

HOUSE BILL 772

Introduced by J. Rice

2/12	Introduced
2/12	Referred to Judiciary
2/12	First Reading
2/12	Fiscal Note Requested
2/15	Fiscal Note Received
2/15	Fiscal Note Printed
2/21	Hearing
2/21	Tabled in Committee

1 HOUSE BILL NO. 772  
 2 INTRODUCED BY J. Rice  
 3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH YOUTH  
 6 PLACEMENT COMMITTEES ESTABLISHED UNDER THE MONTANA YOUTH  
 7 COURT ACT; AMENDING SECTIONS 41-5-523 AND 52-1-103, MCA;  
 8 REPEALING SECTIONS 41-5-525, 41-5-526, 41-5-527, 41-5-528,  
 9 AND 41-5-529, MCA; AND PROVIDING AN EFFECTIVE DATE."  
 10

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

12 Section 1. Section 41-5-523, MCA, is amended to read:

13 "41-5-523. (Temporary) Disposition of delinquent youth  
 14 and youth in need of supervision. (1) If a youth is found to  
 15 be delinquent or in need of supervision, the youth court may  
 16 enter its judgment making any of the following dispositions:

- 17 (a) place the youth on probation;
- 18 (b) commit the youth to the department if the court  
 19 determines that the youth is in need of placement in other  
 20 than the youth's own home; provided, however, that:

- 21 (i) in the case of a youth in need of supervision, the  
 22 court shall determine whether continuation in the home would  
 23 be contrary to the welfare of the youth and whether  
 24 reasonable efforts have been made to prevent or eliminate  
 25 the need for removal of the youth from his home. The court

1 shall include such determination in the order committing the  
 2 youth to the department.

- 3 (ii) in the case of a delinquent youth who is determined  
 4 by the court to be a serious juvenile offender, the judge  
 5 may specify that the youth be placed in a youth correctional  
 6 facility if the judge finds that such placement is necessary  
 7 for the protection of the public;

- 8 (c) order restitution by the youth or his parents;

- 9 (d) impose a fine as authorized by law if the violation  
 10 alleged would constitute a criminal offense if committed by  
 11 an adult;

- 12 (e) require the performance of community service;

- 13 (f) require the youth, his parents, his guardians, or  
 14 the persons having legal custody of the youth to receive  
 15 counseling services;

- 16 (g) require the medical and psychological evaluation of  
 17 the youth, his parents, his guardians, or the persons having  
 18 legal custody of the youth;

- 19 (h) require the parents, guardians, or other persons  
 20 having legal custody of the youth to furnish such services  
 21 as the court may designate;

- 22 (i) order such further care, treatment, evaluation, or  
 23 relief that the court considers beneficial to the youth and  
 24 the community and that does not obligate funding from the  
 25 department without the department's approval, except that a

1 youth may not be placed by a youth court in a residential  
2 treatment facility as defined in 50-5-101. Only the  
3 department may, pursuant to subsection (1)(b), place a youth  
4 in a residential treatment facility.

5 (j) commit the youth to a mental health facility if,  
6 based upon the testimony of a professional person as defined  
7 in 53-21-102, the court finds that the youth is seriously  
8 mentally ill as defined in 53-21-102. The youth is entitled  
9 to all rights provided by 53-21-114 through 53-21-119. Upon  
10 release or discharge from the mental health facility, the  
11 youth must be returned to the court for further disposition  
12 in accordance with this section unless the court order has  
13 expired or the court no longer retains jurisdiction under  
14 41-5-205.

15 (2) When a youth is committed to the department, the  
16 department shall determine the appropriate placement and  
17 rehabilitation program for the youth after considering the  
18 recommendations made under 41-5-527 by the youth placement  
19 committee. Placement is subject to the following  
20 limitations:

21 (a) A youth in need of supervision may not be placed in  
22 a youth correctional facility.

23 (b) A youth may not be held in a youth correctional  
24 facility for a period of time in excess of the maximum  
25 period of imprisonment that could be imposed on an adult

1 convicted of the offense or offenses that brought the youth  
2 under the jurisdiction of the youth court. Nothing in this  
3 section limits the power of the department to enter into an  
4 aftercare agreement with the youth pursuant to 53-30-226.

5 (c) No youth may be placed in or transferred to a penal  
6 institution or other facility used for the execution of  
7 sentence of adults convicted of crimes.

8 (3) A youth placed by the department in a youth  
9 correctional facility must be supervised by the department.  
10 A youth placed in any other placement must be supervised by  
11 the youth probation officer of the youth court having  
12 jurisdiction over the youth.

13 (4) At any time after the youth has been taken into  
14 custody, the court may, with the consent of the youth in the  
15 manner provided in 41-5-303 for consent by a youth to a  
16 waiver of his constitutional rights or after the youth has  
17 been adjudicated delinquent or in need of supervision, order  
18 the youth to be evaluated by the department for a period not  
19 to exceed 45 days. The department shall determine the place  
20 and manner of evaluation.

