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As of: July 8, 2008 (11:06am)

LCyth4

1 **** Bill No. ****

2 Introduced By *****

3 By Request of the *****

4

5 A Bill for an Act entitled: "An Act revising the youth court act;
6 defining terms; revising mental health evaluation and court-
7 ordered placement of justice-involved youth who may have a mental
8 illness or other disabling condition; requiring a mental health
9 evaluation before sentencing a youth for placement in a youth
10 correctional facility; prohibiting any youth from being placed in
11 a state youth correctional facility for the purposes of an
12 evaluation; and amending sections 41-5-103, 41-5-132, 41-5-1503,
13 41-5-1504, 41-5-1512, 41-5-1513, and 52-5-126, MCA."

14

15 Be it enacted by the Legislature of the State of Montana:

16

17 **Section 1.** Section 41-5-103, MCA, is amended to read:

18 **"41-5-103. Definitions.** As used in the Montana Youth Court
19 Act, unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Adult" means an individual who is 18 years of age or
22 older.

23 (2) "Agency" means any entity of state or local government
24 authorized by law to be responsible for the care or
25 rehabilitation of youth.

26 (3) "Appropriate professional" means:

27 (a) for a mental health evaluation and determination, a

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1 professional person as defined in 53-21-102(16); and

2 (b) for an evaluation to determine if a youth has a
3 developmental disability, a developmental disabilities
4 professional, as defined in 53-20-201(7); and

5 (c) for an evaluation to determine if a youth has a
6 traumatic brain injury or other disability, a licensed
7 psychologist, a licensed physician, or a licensed advanced
8 practice registered nurse.

9 ~~(3)~~(4) "Assessment officer" means a person who is
10 authorized by the court to provide initial intake and evaluation
11 for a youth who appears to be in need of intervention or an
12 alleged delinquent youth.

13 ~~(4)~~(5) "Commit" means to transfer legal custody of a youth
14 to the department or to the youth court.

15 ~~(5)~~(6) "Correctional facility" means a public or private,
16 physically secure residential facility under contract with the
17 department and operated solely for the purpose of housing
18 adjudicated delinquent youth.

19 ~~(6)~~(7) "Cost containment pool" means funds allocated by the
20 department under 41-5-132 for distribution by the cost
21 containment review panel.

22 ~~(7)~~(8) "Cost containment review panel" means the panel
23 established in 41-5-131.

24 ~~(8)~~(9) "Court", when used without further qualification,
25 means the youth court of the district court.

26 ~~(9)~~(10) "Criminally convicted youth" means a youth who has
27 been convicted in a district court pursuant to 41-5-206.

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1 ~~(10)~~~~(a)~~ (11) (a) "Custodian" means a person, other than a
2 parent or guardian, to whom legal custody of the youth has been
3 given.

4 (b) The term does not include a person who has only
5 physical custody.

6 ~~(11)~~(12) "Delinquent youth" means a youth who is adjudicated
7 under formal proceedings under the Montana Youth Court Act as a
8 youth:

9 (a) who has committed an offense that, if committed by an
10 adult, would constitute a criminal offense; or

11 (b) who has been placed on probation as a delinquent youth
12 and who has violated any condition of probation.

13 ~~(12)~~(13) "Department" means the department of corrections
14 provided for in 2-15-2301.

15 ~~(13)~~~~(a)~~ (14) (a) "Department records" means information or
16 data, either in written or electronic form, maintained by the
17 department pertaining to youth who are committed under
18 41-5-1513(1) (b) or who are under parole supervision.

19 (b) Department records do not include information provided
20 by the department to the department of public health and human
21 services' management information system or information maintained
22 by the youth court through the office of court administrator.

23 ~~(14)~~(15) "Detention" means the holding or temporary
24 placement of a youth in the youth's home under home arrest or in
25 a facility other than the youth's own home for:

26 (a) the purpose of ensuring the continued custody of the
27 youth at any time after the youth is taken into custody and

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1 before final disposition of the youth's case;

2 (b) contempt of court or violation of a valid court order;

3 or

4 (c) violation of a youth parole agreement.

