start every offense in youth court, then, following a trial, admission, or plea bargain, decide if the youth will be sentenced as a youth or as an adult for the more serious offenses.

2. Tackle sentencing provisions for youths aging into adulthood.

While the law is fairly clean for youths up until the age of 18, it is not for youth from age 19 to 21. There are also many services not available for youth who pass age 18. There needs to be a balance to make sure youth offenses committed near the age of 18 still provide an opportunity for reform and a chance not to enter the adult system, while still reserving that option for the more serious offenses. Potential reforms include:
- A clear statute for available dispositions under the informal proceeding process and when probation is violated.
- A clear statute for available dispositions under the formal proceeding process (including the consent decree) and when probation is violated.
-A cutoff of one year or age 21 for probation/dispositions for less serious offenses, handled by youth probation officers.
-For more serious offenses, consolidate the 206 and 208 transfer criteria to set disposition options up to age 25, including adult probation supervision.

3. Reconsider the "YINI" classification in terms of the formal process.

The Youth in Need of Intervention code is rarely used and has created a lot of procedural clutter. The YINI statute, when used, is largely directed towards truancy curfew. The process could be simplified so that youth probation officers can resolve these matters through the informal proceeding process.

4. Incorporate provisions from little-used parts of the code into protections that apply to all youth sentenced as adults.

The Extended Jurisdiction Juvenile Act (EJJA) and the Criminally Convicted Youth Act (CCYA) are not well understood or applied. These acts could be replaced with a discrete set of statutes that apply to youth tried and sentenced as adults. These protections would include the unique sentence review proceeding from the CCYA and the opportunity for exceptions to mandatory minimums under the EJJA. This could take some of the "sting" of sentencing youths under the adult system and make it easier for youths to reach plea agreements for the more serious offenses.

Additional matters worth consideration

Can "youth court committees" and "youth placement committees" be combined?

Is concurrent jurisdiction with justice courts still appropriate for alcohol, tobacco, and gambling violations? Should under-18 youth have a different process?

Should we use terms such as "pre-trial diversion", "deferred," and "suspended" in youth court dispositions, similar to adult court?

Should we revisit the term "delinquent youth"?

Can we look at how other states have reformed their youth statutes?

Should we provide more resources and training to adult probation officers who may have caseloads of young offenders? Can adult and youth probation be better coordinated?

Is a specialized court for "emerging adults" appropriate?

Should we revisit the matter of whether youth court records should be public or private, or maintain the current balance of providing some public records while not disclosing others?

Questions?
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