

SENATE BILL NO. 24

Introduced: 1/3/83

Referred to Committee on Finance & Claims: 1/3/83

Hearing: 1/10/83

Report: 01/26/83, Do Not Pass. Report Adopted.

Bill Killed.

1 SENATE BILL NO. 24

2 INTRODUCED BY KOLSTAD, CURTISS

3 BY REQUEST OF THE JOINT SUBCOMMITTEE ON JUDICIARY

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE TO
6 ASSIST COUNTIES IN THE PAYMENT OF SALARIES FOR DEPUTY COUNTY
7 ATTORNEYS; AND PROVIDING AN EFFECTIVE DATE."

8

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

10 Section 1. State contribution for deputy county
11 attorney's salary. (1) On July 1 of each fiscal year, the
12 state auditor shall issue from the state general fund and
13 deliver to the treasurer of each county employing one or
14 more deputy county attorneys an amount equal to \$1 for each
15 person included in the county's population as determined in
16 subsection (2). The treasurer shall deposit this amount into
17 the county general fund to assist in payment of each deputy
18 county attorney's salary.

19 (2) For each 10th year after the fiscal year beginning
20 July 1, 1981, a county's population shall be based on the
21 latest federal decennial census statistics. During the
22 intervening fiscal years, a county's population shall be
23 based on the last calendar year's intercensal county
24 population estimates compiled by the federal-state
25 cooperative program from estimates of the university of

1 Montana bureau of business and economic research and the
2 U.S. bureau of the census or other estimates that the bureau
3 of business and economic research may certify.

4 Section 2. Effective date. This act is effective July
5 1, 1983.

-End-

INTRODUCED BILL

SB 24

STATE OF MONTANA

REQUEST NO. 007-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 4, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 24 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill is an act to require the state to assist counties in the payment of salaries for deputy county attorneys.

ASSUMPTIONS:

- 1) Thirty-two counties with 1980 population totaling 701,813, have deputy county attorneys (Subcommittee On Judiciary Questionnaire May 1982).
- 2) No additional counties hire deputy attorneys.
- 3) Population will grow 1% per year in these counties.
- 4) State Auditor has minimal administrative costs.


FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
General Fund Cost	<u>\$723,079</u>	<u>\$730,309</u>

LOCAL IMPACT:

County general fund revenue will increase same as state general fund cost.

FISCAL1:S/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-7-83

STATEMENT OF INTENT

HOUSE BILL 24

House Human Services Committee

House Bill 24 requires a statement of intent because it authorizes the Department of Social and Rehabilitation Services to adopt rules to implement statutory changes in the delivery of services to youths.

The Legislature contemplates that the rules should address the following, among other things:

1. Consideration of aftercare programs for youth under the department's supervision.

2. Consideration of standards for facilities housing youth in need of care, youth in need of supervision, and delinquent youth. Such standards should be considered in licensing and delivery of service.

3. Consideration of measures associated with the allocation of placement budgets to judicial districts, with such measures including data on placement history and placement trends.

4. Consideration of the proper allocation of annual budgets for the out-of-home care of youth in need of supervision and delinquent youth. The funding formula used in budget allocations should include:

a. the total population of the judicial district;

b. the total youth population of the judicial district;

c. the total number and costs of placements in public facilities and out-of-home care facilities;

d. trends in population, placements, and local economics.

5. Consideration of measures to investigate parental contributions.

6. Consideration of specific measures for licensing the various youth facilities, including: facility acquisition, facility design, group home staffing, staff training, service goals and design, quality of services, client placement procedure, client rights and privileges, client grievance procedure, provider grievance procedure, accounting procedures including accounting of client financial resources, health and safety standards including water and waste disposal, food service, and laundry.

Approved by Comm. On Human Services

HOUSE BILL NO. 24

INTRODUCED BY KEYSER, MENAHAN,

NORMAN, HEMSTAD, MAZUREK, HAGER

BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE

ON HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL SERVICES FOR YOUTH UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 76-2-314, MCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

(a) administer or supervise all forms of public assistance, child protection, and child welfare, including the provision of medical care payments in behalf of recipients of public assistance;

(b) administer or supervise all child welfare

activities, including:

(i) importation and exportation of children;

(ii) licensing of all children's foster family homes, group homes, child-care agencies and child-placing agencies;

(iii) the care of dependent and neglected children in substitute care placement and children who are free for adoption; and

(iv) the maintenance of supplemental day care for children; AND

~~(v) the care of youth in need of supervision placed by the youth court under the supervision of the department; and~~
~~(vi)(iv) all state and federal funds allocated to the department for youth foster homes, youth group homes, child-care agencies, and state programs for youth in need of care, youth in need of supervision, and delinquent youth;~~

(c) give consultant service to private institutions providing care for the needy, indigent, handicapped, or dependent adults;

(d) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(e) provide services in respect to organization and supervise county departments of public welfare and county

1 boards of public welfare in the administration of public
2 assistance functions and for efficiency and economy;

3 (f) assist and cooperate with other state and federal
4 departments, bureaus, agencies, and institutions, when so
5 requested, by performing services in conformity with public
6 assistance purposes;

7 (g) administer all state and federal funds allocated
8 to the department for public assistance and do all things
9 necessary, in conformity with federal and state law, for the
10 proper fulfillment of public assistance purposes; and

11 (h) make rules governing payment for services and
12 supplies provided to recipients of public assistance.

13 (2) The department may:

14 (a) purchase, exchange, condemn, or receive by gift
15 either real or personal property which is necessary to carry
16 out its public assistance functions. Title to property
17 obtained under this subsection shall be taken in the name of
18 the state of Montana for the use and benefit of the
19 department.

20 (b) contract with the federal government to carry out
21 its public assistance functions. The department may do all
22 things necessary in order to avail itself of federal aid and
23 assistance.

24 (c) make rules, consistent with state and federal law,
25 establishing the amount, scope, and duration of services to

1 be provided to recipients of public assistance."