5 ~~(15)~~(16) "Detention facility" means a physically restricting
6 facility designed to prevent a youth from departing at will. The
7 term includes a youth detention facility, short-term detention
8 center, and regional detention facility.

9 (17) "Disabling condition" means:

10 (a) a psychiatric impairment with persistent patterns of
11 emotional, psychological, or behavioral dysfunction of such
12 severity as to require 24-hour supervised care in a residential
13 treatment facility, as defined at 50-5-101(52), or a hospital, as
14 defined in 50-5-101(28), to adequately treat or manage the
15 youth's condition.

16 (b) a developmental disability of such severity that the
17 youth is incapable of benefiting from the program offered in the
18 state youth correctional setting.

19 (c) a severe traumatic brain injury, or other disability
20 that renders the youth incapable of benefiting from the program
21 offered in the state youth correctional setting.

22 ~~(16)~~(18) "Emergency placement" means placement of a youth in
23 a youth care facility for less than 45 days to protect the youth
24 when there is no alternative placement available.

25 ~~(17)~~(19) "Family" means the parents, guardians, legal
26 custodians, and siblings or other youth with whom a youth
27 ordinarily lives.

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1 ~~(18)~~(20) "Final disposition" means the implementation of a
2 court order for the disposition or placement of a youth as
3 provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512,
4 41-5-1513, and 41-5-1522 through 41-5-1525.

5 ~~(19)~~~~(a)~~ (21) (a) "Formal youth court records" means
6 information or data, either in written or electronic form, on
7 file with the clerk of district court pertaining to a youth under
8 the jurisdiction of the youth court and includes petitions,
9 motions, other filed pleadings, court findings, verdicts, orders
10 and decrees, and predispositional studies.

11 (b) The term does not include information provided by the
12 youth court to the department of public health and human
13 services' management information system.

14 ~~(20)~~(22) "Foster home" means a private residence licensed by
15 the department of public health and human services for placement
16 of a youth.

17 ~~(21)~~(23) "Guardian" means an adult:

18 (a) who is responsible for a youth and has the reciprocal
19 rights, duties, and responsibilities with the youth; and

20 (b) whose status is created and defined by law.

21 ~~(22)~~(24) "Habitual truancy" means recorded absences of 10
22 days or more of unexcused absences in a semester or absences
23 without prior written approval of a parent or a guardian.

24 ~~(23)~~~~(a)~~ (25) (a) "Holdover" means a room, office, building,
25 or other place approved by the board of crime control for the
26 temporary detention and supervision of youth in a physically
27 unrestricting setting for a period not to exceed 24 hours while

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1 the youth is awaiting a probable cause hearing, release, or
2 transfer to an appropriate detention or shelter care facility.

3 (b) The term does not include a jail.

4 ~~(24)~~ ~~(a)~~ (26) (a) "Informal youth court records" means
5 information or data, either in written or electronic form,
6 maintained by youth court probation offices pertaining to a youth
7 under the jurisdiction of the youth court and includes reports of
8 preliminary inquiries, youth assessment materials, medical
9 records, school records, and supervision records of probationers.

10 (b) The term does not include information provided by the
11 youth court to the department of public health and human
12 services' management information system.

13 ~~(25)~~ ~~(a)~~ (27) (a) "Jail" means a facility used for the
14 confinement of adults accused or convicted of criminal offenses.
15 The term includes a lockup or other facility used primarily for
16 the temporary confinement of adults after arrest.

17 (b) The term does not include a colocated juvenile
18 detention facility that complies with 28 CFR, part 31.

19 ~~(26)~~ (28) "Judge", when used without further qualification,
20 means the judge of the youth court.

21 ~~(27)~~ (29) "Juvenile home arrest officer" means a
22 court-appointed officer administering or supervising juveniles in
23 a program for home arrest, as provided for in Title 46, chapter
24 18, part 10.

25 ~~(28)~~ (30) "Law enforcement records" means information or
26 data, either in written or electronic form, maintained by a law
27 enforcement agency, as defined in 7-32-201, pertaining to a youth

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1 covered by this chapter.