21 (5) No evaluation of a youth may be performed at the  
22 Montana state hospital unless such youth is transferred to  
23 the district court under 41-5-206.

24 (6) Any order of the court may be modified at any time.  
25 In the case of a youth committed to the department, an order

1 pertaining to the youth may be modified only upon notice to  
2 the department and subsequent hearing.

3 (7) Whenever the court commits a youth to the  
4 department, it must transmit with the dispositional judgment  
5 copies of a medical report and such other clinical,  
6 predisposition, or other reports and information pertinent  
7 to the care and treatment of the youth.

8 41-5-523. (Effective July 1, 1991) Disposition of  
9 delinquent youth and youth in need of supervision. (1) If a  
10 youth is found to be delinquent or in need of supervision,  
11 the youth court may enter its judgment making any of the  
12 following dispositions:

13 (a) place the youth on probation;

14 (b) commit the youth to the department if the court  
15 determines that the youth is in need of placement in other  
16 than the youth's own home; provided, however, that:

17 (i) in the case of a youth in need of supervision, the  
18 court shall determine whether continuation in the home would  
19 be contrary to the welfare of the youth and whether  
20 reasonable efforts have been made to prevent or eliminate  
21 the need for removal of the youth from his home. The court  
22 shall include such determination in the order committing the  
23 youth to the department.

24 (ii) in the case of a delinquent youth who is determined  
25 by the court to be a serious juvenile offender, the judge

1 may specify that the youth be placed in a youth correctional  
2 facility if the judge finds that such placement is necessary  
3 for the protection of the public;

4 (c) order restitution by the youth or his parents;

5 (d) impose a fine as authorized by law if the violation  
6 alleged would constitute a criminal offense if committed by  
7 an adult;

8 (e) require the performance of community service;

9 (f) require the youth, his parents, his guardians, or  
10 the persons having legal custody of the youth to receive  
11 counseling services;

12 (g) require the medical and psychological evaluation of  
13 the youth, his parents, his guardians, or the persons having  
14 legal custody of the youth;

15 (h) require the parents, guardians, or other persons  
16 having legal custody of the youth to furnish such services  
17 as the court may designate;

18 (i) order such further care, treatment, evaluation, or  
19 relief that the court considers beneficial to the youth and  
20 the community and that does not obligate funding from the  
21 department without the department's approval, except that a  
22 youth may not be placed by a youth court in a residential  
23 treatment facility as defined in 50-5-101. Only the  
24 department may, pursuant to subsection (1)(b), place a youth  
25 in a residential treatment facility.

1 (j) commit the youth to a mental health facility if,  
 2 based upon the testimony of a professional person as defined  
 3 in 53-21-102, the court finds that the youth is seriously  
 4 mentally ill as defined in 53-21-102. The youth is entitled  
 5 to all rights provided by 53-21-114 through 53-21-119. Upon  
 6 release or discharge from the mental health facility, the  
 7 youth must be returned to the court for further disposition  
 8 in accordance with this section unless the court order has  
 9 expired or the court no longer retains jurisdiction under  
 10 41-5-205.

11 (2) When a youth is committed to the department, the  
 12 department shall determine the appropriate placement and  
 13 rehabilitation program for the youth ~~after considering the~~  
 14 ~~recommendations made under 41-5-527 by the youth placement~~  
 15 ~~committee~~. Placement is subject to the following  
 16 limitations:

17 (a) A youth in need of supervision may not be placed in  
 18 a youth correctional facility.

19 (b) A youth may not be held in a youth correctional  
 20 facility for a period of time in excess of the maximum  
 21 period of imprisonment that could be imposed on an adult  
 22 convicted of the offense or offenses that brought the youth  
 23 under the jurisdiction of the youth court. Nothing in this  
 24 section limits the power of the department to enter into an  
 25 aftercare agreement with the youth pursuant to 53-30-226.

1 (c) No youth may be placed in or transferred to a penal  
 2 institution or other facility used for the execution of  
 3 sentence of adults convicted of crimes.

4 (3) A youth placed by the department in a youth  
 5 correctional facility must be supervised by the department.  
 6 A youth placed in any other placement must be supervised by  
 7 the youth probation officer of the youth court having  
 8 jurisdiction over the youth.

9 (4) At any time after the youth has been taken into  
 10 custody and before final disposition, the court may, with  
 11 the consent of the youth in the manner provided in 41-5-303  
 12 for consent by a youth to a waiver of his constitutional  
 13 rights or after the youth has been adjudicated delinquent or  
 14 in need of supervision, order the youth to be evaluated for  
 15 a period not to exceed 45 days. The county commissioners are  
 16 responsible for the cost of the evaluation and may contract  
 17 with the department or other public or private agencies to  
 18 obtain evaluation services.

19 (5) No evaluation of a youth may be performed at the  
 20 Montana state hospital unless such youth is transferred to  
 21 the district court under 41-5-206.

22 (6) Any order of the court may be modified at any time.  
 23 In the case of a youth committed to the department, an order  
 24 pertaining to the youth may be modified only upon notice to  
 25 the department and subsequent hearing.