2 Section 2. Section 41-5-103, MCA, is amended to read:

3 "41-5-103. Definitions. For the purposes of the
4 Montana Youth Court Act, unless otherwise stated the
5 following definitions apply:

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

8 (2) "Agency" means ~~the department of institutions, the~~
9 ~~department of social and rehabilitation services, and any~~
10 ~~division or department of either~~ any entity of state or
11 local government authorized by law to be responsible for the
12 care or rehabilitation of youth.

13 (3) "Commit" means to transfer to legal custody.

14 (4) "Court", when used without further qualification,
15 means the youth court of the district court.

16 ~~(5) "Foster home" means a private residence approved~~
17 ~~by the court for placement of a youth.~~

18 (5) "FOSTER HOME" MEANS A PRIVATE RESIDENCE APPROVED
19 BY THE COURT FOR PLACEMENT OF A YOUTH.

20 ~~(6) (6)~~ "Guardianship" means the status created and
21 defined by law between a youth and an adult with the
22 reciprocal rights, duties, and responsibilities.

23 ~~(7) (7)~~ "Judge", when used without further
24 qualification, means the judge of the youth court.

25 ~~(8) (8)~~ (a) "Legal custody" means the legal status

1 created by order of a court of competent jurisdiction that
 2 gives a person the right and duty to:

- 3 (i) have physical custody of the youth;
- 4 (ii) determine with whom the youth shall live and for
 5 what period;
- 6 (iii) protect, train, and discipline the youth; and
- 7 (iv) provide the youth with food, shelter, education,
 8 and ordinary medical care.

9 (b) An individual granted legal custody of a youth
 10 shall personally exercise his rights and duties as guardian
 11 unless otherwise authorized by the court entering the order.

12 ~~(10)~~(9) "Parent" means the natural or adoptive
 13 parent but does not include a person whose parental rights
 14 have been judicially terminated, nor does it include the
 15 putative father of an illegitimate youth unless his
 16 paternity is established by an adjudication or by other
 17 clear and convincing proof.

18 ~~(10)~~(9)(10) "Youth" means an individual who is less
 19 than 18 years of age without regard to sex or emancipation.

20 ~~(11)~~(10)(11) "Youth court" means the court established
 21 pursuant to this chapter to hear all proceedings in which a
 22 youth is alleged to be a delinquent youth, a youth in need
 23 of supervision, or a youth in need of care and includes the
 24 youth court, the judge, and probation officers.

25 ~~(12)~~(11)(12) "Delinquent youth" means a youth:

1 (a) who has committed an offense which, if committed
 2 by an adult, would constitute a criminal offense;

3 (b) who, having been placed on probation as a
 4 delinquent youth or a youth in need of supervision, violates
 5 any condition of his probation.

6 ~~(13)~~(12)(13) "Youth in need of supervision" means a
 7 youth who commits an offense prohibited by law which, if
 8 committed by an adult, would not constitute a criminal
 9 offense, including but not limited to a youth who:

10 (a) violates any Montana municipal or state law
 11 regarding use of alcoholic beverages by minors;

12 (b) habitually disobeys the reasonable and lawful
 13 demands of his parents or guardian or is ungovernable and
 14 beyond their control;

15 (c) being subject to compulsory school attendance, is
 16 habitually truant from school; or

17 (d) has committed any of the acts of a delinquent
 18 youth but whom the youth court in its discretion chooses to
 19 regard as a youth in need of supervision.

20 ~~(14)~~(13)(14) "Youth in need of care" means a youth as
 21 defined in 41-3-102.

22 ~~(15)~~(14)(15) "Custodian" means a person other than a
 23 parent or guardian to whom legal custody of the youth has
 24 been given but does not include a person who has only
 25 physical custody.

1 ~~(16)~~~~(15)~~(16) "Necessary parties" include the youth, his
2 parents, guardian, custodian, or spouse.

3 ~~(17)~~~~(16)~~(17) "State youth correctional facility" means
4 a residential facility for the rehabilitation of delinquent
5 youth such as Pine Hills school in Miles City, and Mountain
6 View school in Helena, and Swan River youth forest camp.

7 ~~(18)~~~~(17)~~(18) "Shelter care" means the temporary
8 substitute care of youth in physically unrestricting
9 facilities.

10 ~~(19)~~~~(18)~~(19) "Detention" means the temporary substitute
11 care of youth in physically restricting facilities.

12 ~~(20)~~~~"District youth guidance home"~~ means
13 family-oriented residence established in a judicial district
14 of the state of Montana as an alternative to existing state
15 youth correctional facilities, the function of which is to
16 provide a home and guidance through adult supervision for
17 delinquent youths and youths in need of supervision.

18 ~~(21)~~~~(19)~~(20) "Restitution" means payments in cash to
19 the victim or with services to the victim or the general
20 community when these payments are made under the
21 jurisdiction of a youth court proceeding.

22 ~~(21)~~(21) "Substitute care" means full-time care of
23 youth in a residential setting for the purpose of providing
24 food, shelter, security and safety, guidance, direction, and
25 if necessary, treatment to youth who are removed from or

1 ~~without the care and supervision of their parents or~~
2 ~~guardian. NOTHING IN THIS DEFINITION IS INTENDED TO INCLUDE~~
3 ~~JUVENILE CORRECTIONAL FACILITIES, EVALUATION FACILITIES,~~
4 ~~MENTAL HEALTH FACILITIES AND SERVICES, AND AFTERCARE~~
5 ~~PROGRAMS OPERATED BY THE DEPARTMENT OF INSTITUTIONS."~~

6 Section 3. Section 41-5-306, MCA, is amended to read:
7 "41-5-306. Place of shelter care or detention. (1) A
8 youth alleged to be a delinquent youth or youth in need of
9 supervision may be sheltered only in:

10 (a) a licensed youth foster home or a home approved by
11 the court for the provision of shelter care of youth as
12 defined in [section 7];

13 (b) a facility operated by a licensed child welfare
14 agency; or

15 (c) a licensed attention youth group home or shelter
16 facility which is operated by a nonprofit corporation or the
17 youth court for the provision of shelter care of youth, as
18 defined in [section 7].