2 ~~(29)~~ ~~(a)~~ (31) (a) "Legal custody" means the legal status
3 created by order of a court of competent jurisdiction that gives
4 a person the right and duty to:

5 (i) have physical custody of the youth;

6 (ii) determine with whom the youth shall live and for what
7 period;

8 (iii) protect, train, and discipline the youth; and

9 (iv) provide the youth with food, shelter, education, and
10 ordinary medical care.

11 (b) An individual granted legal custody of a youth shall
12 personally exercise the individual's rights and duties as
13 guardian unless otherwise authorized by the court entering the
14 order.

15 ~~(30)~~ (32) "Necessary parties" includes the youth and the
16 youth's parents, guardian, custodian, or spouse.

17 ~~(31)~~ ~~(a)~~ (33) (a) "Out-of-home placement" means placement of
18 a youth in a program, facility, or home, other than a custodial
19 parent's home, for purposes other than preadjudicatory detention.

20 (b) The term does not include shelter care or emergency
21 placement of less than 45 days.

22 ~~(32)~~ ~~(a)~~ (34) (a) "Parent" means the natural or adoptive
23 parent.

24 (b) The term does not include:

25 (i) a person whose parental rights have been judicially
26 terminated; or

27 (ii) the putative father of an illegitimate youth unless the

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1 putative father's paternity is established by an adjudication or
2 by other clear and convincing proof.

3 ~~(33)~~(35) "Probable cause hearing" means the hearing provided
4 for in 41-5-332.

5 ~~(34)~~(36) "Regional detention facility" means a youth
6 detention facility established and maintained by two or more
7 counties, as authorized in 41-5-1804.

8 ~~(35)~~(37) "Restitution" means payments in cash to the victim
9 or with services to the victim or the general community when
10 these payments are made pursuant to a consent adjustment, consent
11 decree, or other youth court order.

12 ~~(36)~~(38) "Running away from home" means that a youth has
13 been reported to have run away from home without the consent of a
14 parent or guardian or a custodian having legal custody of the
15 youth.

16 ~~(37)~~(39) "Secure detention facility" means a public or
17 private facility that:

18 (a) is used for the temporary placement of youth or
19 individuals accused or convicted of criminal offenses or as a
20 sanction for contempt of court, violation of a parole agreement,
21 or violation of a valid court order; and

22 (b) is designed to physically restrict the movements and
23 activities of youth or other individuals held in lawful custody
24 of the facility.

25 ~~(38)~~(40) "Serious juvenile offender" means a youth who has
26 committed an offense that would be considered a felony offense if
27 committed by an adult and that is an offense against a person, an

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1 offense against property, or an offense involving dangerous
2 drugs.

3 ~~(39)~~(41) "Shelter care" means the temporary substitute care
4 of youth in physically unrestricting facilities.

5 ~~(40)~~(42) "Shelter care facility" means a facility used for
6 the shelter care of youth. The term is limited to the facilities
7 enumerated in 41-5-347.

8 ~~(41)~~(43) "Short-term detention center" means a detention
9 facility licensed by the department for the temporary placement
10 or care of youth, for a period not to exceed 10 days excluding
11 weekends and legal holidays, pending a probable cause hearing,
12 release, or transfer of the youth to an appropriate detention
13 facility, youth assessment center, or shelter care facility.

14 ~~(42)~~(44) "State youth correctional facility" means the Pine
15 Hills youth correctional facility in Miles City or the Riverside
16 youth correctional facility in Boulder.

17 ~~(43)~~(45) "Substitute care" means full-time care of youth in
18 a residential setting for the purpose of providing food, shelter,
19 security and safety, guidance, direction, and, if necessary,
20 treatment to youth who are removed from or are without the care
21 and supervision of their parents or guardians.

22 (46) "Treatment facility" means a hospital, facility, or
23 center licensed or certified by the department of public health
24 and human services or by the appropriate licensing or
25 certification authority in another state that provides treatment
26 and care to youth with a disabling condition. A correctional
27 institution or detention center is not a treatment facility.

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1 ~~(44)~~(47) "Victim" means:

2 (a) a person who suffers property, physical, or emotional
3 injury as a result of an offense committed by a youth that would
4 be a criminal offense if committed by an adult;

5 (b) an adult relative of the victim, as defined in
6 subsection ~~(44)~~~~(a)~~(47) (a), if the victim is a minor; and

7 (c) an adult relative of a homicide victim.