1 (7) Whenever the court commits a youth to the  
2 department, it must transmit with the dispositional judgment  
3 copies of a medical report and such other clinical,  
4 predisposition, or other reports and information pertinent  
5 to the care and treatment of the youth."

6 **Section 2.** Section 52-1-103, MCA, is amended to read:

7 "52-1-103. Powers and duties of department. The  
8 department shall:

9 (1) administer and supervise all forms of child and  
10 adult protective services;

11 (2) provide funding for and place youth alleged or  
12 adjudicated to be delinquent or in need of supervision who  
13 are referred or committed to the department;

14 (3) provide the following functions, as necessary, for  
15 youth in need of care:

16 (a) intake, investigation, case management, and client  
17 supervision;

18 (b) placement in youth care facilities;

19 (c) contracting for necessary services;

20 (d) protective services day care; and

21 (e) adoption;

22 (4) administer youth correctional facilities;

23 (5) provide supervision, care, and control of youth  
24 released from a state youth correctional facility;

25 (6) license youth care facilities, child placing

1 agencies, day-care facilities, community homes for  
2 developmentally disabled persons, community homes for  
3 severely disabled persons, and adult foster care facilities;

4 (7) act as lead agency in implementing and coordinating  
5 child-care programs and services under the Montana Child  
6 Care Act;

7 (8) administer interstate compacts for children and  
8 delinquent youth;

9 (9) (a) administer child abuse prevention services  
10 funded through child abuse grants and the Montana children's  
11 trust fund provided for in Title 41, chapter 3, part 7; and

12 (b) administer elder abuse prevention services;

13 (10) (a) make a written evaluation of each plan  
14 developed by the local youth services advisory councils, as  
15 provided in 52-1-203, indicating those portions of each plan  
16 that will be implemented by the department, those portions  
17 that will not be implemented, and the reasons for not  
18 implementing those portions;

19 (b) develop a statewide youth services and resources  
20 plan that takes into consideration local needs as reflected  
21 in plans developed by the local youth services advisory  
22 councils;

23 (11) administer services to the aged;

24 (12) provide consultant services to:

25 (a) facilities providing care for needy, indigent,

1 handicapped, or dependent adults; and  
 2 (b) youth care facilities;  
 3 (13) utilize at maximum efficiency the resources of  
 4 state government in a coordinated effort to:  
 5 (a) provide for children in need of temporary  
 6 protection or correctional services; and  
 7 (b) coordinate and apply the principles of modern  
 8 institutional administration to the institutions in the  
 9 department;  
 10 (14) subject to the functions of the department of  
 11 administration, lease or purchase lands for use by  
 12 institutions in the department and classify those lands to  
 13 determine which are of such character as to be most  
 14 profitably used for agricultural purposes, taking into  
 15 consideration:  
 16 (a) the needs of all institutions in the department for  
 17 the food products that can be grown or produced on the  
 18 lands; and  
 19 (b) the relative value of agricultural programs in the  
 20 treatment or rehabilitation of the persons confined in the  
 21 institutions in the department;  
 22 (15) utilize the staff and services of other state  
 23 agencies and units of the Montana university system, within  
 24 their respective statutory functions, to carry out its  
 25 functions under this title;

1 (16) propose programs with specific goals and objectives  
 2 to the legislature to meet the projected long-range needs of  
 3 institutions in the department, including programs and  
 4 facilities for the diagnosis, treatment, care, and aftercare  
 5 of persons placed in institutions in the department;  
 6 (17) contract, as necessary, with the county board of  
 7 welfare for administration of child and adult protection  
 8 services for that county; and  
 9 (18) adopt rules necessary to carry out the purposes of  
 10 41-3-1126, ~~41-5-527~~ through ~~41-5-529~~, and this chapter."  
 11 NEW SECTION. **Section 3.** Repealer. Sections 41-5-525,  
 12 41-5-526, 41-5-527, 41-5-528, and 41-5-529, MCA, are  
 13 repealed.  
 14 NEW SECTION. **Section 4.** Effective date. [This act] is  
 15 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0772, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act to abolish youth placement committees established under the Montana Youth Court Act; amending Sections 41-5-523 and 52-1-103, MCA; repealing Sections 41-5-525, 41-5-526, 41-5-527, 41-5-528, and 41-5-529, MCA; and providing an effective date.

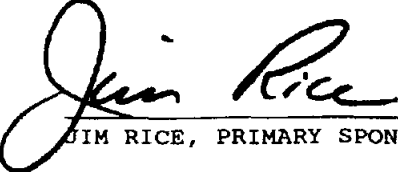
ASSUMPTIONS:

1. Current youth placement committees meet at no cost to DFS or to the participating groups.
2. No impact to DFS - no savings or increased costs.

FISCAL IMPACT:

none

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning      2-14-91

  
\_\_\_\_\_  
JIM RICE, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0772, as introduced      2-15-91  
HB 772