19 ~~(d) any other suitable place or facility designated or~~
20 ~~operated by the court for the supervision of youth in~~
21 ~~shelter care.~~

22 (2) The youth may be detained in a jail or other
23 facility for the detention of adults only if:

24 (a) the facilities in subsection (1) are not available
25 or do not provide adequate security;

1 (b) the detention is in an area physically and
2 visually separate and removed from those of adults;

3 (c) it appears to the satisfaction of the court that
4 public safety and protection reasonably require detention;
5 and

6 (d) the court so orders.

7 (3) The official in charge of a jail or other facility
8 for the detention of adult offenders or persons charged with
9 crime shall inform the court immediately if a person who is
10 or appears to be under the age of 18 years is received at
11 the facility. Such official shall bring the person before
12 the court upon request or deliver him to a detention
13 facility designated by the court.

14 (4) A youth alleged to be in need of care shall be
15 placed only in the facilities stated in subsection (1) of
16 this section and shall not be detained in a jail or other
17 facility intended or used for the detention of adults
18 charged with criminal offenses."

19 Section 4. Section 41-5-403, MCA, is amended to read:

20 "41-5-403. Disposition permitted under informal
21 adjustment. (1) The following dispositions may be imposed by
22 informal adjustment:

23 (a) probation;

24 (b) placement of the youth ~~in a licensed foster home~~
25 ~~or other home approved by the court for substitute care into~~

1 a youth care facility as defined in [section 7];

2 (c) placement of the youth in a private agency
3 responsible for the care and rehabilitation of such a youth
4 ~~including but not limited to a district youth guidance home;~~

5 ~~(d) transfer of legal custody of the youth to the~~
6 ~~department of institutions, provided that such commitment~~
7 ~~does not authorize the department of institutions to place~~
8 ~~the youth in a state youth correction facility, and such~~
9 ~~commitment may not exceed a period of 6 months without a~~
10 ~~subsequent order of the court after notice and hearing;~~

11 (D) TRANSFER OF LEGAL CUSTODY OF THE YOUTH TO THE
12 DEPARTMENT OF INSTITUTIONS, PROVIDED THAT SUCH COMMITMENT
13 DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE
14 THE YOUTH IN A STATE CORRECTIONAL FACILITY, AND SUCH
15 COMMITMENT MAY NOT EXCEED A PERIOD OF 6 MONTHS WITHOUT A
16 SUBSEQUENT ORDER OF THE COURT, AFTER NOTICE AND HEARING;

17 ~~(e) if (1) restitution upon approval of the youth court~~
18 ~~judge.~~

19 (2) In determining whether restitution is appropriate
20 in a particular case, the following factors may be
21 considered in addition to any other evidence:

22 (a) age of the youth;

23 (b) ability of the youth to pay;

24 (c) ability of the parents or legal guardian to pay;

25 (d) amount of damage to the victim; and

1 (e) legal remedies of the victim, however the ability
 2 of the victim or his insurer to stand any loss may not be
 3 considered in any case."

4 Section 5. Section 41-5-523, MCA, is amended to read:

5 "41-5-523. Disposition of delinquent youth and youth
 6 in need of supervision. (1) If a youth is found to be
 7 delinquent or in need of supervision, the court may enter
 8 its judgment making the following disposition:

9 (a) place the youth on probation;

10 (b) ~~place in a licensed foster home~~ the youth for
 11 substitute care into a youth care facility as defined in
 12 [section 7] or a home approved by the court;

13 (c) place the youth in a private agency responsible
 14 for the care and rehabilitation of such a youth, ~~including~~
 15 ~~but not limited to a district youth guidance home;~~

16 (d) ~~in the case of a delinquent youth~~ transfer legal
 17 custody to the department of institutions, ~~provided~~
 18 ~~however that in the case of a youth in need of supervision~~
 19 ~~such transfer of custody does not authorize the department~~
 20 ~~of institutions to place the youth in a state youth~~
 21 ~~correctional facility and such custody may not continue for~~
 22 ~~a period of more than 6 months without a subsequent court~~
 23 ~~order after notice and hearing~~, PROVIDED, HOWEVER, THAT IN
 24 THE CASE OF A YOUTH IN NEED OF SUPERVISION, SUCH TRANSFER OF
 25 CUSTODY DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO

1 PLACE THE YOUTH IN A STATE YOUTH CORRECTIONAL FACILITY AND
 2 SUCH CUSTODY MAY NOT CONTINUE FOR A PERIOD OF MORE THAN 6
 3 MONTHS WITHOUT A SUBSEQUENT COURT ORDER AFTER NOTICE AND
 4 HEARING;

5 (e) such further care and treatment or evaluation that
 6 the court considers beneficial to the youth, ~~consistent with~~
 7 ~~subsection (1)(d) of this section;~~

8 (f) order restitution by the youth.

9 (2) At any time after the youth has been taken into
 10 custody, the court may, with the consent of the youth in the
 11 manner provided in 41-5-303 for consent by a youth to waiver
 12 of his constitutional rights or after the youth has been
 13 adjudicated delinquent or in need of supervision:

14 (a) order the youth to be evaluated by the department
 15 of institutions for a period not to exceed 45 days of
 16 evaluation at a reception and evaluation center for youths;
 17 or

18 (b) in the case of a delinquent youth 16 years or
 19 older whom the court considers a suitable person for
 20 placement at a youth forest camp, notify the director of the
 21 department of institutions of the finding. The director of
 22 the department of institutions shall then designate to the
 23 court the facility to which the youth shall be delivered for
 24 evaluation. The court may then commit the youth to the
 25 department of institutions for a period not to exceed 45

1 days for the purpose of evaluation as to the youth's
 2 suitability for placement and order the youth delivered for
 3 evaluation to the youth facility designated by the director.
 4 If after the evaluation the department of institutions
 5 reports to the court that such child is suitable for
 6 placement in a youth forest camp and if there is space
 7 available at a camp, the court may then commit such child
 8 directly to the youth forest camp under the terms of
 9 commitment of this chapter. If the department of
 10 institutions reports and states the reasons to the court why
 11 the youth is not suitable for placement, the youth shall be
 12 returned to the court for such further disposition as the
 13 court may consider advisable under the provisions of this
 14 chapter. The costs of transporting the youth to the
 15 designated youth facility for evaluation and cost of
 16 returning the youth to the court shall be borne by the
 17 county of residence of the youth.