8 ~~(45)~~(48) "Youth" means an individual who is less than 18
9 years of age without regard to sex or emancipation.

10 ~~(46)~~(49) "Youth assessment" means a multidisciplinary
11 assessment of a youth as provided in 41-5-1203.

12 ~~(47)~~(50) "Youth assessment center" means a staff-secured
13 location that is licensed by the department of public health and
14 human services to hold a youth for up to 10 days for the purpose
15 of providing an immediate and comprehensive community-based youth
16 assessment to assist the youth and the youth's family in
17 addressing the youth's behavior.

18 ~~(48)~~(51) "Youth care facility" has the meaning provided in
19 52-2-602.

20 ~~(49)~~(52) "Youth court" means the court established pursuant
21 to this chapter to hear all proceedings in which a youth is
22 alleged to be a delinquent youth or a youth in need of
23 intervention and includes the youth court judge, probation
24 officers, and assessment officers.

25 ~~(50)~~(53) "Youth detention facility" means a secure detention
26 facility licensed by the department for the temporary substitute
27 care of youth that is:

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1 (a) (i) operated, administered, and staffed separately and
2 independently of a jail; or

3 (ii) a colocated secure detention facility that complies
4 with 28 CFR, part 31; and

5 (b) used exclusively for the lawful detention of alleged or
6 adjudicated delinquent youth or as a sanction for contempt of
7 court, violation of a parole agreement, or violation of a valid
8 court order.

9 ~~(51)~~(54) "Youth in need of intervention" means a youth who
10 is adjudicated as a youth and who:

11 (a) commits an offense prohibited by law that if committed
12 by an adult would not constitute a criminal offense, including
13 but not limited to a youth who:

14 (i) violates any Montana municipal or state law regarding
15 alcoholic beverages; or

16 (ii) continues to exhibit behavior, including running away
17 from home or habitual truancy, beyond the control of the youth's
18 parents, foster parents, physical custodian, or guardian despite
19 the attempt of the youth's parents, foster parents, physical
20 custodian, or guardian to exert all reasonable efforts to
21 mediate, resolve, or control the youth's behavior; or

22 (b) has committed any of the acts of a delinquent youth but
23 whom the youth court, in its discretion, chooses to regard as a
24 youth in need of intervention."

25 {Internal References to 41-5-103:

26 x7-6-501	x7-6-501	x20-4-134	x20-4-502
27 x20-5-321	x20-9-327	x23-5-158	x41-5-1416
28 x41-5-1416	x41-5-1908	x44-4-401	x45-5-501
29 x45-5-624	x45-8-318	x52-2-602	x52-2-612

1 x52-5-101 x53-1-203}

2
3 **Section 2.** Section 41-5-132, MCA, is amended to read:

4 **"41-5-132. Cost containment pool -- allocation of**
5 **appropriated funds -- authorization of allocation from pool --**
6 **transfer of unexpended funds.** (1) (a) The department shall
7 establish a cost containment pool. After considering the cost
8 containment review panel's recommendation as provided for in
9 subsection (1)(b), the department shall allocate to the cost
10 containment pool at the beginning of each fiscal year not less
11 than \$1 million from the funds appropriated for juvenile
12 placements.

13 (b) The cost containment review panel shall submit to the
14 department a recommended amount to be allocated to the cost
15 containment pool at least 1 month prior to the start of each
16 fiscal year. The cost containment review panel shall establish a
17 methodology for determining the recommended amount to be
18 allocated to the cost containment pool.

19 (2) According to criteria and procedures adopted by the
20 cost containment review panel, the cost containment review panel
21 may authorize an allocation from the cost containment pool to a
22 judicial district that has exceeded its annual allocation under
23 41-5-130 for juvenile out-of-home placements, programs, and
24 services. The judicial district shall request an allocation from
25 the cost containment review panel before exceeding its annual
26 allocation.

27 (3) (a) According to criteria and procedures established by

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1 the cost containment review panel, the cost containment review
2 panel may authorize an allocation from the cost containment pool
3 to the department for a request submitted under subsection
4 (3) (b).

5 (b) The department may request at the end of the fiscal
6 year that the cost containment review panel reimburse the
7 department from the cost containment pool for costs incurred
8 under ~~41-5-1504(3)~~ 41-5-1504(2) for placing a youth found to be
9 suffering from a ~~mental disorder~~ disabling condition, including
10 costs for transporting the youth. Before requesting
11 reimbursement, the department shall expend its state youth
12 correctional facility budgets for ~~mental health~~ alternative
13 placements and any parental contributions or federal funds, for
14 which the department has spending authority, or private insurance
15 payments received for treatment.

16 (4) In addition to any disbursement made by the cost
17 containment review panel under subsection (2) or (3), the
18 department may expend funds from the cost containment pool to
19 reimburse cost containment review panel members or alternates for
20 travel expenses, as provided in 2-18-501 through 2-18-503, and to
21 pay the actual costs incurred in conducting a cost containment
22 review panel meeting, excluding salary and benefits for employees
23 providing support services to the cost containment review panel.

24 (5) The department shall transfer any amount remaining in
25 the cost containment pool at the end of each fiscal year to the
26 office of court administrator for deposit in the youth court
27 intervention and prevention account provided for in 41-5-2011."

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1 {Internal References to 41-5-132:
2 x41-5-103 x41-5-113 x41-5-130 x41-5-130
3 x41-5-131 x41-5-131 x41-5-131 x41-5-2006
4 x41-5-2011 x41-5-2012}

5

6 **Section 3.** Section 41-5-1503, MCA, is amended to read:

7 **"41-5-1503. Medical or psychological mental health**
8 **evaluation of youth -- when required -- payment of costs --**
9 **urinalysis.** (1) The youth court:

10 _____ (a) may order a youth to receive a medical or ~~psychological~~
11 mental health evaluation at any time prior to final disposition
12 if the youth waives the youth's constitutional rights in the
13 manner provided for in 41-5-331.

14 (b) shall, before a dispositional hearing that may result
15 in a youth being placed in a state youth correctional facility,
16 order a mental health evaluation, unless an evaluation sufficient
17 to determine if the youth has a disabling condition has already
18 been performed by an appropriate professional and is current
19 within 6 months before the dispositional hearing. A mental health
20 evaluation ordered pursuant to this subsection (1) (b) must be
21 conducted by a professional person, as defined in 53-21-102(16).
22 The evaluation report shall include a diagnosis, a determination
23 about whether the youth has a disabling condition, and
24 recommendations. If the professional person believes the youth
25 may have a disabling condition under 41-5-103(17) (b) or 41-5-
26 103(17) (c) but is not an appropriate professional for making that
27 determination, the professional person shall recommend further
28 evaluation by an appropriate professional.

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1 (2) (a) Except as provided in subsection (2) (b), the youth
2 court shall pay for the cost of the evaluation from its judicial
3 district's allocation provided for in 41-5-130 or 41-5-2012.

4 ~~(2) (b)~~ The youth court shall determine the financial
5 ability of the youth's parents or guardians to pay the cost of an
6 evaluation ordered by the court under ~~subsection (1)~~ this
7 section. If they are financially able, the court shall order the
8 youth's parents or guardians to pay all or part of the cost of
9 the evaluation.

10 (3) ~~Subject to 41-5-1512(1)(o)(i), the~~ The youth court may
11 not order ~~an evaluation or~~ placement of a youth at a state youth
12 correctional facility for evaluation ~~unless the youth is found to~~
13 ~~be a delinquent youth or is alleged to have committed an offense~~
14 ~~that is listed in 41-5-206.~~

15 (4) An evaluation of a youth may not be performed at the
16 Montana state hospital.

17 (5) In a proceeding alleging a youth to be a delinquent
18 youth, upon a finding of an offense related to use of alcohol or
19 illegal drugs, the court may order the youth to undergo
20 urinalysis for the purpose of determining whether the youth is
21 using alcoholic beverages or illegal drugs."