18 (3) No youth may be committed or transferred to a
 19 penal institution or other facility used for the execution
 20 of sentence of adult persons convicted of crimes except as
 21 provided by subsection (2)(b).

22 (4) Any order of the court may be modified at any
 23 time.

24 (5) Whenever the court vests legal custody in an
 25 agency, institution, or department, it must transmit with

1 the dispositional judgment copies of a medical report and
 2 such other clinical, predisposition, or other reports and
 3 information pertinent to the care and treatment of the
 4 youth.

5 (6) The order of commitment to the department of
 6 institutions shall read as follows:

7 ORDER OF COMMITMENT

8 State of Montana)
 9) ss.
 10 County of)

11 In the district court for the Judicial District.
 12 On the day of, 19..,, a minor of this
 13 county, years of age, was brought before me charged
 14 with, Upon due proof I find that is a suitable
 15 person to be committed to the department of institutions.

16 It is ordered that be committed to the department
 17 of institutions until

18 The names, addresses, and occupations of the parents
 19 are:

20 Name	Address	Occupation
21
22

23 The names and addresses of their nearest relatives are:
 24

1

2 Witness my hand this day of, A.D. 19...

3

4 Judge"

5 NEW SECTION. Section 6. Establishment of substitute
6 care for youth. The legislature, in recognition of the wide
7 and varied needs of youth in need of care, delinquent youth,
8 and youth in need of supervision of this state and of the
9 desirability of meeting these needs on a community level to
10 the fullest extent possible, establishes by this part a
11 system of substitute care to provide facilities and services
12 for youth placed out of their homes and establishes a
13 program to provide such facilities and services through
14 local nonprofit corporations and the department of social
15 and rehabilitation services.

16 NEW SECTION. Section 7. Definitions. For the purposes
17 of this part the following definitions apply:

18 (1) "Child-care agency" means a youth care facility in
19 which substitute care is provided to 13 or more children or
20 youth.

21 ~~{2}--"Community-based-services-to-youth"--means-a-system~~
22 ~~of-services-provided-to-youth-in-need-of-care-youth-in-need~~
23 ~~of--supervision--and--delinquent--youth--outside--of--an~~
24 ~~institution-including-but-not-limited-to-the-following:~~

25 ~~{a)--evaluation-services;~~

1 ~~{b)--diagnostic-services;~~
2 ~~{c)--treatment-services;~~
3 ~~{d)--training-services;~~
4 ~~{e)--education-services;~~
5 ~~{f)--counseling-services;~~
6 ~~{g)--information-and-referral-services;~~
7 ~~{h)--protective-and-other-social-services;~~
8 ~~{i)--residential-services.~~

9 ~~{3}{2}~~ "Department" means the department of social and
10 rehabilitation services.

11 ~~{4}{3}~~ "Substitute care" means full-time care of youth
12 in a residential setting for the purpose of providing food,
13 shelter, security and safety, guidance, direction, and if
14 necessary, treatment to youth who are removed from or
15 without the care and supervision of their parents or
16 guardian.

17 ~~{5}{4}~~ "Treatment facility" is a child-care agency
18 providing the appropriate level of care.

19 ~~{6}{5}~~ "Youth care facility" means a facility,
20 licensed in accordance with 41-3-502 through 41-3-504, in
21 which substitute care is provided to youth in need of care,
22 youth in need of supervision, or delinquent youth and
23 includes youth foster homes, youth group homes, and
24 child-care agencies.

25 ~~{7}{6}~~ "Youth foster home" means a youth care facility

1 in which substitute care is provided to one to six children
 2 or youth to whom the foster parents are not related by
 3 blood, marriage, adoption, or wardship.

4 ~~{f}{11}~~ "Youth group home" means a youth care facility
 5 in which substitute care is provided to 7 to 12 children or
 6 youth.

7 NEW SECTION. Section 8. Powers and duties of
 8 department. (1) The department shall:

9 (a) administer all state and federal funds allocated
 10 to the department for youth foster homes, youth group homes,
 11 ~~AND child-care agencies, and community-based programs~~ for
 12 youth in need of care, youth in need of supervision, and
 13 delinquent youth;

14 (b) exercise licensing authority over all youth foster
 15 homes, youth group homes, and child-care agencies;

16 (c) collect and disseminate information relating to
 17 youth in need of care, youth in need of supervision, and
 18 delinquent youth;

19 (d) provide for training of program personnel
 20 delivering services;

21 ~~{f}{12}~~ ~~provide by rule for the evaluation of all~~
 22 ~~community-based services to youth;~~

23 ~~{f}{13}~~ in cooperation with the department of
 24 institutions and youth care facility providers, develop and
 25 implement standards for youth care facilities;

1 ~~{f}{14}~~ apportion and allocate placement budgets to all
 2 judicial districts;

3 ~~{f}{15}~~ ~~develop an annual comprehensive plan for the~~
 4 ~~initiation and maintenance of community-based services to~~
 5 ~~youth; and~~

6 ~~{f}{16}~~ seek public input on the plan prior to its
 7 adoption and implementation; AND

8 (H) MAINTAIN ADEQUATE DATA ON PLACEMENTS IT FUNDS IN
 9 ORDER TO KEEP THE LEGISLATURE PROPERLY INFORMED OF THE
 10 FOLLOWING:

11 (I) THE BREAKDOWN OF YOUTH IN NEED OF CARE, YOUTH IN
 12 NEED OF SUPERVISION, AND DELINQUENT YOUTH BY CATEGORY IN
 13 OUT-OF-HOME CARE FACILITIES;

14 (II) THE COST PER FACILITY FOR SERVICES RENDERED;

15 (III) THE TYPE AND LEVEL OF CARE OF SERVICES PROVIDED
 16 BY EACH FACILITY;

17 (IV) A PROFILE OF OUT-OF-HOME CARE PLACEMENTS BY LEVEL
 18 OF CARE; AND

19 (V) A PROFILE OF PUBLIC INSTITUTIONAL PLACEMENTS.

20 (2) The department may:

21 (a) enter into contracts with nonprofit corporations
 22 or associations to provide facilities and services for youth
 23 in need of care, youth in need of supervision, and
 24 delinquent youth;

25 (b) accept gifts, grants, and donations of money and

1 property from public and private sources to initiate and
2 maintain community-based services to youth.

3 (3) THE DEPARTMENT SHALL PAY FOR ROOM, BOARD,
4 CLOTHING, PERSONAL NEEDS, TRANSPORTATION, AND TREATMENT IN
5 DISTRICT YOUTH GUIDANCE HOMES, SHELTER CARE PROGRAMS, AND
6 FOSTER CARE HOMES FOR YOUTHS COMMITTED TO THE DEPARTMENT OF
7 INSTITUTIONS WHO NEED TO BE PLACED IN SUCH FACILITIES,
8 YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS AND
9 PLACED IN RESIDENTIAL FACILITIES OTHER THAN THOSE DESCRIBED
10 ABOVE SHALL NOT BE THE FINANCIAL RESPONSIBILITY OF THE
11 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNLESS SUCH
12 PLACEMENTS HAVE BEEN APPROVED IN ADVANCE BY THE DEPARTMENT
13 OF SOCIAL AND REHABILITATION SERVICES.

14 NEW SECTION. Section 9. Apportionment ALLOCATION of
15 money to judicial districts. (1) The department shall
16 apportion---and allocate placement budgets, based upon
17 historical placement patterns and current placement trends,
18 to the judicial districts for the substitute care of youth
19 in need of supervision or delinquent youth.

20 (2) The placement budgets may be monitored by a youth
21 court committee as provided for in 41-5-105 or a foster care
22 review committee as provided for in 41-5-807.

23 Section 10. Section 41-5-801, MCA, is amended to read:

24 "41-5-801. ~~Shelter--care--and-foster-homes~~ Foster care
25 payments for youth court placements. ~~(1) The youth court may~~

1 ~~establish---procedures---for---finding---maintaining---and~~
2 ~~administering-shelter-care-and-foster-homes-or--other--homes~~
3 ~~approved--by--the--court--for-youth-within-the-provisions-of~~
4 ~~this-chapter.~~ (1) THE YOUTH COURT MAY ESTABLISH PROCEDURES
5 FOR FINDING, MAINTAINING, AND ADMINISTERING SHELTER CARE AND
6 FOSTER HOMES APPROVED BY THE COURT FOR YOUTH WITHIN THE
7 PROVISIONS OF THIS CHAPTER.

8 ~~(2)~~(2) Pursuant to 41-3-104, the department of ~~social~~
9 ~~and-rehabilitation-services~~ shall finance ~~foster--homes~~
10 ~~established~~ make a foster care payment for a child placed by
11 the youth court if:

12 ~~(a)~~(A) the foster-home child is placed in a youth
13 care facility licensed by the department or by an
14 appropriate licensing authority from another state;

15 ~~(b)~~(B) the youth court enters into an agreement
16 according to federal regulations with the department for the
17 placement of children;

18 ~~(c)~~(C) the placement of the child is reviewed as
19 required by 41-5-807; and

20 ~~(d)~~(D) the youth court retains supervision of the
21 child in placement.

22 ~~(3) The licensed shelter-care and foster homes~~
23 ~~established under this section shall be funded at a rate~~
24 ~~consistent with other shelter-care and foster homes~~
25 ~~established for other purposes under law.~~ ~~Shelter-care-as~~

1 defined---by---this---chapter---may---be---funded---through---state
 2 appropriation---to---the---youth---courts---and---the---departments---of
 3 institutions---and---social---and---rehabilitation---services."

4 Section 11. Section 41-3-104, MCA, is amended to read:
 5 "41-3-104. Payment for support of youth in need of
 6 care, youth in need of supervision, or delinquent youth --
 7 reimbursement by county. (1) Whenever agreements are entered
 8 into by the department of ~~social and rehabilitation services~~
 9 or the court for placing a youth in need of care, a youth in
 10 need of supervision, or a delinquent youth in a ~~licensed~~
 11 ~~family foster home, child care agency, group home, or~~
 12 ~~treatment youth care~~ facility, the department shall pay by
 13 its check or draft each month from any funds appropriated
 14 for that purpose the entire amount agreed upon for board,
 15 clothing, personal needs, ~~treatment~~, and room of the
 16 children.

17 (2) On or before the 20th of each month the department
 18 shall present a claim to the county of residence of the
 19 children for no more than one-half the payments so made
 20 during the month. The county must make reimbursement to the
 21 department within 20 days after the claim is presented.

22 (3) The department shall conduct or arrange for the
 23 review required under 41-5-807 of a child placed in a
 24 ~~licensed family foster home, child care agency, group home,~~
 25 ~~or treatment youth care~~ facility if the child is placed

1 under the supervision of the department or placed by the
 2 department or the department pays for the care of the child
 3 as set forth in this section."