22 {Internal References to 41-5-1503:
23 x7-6-501 x41-5-103 x41-5-1904}

24
25 **Section 4.** Section 41-5-1504, MCA, is amended to read:

26 "~~41-5-1504. Finding of suffering from mental disorder and~~
27 ~~meeting other criteria -- rights~~ disabling condition --

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1 **limitation on placement.** (1) ~~A youth who is found to be suffering~~
2 ~~from a mental disorder, as defined in 53-21-102, and who meets~~
3 ~~the criteria in 53-21-126(1) is entitled to all rights provided~~
4 ~~by 53-21-114 through 53-21-119.~~

5 (2) ~~A youth who, prior to placement or sentencing, is found~~
6 ~~by the court to be suffering from a mental disorder, as defined~~
7 ~~in 53-21-102, and who meets the criteria in 53-21-126(1)~~
8 disabling condition may not be committed or sentenced to a state
9 youth correctional facility.

10 ~~(3)~~(2) A youth who is found by the court to be suffering
11 ~~from a mental disorder, as defined in 53-21-102, and who meets~~
12 ~~the criteria in 53-21-126(1)~~ disabling condition after placement
13 in or sentencing to a state youth correctional facility must be
14 moved to a more appropriate placement in response to the youth's
15 mental health treatment needs ~~and consistent with the disposition~~
16 ~~alternatives available in 53-21-127.~~

17 {Internal References to 41-5-1504:

18 x41-5-103 a41-5-132 x41-5-1512 x41-5-1513}

19
20 **Section 5.** Section 41-5-1512, MCA, is amended to read:

21 **"41-5-1512. Disposition of youth in need of intervention or**
22 **youth who violate consent adjustments.** (1) If a youth is found to
23 be a youth in need of intervention or to have violated a consent
24 adjustment, the youth court may enter its judgment making one or
25 more of the following dispositions:

26 (a) place the youth on probation. The youth court shall
27 retain jurisdiction in a disposition under this subsection.

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1 (b) place the youth in a residence that ensures that the
2 youth is accountable, that provides for rehabilitation, and that
3 protects the public. Before placement, the sentencing judge shall
4 seek and consider placement recommendations from the youth
5 placement committee.

6 (c) commit the youth to the youth court for the purposes of
7 placement in a private, out-of-home facility subject to the
8 conditions in 41-5-1522. In an order committing a youth to the
9 youth court, the court shall determine whether continuation in
10 the youth's own home would be contrary to the welfare of the
11 youth and whether reasonable efforts have been made to prevent or
12 eliminate the need for removal of the youth from the youth's
13 home.

14 (d) order restitution for damages that result from the
15 offense for which the youth is disposed by the youth or by the
16 person who contributed to the delinquency of the youth;

17 (e) require the performance of community service;

18 (f) require the youth, the youth's parents or guardians, or
19 the persons having legal custody of the youth to receive
20 counseling services;

21 (g) require the medical and ~~psychological~~ mental health
22 evaluation of the youth, the youth's parents or guardians, or the
23 persons having legal custody of the youth;

24 (h) require the parents, guardians, or other persons having
25 legal custody of the youth to furnish services the court may
26 designate;

27 (i) order further care, treatment, evaluation, or relief

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1 that the court considers beneficial to the youth and the
2 community;

3 (j) ~~subject to the provisions of 41-5-1504,~~ commit the
4 youth to the youth court for placement in a mental health
5 treatment facility if, based upon the determination and testimony
6 of ~~a~~ an appropriate professional ~~person as defined in 53-21-102,~~
7 the court finds that the youth is ~~found to be~~ suffering from a
8 ~~mental disorder, as defined in 53-21-102, and meets the criteria~~
9 ~~in 53-21-126(1)~~ disabling condition;

10 (k) place the youth under home arrest as provided in Title
11 46, chapter 18, part 10;

12 (l) order confiscation of the youth's driver's license, if
13 the youth has one, by the probation officer for a specified
14 period of time, not to exceed 90 days. The probation officer
15 shall notify the department of justice of the confiscation and
16 its duration. The department of justice may not enter the
17 confiscation on the youth's driving record. The probation officer
18 shall notify the department of justice when the confiscated
19 driver's license has been returned to the youth. A youth's
20 driver's license may be confiscated under this subsection more
21 than once. The probation officer may, in the probation officer's
22 discretion and with the concurrence of a parent or guardian,
23 return a youth's confiscated driver's license before the
24 termination of the time period for which it had been confiscated.
25 The confiscation may not be used by an insurer as a factor in
26 determining the premium or part of a premium to be paid for motor
27 vehicle insurance covering the youth or a vehicle or vehicles

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1 driven by the youth and may not be used as grounds for denying
2 coverage for an accident or other occurrence under an existing
3 policy.