4 ~~NEW SECTION~~ Section 12. ~~Time limitations on youth~~
 5 ~~court placements. (1) If the court has determined that a~~
 6 ~~youth be placed in a licensed youth care facility as~~
 7 ~~provided in 41-5-483 or 41-5-522 and the youth has not been~~
 8 ~~placed within 18 working days of such determination, the~~
 9 ~~probation officer, a representative of the department, and a~~
 10 ~~representative of the elementary or high school district in~~
 11 ~~which the youth resides, must meet to determine three~~
 12 ~~appropriate placement alternatives.~~

13 (2) ~~The three placement alternatives shall be~~
 14 ~~presented to the youth court judge for his consideration~~
 15 ~~within 15 working days of the informal adjustment or~~
 16 ~~dispositional hearing.~~

17 (3) ~~If the judge then orders the placement of the~~
 18 ~~youth in a facility other than one of the three alternatives~~
 19 ~~presented to him, he must state the reason for ordering such~~
 20 ~~placements.~~

21 (4) ~~Delays resulting from court-ordered evaluation of~~
 22 ~~the youth are not included in the 15-day time limitation.~~

23 Section 12. Section 41-3-405, MCA, is amended to read:
 24 "41-3-405. Investigation of parents' or guardian's
 25 financial ability. (1) Whenever a court determines a youth

1 to be an abused, neglected, or dependent child pursuant to
 2 41-3-404, the court shall issue an order directing the
 3 county welfare department of the county in which the
 4 petition was filed to conduct an investigation of the
 5 financial status of the child's parents or the extent of
 6 guardianship assets.

7 (2) Upon receipt of the order, the county welfare
 8 department shall make an investigation for the purpose of
 9 ascertaining the residence of the parents or guardian of the
 10 child and the financial ability of the parents or the
 11 adequacy of the guardianship assets to pay the cost of
 12 supporting the child in a ~~foster-home-child-care-agency~~
 13 ~~group-home-or-private-treatment~~ youth care facility. A
 14 written report of the investigation shall be filed with the
 15 clerk of court before the time fixed for the dispositional
 16 hearing.

17 (3) A copy of the written report shall be provided to
 18 all parties to the proceeding before the time set for the
 19 dispositional hearing."

20 Section 13. Section 41-5-805, MCA, is amended to read:
 21 "41-5-805. Financial investigation by county welfare
 22 department. (1) Whenever a disposition under 41-5-403,
 23 41-5-523, or 41-5-524 involves placement in a ~~foster-home~~
 24 ~~child-care-agency-group-home-or-private-treatment~~ youth
 25 care facility and the department of ~~social-and~~

1 ~~rehabilitation-services~~ is responsible for all or part of
 2 the cost of such placement, the probation officer or the
 3 court shall notify the department of ~~social-and~~
 4 ~~rehabilitation-services~~ and order the county welfare
 5 department in the youth's county of residence to conduct an
 6 investigation of the financial status of the youth's parents
 7 or guardianship assets. Following an adjudicatory hearing in
 8 which a youth is determined to be a delinquent youth or a
 9 youth in need of supervision, the court may order the county
 10 welfare department to conduct a financial status
 11 investigation.

12 (2) Upon receipt of the order, the county welfare
 13 department shall make an investigation for the purpose of
 14 ascertaining the residence of the parents or guardian of the
 15 youth and the financial ability of the parents or the
 16 adequacy of the guardianship assets to pay the cost of
 17 supporting the youth in the foster home, child care agency,
 18 group home, or private treatment facility. A written report
 19 of the investigation shall be filed with the court having
 20 jurisdiction, the department of social and rehabilitation
 21 services, and the department of institutions, and a copy
 22 shall be sent to the parents or guardian of the youth or to
 23 any other party to the proceeding."

24 Section 14. Section 41-3-407, MCA, is amended to read:
 25 "41-3-407. Order for financial support. (1) Whenever a

1 youth is placed in a ~~foster-home-child-care-agency-group~~
 2 ~~home-or-private-treatment~~ youth CARE facility under
 3 41-3-406, the court shall determine the ability of the
 4 youth's parents or guardian to contribute to the support of
 5 the youth or the adequacy of the guardianship assets to
 6 provide a contribution. This question of financial ability
 7 shall be considered at the dispositional hearing, and
 8 evidence concerning financial status may be introduced. In
 9 determining financial ability the court shall consider the
 10 report prepared pursuant to 41-3-405 and any other evidence
 11 introduced at the dispositional hearing.

12 {2} If the court determines that the parents are able
 13 to contribute to the support of the youth or that the
 14 guardianship assets are adequate to provide a contribution,
 15 the court shall issue an order directing the parents or
 16 guardian to make specified payments to the department of
 17 social and rehabilitation services to the extent considered
 18 appropriate under the circumstances. Payments required of a
 19 guardian may not exceed the funds available from
 20 guardianship assets. Upon a showing of change in financial
 21 ability, the court may modify the order."

22 Section 15. Section 41-3-105, MCA, is amended to read:
 23 "41-3-105. Recovery from parents or guardianship
 24 assets -- division between state and county. (1) In the
 25 event any recovery is made from the parent or parents or

1 guardianship assets of children for whom board, clothing,
 2 personal needs, and room have been paid by the state and
 3 county, any amount so recovered shall be divided equally
 4 between the department and the county of residence of such
 5 child or children.

6 (2) Any amount collected from the parents or
 7 guardianship assets when a child is placed in a ~~foster-home-~~
 8 ~~child-care-agency-group-home-or-private-treatment~~ youth
 9 CARE facility shall be transmitted to the department of
 10 social and rehabilitation services. The department shall
 11 then pay to the county one-half of the amount so collected."

12 Section 16. Section 41-3-501, MCA, is amended to read:
 13 "41-3-501. Definitions. (1) Any person owning or
 14 operating a ~~home-or-institution~~ youth CARE facility into
 15 which ~~home-or-institution~~ he takes any child or children for
 16 the purpose of caring for them and maintaining them and for
 17 which care and maintenance he receives money or other
 18 consideration of value, and which child is neither his son,
 19 daughter, nor ward shall be deemed to be an "operator" of a
 20 "~~foster-home-or-boarding-home~~" youth CARE facility" within
 21 the meaning of this chapter, except that this chapter shall
 22 not apply when any person accepts such care and custody of
 23 such child on a temporary basis and simply as a temporary
 24 accommodation for the parent or parents, guardian, or
 25 relative of such child.