4 (m) order the youth to pay a contribution covering all or a
5 part of the costs for adjudication, disposition, and attorney
6 fees for the costs of prosecuting or defending the youth and
7 costs of detention, supervision, care, custody, and treatment of
8 the youth, including the costs of counseling;

9 (n) order the youth to pay a contribution covering all or a
10 part of the costs of a victim's counseling;

11 (o) defer imposition of sentence for up to 45 days for a
12 placement evaluation at a suitable program or facility with the
13 following conditions:

14 (i) The court may not order placement for this evaluation
15 at a youth correctional facility ~~of a youth who has committed an~~
16 ~~offense that would not be a criminal offense if committed by an~~
17 ~~adult or a youth who has violated a consent adjustment.~~

18 (ii) ~~The placement for evaluation must be on a~~
19 ~~space-available basis.~~ Except as provided in subsection
20 (1)(o)(iii), the court shall pay the cost of the placement for
21 evaluation from its judicial district's allocation provided for
22 in 41-5-130 or 41-5-2012.

23 (iii) The court may require the youth's parents or guardians
24 to pay a contribution covering all or a part of the costs of the
25 evaluation if the court determines after an examination of
26 financial ability that the parents or guardians are able to pay
27 the contribution. Any remaining unpaid costs of evaluation are

1 the financial responsibility of the judicial district of the
2 court that ordered the evaluation.

3 (p) order placement of a youth in a youth assessment center
4 for up to 10 days;

5 (q) order the youth to participate in mediation that is
6 appropriate for the offense committed.

7 (2) The court may not order a local government entity to
8 pay for care, treatment, intervention, or placement. A court may
9 not order a local government entity to pay for evaluation and
10 in-state transportation of a youth.

11 (3) The court may not order a state government entity to
12 pay for care, treatment, intervention, placement, or evaluation
13 that results in a deficit in the annual allocation established
14 for that district under 41-5-130 without approval from the cost
15 containment review panel."

16 {Internal References to 41-5-1512:
17 x7-6-501 x23-5-158 x40-4-204 x41-5-103
18 x41-5-121 x41-5-121 x41-5-208 x41-5-208
19 a41-5-1503 x41-5-1513 x41-5-1513 x41-5-1521
20 x41-5-1604 x41-5-1605 x41-5-2004 x41-5-2005
21 x45-5-624 x45-5-624}

22
23 **Section 6.** Section 41-5-1513, MCA, is amended to read:

24 **"41-5-1513. Disposition -- delinquent youth --**
25 **restrictions.** (1) If a youth is found to be a delinquent youth,
26 the youth court may enter its judgment making one or more of the
27 following dispositions:

28 (a) any one or more of the dispositions provided in
29 41-5-1512;

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1 (b) subject to 41-5-1503, 41-5-1504, 41-5-1512(1)(o)(i),
2 and 41-5-1522 and this section, commit the youth to the
3 department for placement in a state youth correctional facility
4 and recommend to the department that the youth not be released
5 until the youth reaches 18 years of age. The provisions of
6 41-5-355 relating to alternative placements apply to placements
7 under this subsection (1)(b). The court may not place a youth
8 adjudicated to be a delinquent youth in a state youth
9 correctional facility for an act that would be a misdemeanor if
10 committed by an adult unless:

11 (i) the youth committed four or more misdemeanors in the
12 prior 12 months;

13 ~~(ii) a psychiatrist or a psychologist licensed by the state~~
14 ~~or a licensed clinical professional counselor or a licensed~~
15 ~~clinical social worker has evaluated the youth and an evaluation~~
16 ~~conducted pursuant to 41-5-1503 to determine if a youth has a~~
17 ~~disabling condition recommends placement in a state youth~~
18 correctional facility; and

19 (iii) the court finds that the youth will present a danger
20 to the public if the youth is not placed in a state youth
21 correctional facility.

22 (c) subject to the provisions of subsection (5), require a
23 youth found to be a delinquent youth, as the result of the
24 commission of an offense that would be a violent offense, as
25 defined in 46-23-502, if committed by an adult, to register and
26 remain registered as a violent offender pursuant to Title 46,
27 chapter 23, part 5. The youth court shall retain jurisdiction in

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1 a disposition under this subsection to ensure registration
2 compliance.

3 (d) in the case of a delinquent youth who has been
4 adjudicated for a sexual offense, as defined in 46-23-502, and is
5 required to register as a sexual offender pursuant to Title 46,
6 chapter 23, part 5, exempt the youth from the duty to register if
7 the court finds that:

8 (i) the youth has not previously been found to have
9 committed or been adjudicated for a sexual offense, as defined in
10 46-23-502; and

11 (ii) registration is not necessary for protection of the
12 public and that relief from registration is in the public's best
13 interest;

14 (e) in the case of a delinquent youth who is determined by
15 the court to be a serious juvenile offender, the judge may
16 specify that the youth be placed in a state youth correctional
17 facility, subject to the provisions of subsection (2), if the
18 judge finds that the placement is necessary for the protection of
19 the public. The court may order the department to notify the
20 court within 5 working days before the proposed release of a
21 youth from a youth correctional facility. Once a youth is
22 committed to the department for placement in a state youth
23 correctional facility, the department is responsible for
24 determining an appropriate date of release or an alternative
25 placement.

26 (f) impose a fine as authorized by law if the violation
27 alleged would constitute a criminal offense if committed by an

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1 adult.

2 (2) If a youth has been adjudicated for a sexual offense,
3 as defined in 46-23-502, the youth court shall:

4 (a) prior to disposition, order a psychosexual evaluation
5 that must comply with the provisions of 46-18-111;

6 (b) designate the youth's risk level pursuant to 46-23-509;
7 and

8 (c) require completion of sexual offender treatment.

9 (3) The court may not order a local government entity to
10 pay for care, treatment, intervention, or placement. A court may
11 not order a local government entity to pay for evaluation and
12 in-state transportation of a youth, except as provided in
13 52-5-109.

14 (4) The court may not order a state government entity to
15 pay for care, treatment, intervention, placement, or evaluation
16 that results in a deficit in the annual allocation established
17 for that district under 41-5-130 without approval from the cost
18 containment review panel.

19 (5) The duration of registration for a youth who is
20 required to register as a sexual or violent offender must be as
21 provided in 46-23-506, except that the court may, based on
22 specific findings of fact, order a lesser duration of
23 registration."

24 {Internal References to 41-5-1513:

25 x7-6-501	x41-5-103	x41-5-103	x41-5-121
26 x41-5-121	x41-5-121	x41-5-121	x41-5-208
27 x41-5-208	x41-5-1521	x41-5-1604	x41-5-1604
28 x41-5-1605	x41-5-2004	x41-5-2005	x41-5-2005
29 x46-23-504}			

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Section 7. Section 52-5-126, MCA, is amended to read:

"52-5-126. Youth parole agreement. ~~(1)~~ A youth released by the department of corrections from the custody of one of the state youth correctional facilities to the supervision, custody, and control of the department shall, before the youth's release, sign a parole agreement containing:

~~(a)~~ (1) a statement of the terms and conditions of the release, including a list of the acts that, if committed by the youth, may result in a return to the facility; and

~~(b)~~ (2) a statement that if the department or any person alleges any violation of the terms and conditions of the agreement, the youth is entitled to a hearing as provided for in 52-5-129 before being returned to the facility.

~~(2) A youth released from a state youth correctional facility for commitment to a mental health facility pursuant to Title 53, chapter 21, part 1, shall sign a parole agreement that will remain in effect until the department no longer has custody of the youth."~~

{Internal References to 52-5-126:
x41-5-1304 x41-5-1522 x41-5-1523 x41-5-1604
x52-5-127}

- END -

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