1 (2) The word "person" where used in this chapter shall
2 include any individual, partnership, voluntary association,
3 or corporation."

4 NEW SECTION. Section 17. Rules. The department may
5 adopt rules to carry out the administration and purposes of
6 this part.

7 NEW SECTION. Section 18. Power of nonprofit
8 corporations to establish homes and to receive facilities
9 and funds. Nonprofit corporations or associations may be
10 formed or organized for the purpose of establishing youth
11 care facilities or to provide community-based services and
12 to receive from the department and other governmental units
13 such services, facilities, TRAINING, and funds as the
14 department or other governmental units may be authorized by
15 law to provide.

16 NEW SECTION. Section 19. Governmental contracts with
17 nonprofit organizations. (1) The department may contract
18 with nonprofit corporations or associations to provide
19 facilities and services for youth in need of care, youth in
20 need of supervision, and delinquent youth in youth care
21 facilities and is authorized to expend such money as is
22 appropriated or available therefor. SUCH CONTRACTS SHALL BE
23 BASED ON THE FOLLOWING CONSIDERATIONS:

24 (A) BUDGETS SUBMITTED BY THE NONPROFIT CORPORATION OR
25 ASSOCIATION IDENTIFYING FIXED AND VARIABLE COSTS;

1 (B) REASONABLE COSTS OF SERVICE;

2 (C) APPROPRIATION LEVEL; AND

3 (D) AVAILABILITY OF FUNDS.

4 (2) Governmental units, including but not limited to
5 counties, municipalities, school districts, or state
6 institutions of higher learning, are authorized, at their
7 own expense, to provide funds, materials, facilities, and
8 services for community-based services.

9 Section 20. Section 41-3-502, MCA, is amended to read:

10 "41-3-502. License required. No person shall maintain
11 or operate a ~~foster-or-boarding-home~~ youth care facility for
12 any child or children within the meaning of this chapter
13 without first securing a license in writing from the
14 department ~~of--social--and--rehabilitation-services~~. No fee
15 shall be charged for such license."

16 Section 21. Section 41-3-503, MCA, is amended to read:

17 "41-3-503. Issuance of license -- authority of issuing
18 agency. The department ~~of--social--and--rehabilitation-services~~
19 is hereby authorized to issue licenses to persons ~~conducting~~
20 ~~boarding-or-foster-homes~~ operating youth care facilities and
21 to prescribe the conditions upon which such licenses shall
22 be issued and to make such rules as it may deem advisable
23 for the operation and regulation of ~~foster--and--boarding~~
24 ~~homes~~ such facilities for minor children consistent with the
25 welfare of such children. Such licensing agency shall have

1 the power and authority to inspect all such licensed foster
 2 ~~and boarding homes facilities~~ through its duly authorized
 3 representatives and to cancel licenses theretofore issued
 4 for the failure to observe such rules. The person operating
 5 such homes shall give to such representative such
 6 information as may be required and afford him every
 7 reasonable ~~facility opportunity~~ for observing the operation
 8 of such homes."

9 Section 22. Section 41-3-504, MCA, is amended to read:

10 "41-3-504. Penalty. Any person who maintains or
 11 conducts ~~operates~~ a foster ~~or boarding home~~ youth care
 12 facility or assists in conducting ~~operating~~ or maintaining
 13 such home ~~facility~~ without having first obtained a license
 14 in writing as hereto provided shall be guilty of a
 15 misdemeanor and upon conviction be punished by a fine not to
 16 exceed \$100."

17 ~~Section 24. Section 41-5-802, MCA, is amended to read:~~

18 "~~41-5-802. Shelter care and detention retention~~
 19 ~~facilities. (1) (a) In all counties the county commissioners~~
 20 ~~may provide, by purchase, lease, or otherwise, a place to be~~
 21 ~~known as the youth detention facility, which shall not be~~
 22 ~~used for the confinement of adult persons charged with~~
 23 ~~criminal offenses, where delinquent youths and youths in~~
 24 ~~need of supervision may be detained until final disposition~~
 25 ~~which place shall be maintained by the county as in other~~

1 ~~like cases.~~

2 ~~(b) (2) The judge having jurisdiction may appoint such~~
 3 ~~personnel as required, who shall have charge of said~~
 4 ~~facility and of the youths detained therein.~~

5 ~~(c) (3) The compensation of such personnel shall be~~
 6 ~~fixed by the court, and such compensation and the~~
 7 ~~maintaining of such facility shall be paid out of the county~~
 8 ~~treasury which may be supplemented by state appropriation~~
 9 ~~and federal funds.~~

10 ~~(2) (a) Youth courts and nonprofit corporations may~~
 11 ~~provide by purchase, lease, or otherwise, a place to be~~
 12 ~~known as a shelter care facility.~~

13 ~~(b) Such facility shall be physically unrestricted~~
 14 ~~and may be used to provide shelter care for youth alleged or~~
 15 ~~adjudicated delinquents in need of supervision or in need~~
 16 ~~of care.~~

17 ~~(c) Such facility shall be separate and apart from any~~
 18 ~~facility housing adults charged with criminal offenses.~~

19 ~~(d) State appropriations and federal funds may be~~
 20 ~~received by the youth court or private nonprofit~~
 21 ~~corporations for establishment, maintenance, or operation of~~
 22 ~~such facility.~~

23 ~~(e) Such facility shall be furnished in a comfortable~~
 24 ~~manner and be as nearly as possible like a family home."~~

25 NEW SECTION. Section 23. Petition for placement in

1 facility or home. Any person between the ages of 18 and 21
 2 years, who is still within the jurisdiction of the youth
 3 court, or any person under the age of 18 years may petition
 4 the youth court of a district in which a youth care facility
 5 has been established to be placed in such a facility or in
 6 any other home approved by the court for any period of time
 7 up to the person's 21st birthday.

8 NEW SECTION. Section 24. Authority of judge to commit
 9 youth. A youth court judge may in his discretion place a
 10 delinquent youth or a youth in need of supervision in a
 11 youth care facility for any period of time up to the child's
 12 21st birthday, subject to the approval of the facility's
 13 sponsoring nonprofit corporation or association.

14 NEW SECTION. Section 25. Continuing jurisdiction of
 15 youth court. The youth court placing a delinquent youth or a
 16 child in need of supervision in a youth care facility
 17 retains continuing jurisdiction over the youth until the
 18 youth becomes 21 years of age or is otherwise discharged by
 19 order of the court.

20 NEW SECTION. Section 26. Aftercare facilities. (1)
 21 The department of institutions may establish, maintain, and
 22 administer YOUTH CORRECTION FACILITIES, EVALUATION
 23 FACILITIES, MENTAL HEALTH FACILITIES AND SERVICES, AFTERCARE
 24 PROGRAMS, AND aftercare facilities for the care, custody,
 25 and treatment of youth who have been committed to the

1 department.

2 (2) Aftercare facilities are under the licensing
 3 authority of the department.

4 Section 27. Section 20-15-403, MCA, is amended to
 5 read:

6 "20-15-403. Applications of other school district
 7 provisions. (1) When the term "school district" appears in
 8 the following sections outside of Title 20, the term
 9 includes community college districts and the provisions of
 10 those sections applicable to school districts apply to
 11 community college districts: 2-9-101, 2-9-111, 2-9-316,
 12 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,
 13 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103,
 14 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,
 15 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108,
 16 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202,
 17 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, 18-1-105,
 18 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114,
 19 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-602, 19-1-811,
 20 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104,
 21 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117,
 22 39-71-2106, 39-71-2206, 40-6-237, ~~41-5-912~~ [section 20],
 23 49-3-101, 49-3-102, 53-20-304, 77-3-321, 82-10-201,
 24 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules
 25 40(2)(g) and 15(c), M.R.Civ.P., as amended.

1 (2) When the term "school district" appears in a
2 section outside of Title 20 but the section is not listed in
3 subsection (1), the school district provision does not apply
4 to a community college district."

5 Section 28. Section 76-2-313, MCA, is amended to read:
6 "76-2-313. Definition of community residential
7 facility. "Community residential facility" means:

8 (1) a group, foster, or other home specifically
9 provided as a place of residence for developmentally
10 disabled or handicapped persons who do not require nursing
11 care;

12 (2) a district youth guidance group home established
13 pursuant to 41-5-903 as defined in [section 7];

14 (3) a halfway house operated in accordance with
15 regulations of the department of health and environmental
16 sciences for the rehabilitation of alcoholics or drug
17 dependent persons; or

18 (4) a licensed adult foster family care home."

19 Section 29. Section 76-2-314, MCA, is amended to read:

20 "76-2-314. Relationship of foster homes, boarding
21 youth_group homes, and community residential facilities to
22 zoning. (1) A foster or boarding youth_group home operated
23 under the provisions of 41-3-501 through 41-3-504
24 or community residential facility serving eight or fewer
25 persons is considered a residential use of property for

1 purposes of zoning if the home provides care on a
2 24-hour-a-day basis.

3 (2) The homes are a permitted use in all residential
4 zones, including but not limited to residential zones for
5 single-family dwellings. Any safety or sanitary regulation
6 of the department or any other agency of the state or
7 political subdivision thereof which is not applicable to
8 residential occupancies in general may not be applied to a
9 community residential facility serving eight or fewer
10 persons.

11 (3) Nothing in this section shall be construed to
12 prohibit a city or county from requiring a conditional use
13 permit in order to maintain a home pursuant to the
14 provisions of this section provided such home is licensed by
15 the department of health and environmental sciences and the
16 department of social and rehabilitation services."

17 NEW_SECTION. Section 30. Administration. The
18 provisions of Title 41, chapter 3, part 11, govern the
19 administration of this chapter.

20 NEW_SECTION. Section 31. Codification and code
21 commissioner instructions. (1) Section 32 20 is intended to
22 be codified as an integral part of Title 41, chapter 5, and
23 the provisions of Title 41, chapter 5, apply to section 32
24 20.

25 (2) Sections 6, 7, 8, 9, 12 17, 18, 19, 20, and 25 23

1 through 28 26 are intended to be codified as a new part 11
2 in Title 41, chapter 3, and the provisions of Title 41,
3 chapter 3, apply to such sections.

4 (3) (a) Sections 41-3-405 and 41-5-805, MCA, are to be
5 combined.

6 (b) Sections 41-3-407 and 41-5-806, MCA, are to be
7 combined.

8 (c) The sections enumerated in subsections (3)(a) and
9 (b) are to be combined into single sections. They are
10 intended to be renumbered and recodified as integral parts
11 of Title 41, chapter 3, part 11, and the provisions of Title
12 41, chapter 3, apply to them. Such sections, when combined,
13 may not contain redundant subsections.

14 (4) Sections 41-3-104, 41-3-105, 41-3-501 through
15 41-3-504, 41-5-302, 41-5-801, 41-5-804, and 41-5-807, MCA,
16 are intended to be recodified and renumbered as an integral
17 part of Title 41, chapter 3, part 11, and the provisions of
18 Title 41, chapter 3, apply to those sections.

19 (5) The code commissioner is authorized to change
20 internal references in the MCA to reflect the renumbering
21 and recodification required by this section.

22 **NEW SECTION.** Section 32. Repealer. Sections 41-5-803
23 and 41-5-901 through 41-5-924, MCA, are repealed.

24 **NEW SECTION.** Section 33. Effective date. This act is
25 effective on July 1, 1983.