

APRIL 19, 1991

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

House BILL NO. 993

INTRODUCED BY *Sen. Vincent* *Rep. Benedict* *Rep. Hoffman* *Rep. Marcar* *Rep. Cochran*

1 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A YOUTH'S
2 PARENTS OR GUARDIANS TO PAY A CONTRIBUTION TOWARD THE COST
3 OF OUT-OF-HOME CARE PROVIDED BY THE DEPARTMENT OF FAMILY
4 SERVICES IF THEY ARE FINANCIALLY ABLE TO PAY; TO REQUIRE
5 CONTRIBUTIONS BY A YOUTH'S PARENTS OR GUARDIANS TO BE BASED
6 ON UNIFORM CHILD SUPPORT GUIDELINES; TO AUTHORIZE THE
7 COLLECTION OF CONTRIBUTIONS BY MEANS OF AUTOMATIC INCOME
8 WITHHOLDING; TO ALLOCATE PROCEEDS FROM THE CONTRIBUTIONS OF
9 PARENTS AND GUARDIANS TO THE DEPARTMENT OF FAMILY SERVICES;
10 AMENDING SECTIONS 41-3-208, 41-3-406, 41-3-408, 41-3-1115,
11 41-4-102, 41-5-403, 41-5-522, 41-5-523, AND 41-5-524, MCA;
12 REPEALING SECTIONS 41-3-1123, 41-3-1124, AND 41-3-1125, MCA;
13 AND PROVIDING AN EFFECTIVE DATE."

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

19 **Section 1.** Section 41-3-406, MCA, is amended to read:

20 *41-3-406. Dispositional hearing -- contributions by
21 parents or guardians for youth's care. (1) If a youth is
22 found to be ~~abused, neglected, or dependent~~ a youth in need
23 of care under 41-3-404, the court ~~after the dispositional~~
24 ~~hearing~~ may enter its judgment making any of the following
25 dispositions to protect the welfare of the youth:

- 1 (1)(a) permit the youth to remain with his parents or
- 2 guardian subject to those conditions and limitations the
- 3 court may prescribe;
- 4 (2)(b) grant an order of limited emancipation to a
- 5 youth who is 16 years of age or older as provided in
- 6 41-3-408;
- 7 (3)(c) transfer legal custody to any of the following:
- 8 (a)(i) the department of family services;
- 9 (b)(ii) a child-placing agency that is willing and able
- 10 to assume responsibility for the education, care, and
- 11 maintenance of the youth and ~~which that~~ is licensed or
- 12 otherwise authorized by law to receive and provide care of
- 13 the youth; or
- 14 (e)(iii) a relative or other individual who, after study
- 15 by a social service agency designated by the court, is found
- 16 by the court to be qualified to receive and care for the
- 17 youth;
- 18 (4)(d) order any party to the action to do what is
- 19 necessary to give effect to the final disposition, including
- 20 undertaking medical and psychological evaluations,
- 21 treatment, and counseling;
- 22 (5)(e) order such further care and treatment as the
- 23 court ~~may deem~~ considers in the best interest of the youth.
- 24 (2) If the youth is transferred to the custody of the
- 25 department, the court shall examine the financial ability of



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1 the youth's parents or guardians to pay a contribution
 2 covering all or part of the costs for the care, custody, and
 3 treatment of the youth, including the costs of necessary
 4 medical, dental, and other health care.

5 (3) If the court determines that the youth's parents or
 6 guardians are financially able to pay a contribution as
 7 provided in subsection (2), the court shall order the
 8 youth's parents or guardians to pay an amount based on the
 9 uniform child support guidelines adopted by the department
 10 of social and rehabilitation services pursuant to 40-5-209.

11 (4) The court may, in its discretion, order
 12 contributions required under subsection (3) to be paid by
 13 means of automatic income withholding in accordance with the
 14 procedures established under Title 40, chapter 5, part 4.

15 (5) Upon a showing of a change in the financial ability
 16 of the youth's parents or guardians to pay, the court may
 17 modify its order for the payment of contributions required
 18 under subsection (3).

19 (6) The department of social and rehabilitation
 20 services shall collect and enforce payment of contributions
 21 ordered by the court pursuant to this section in the same
 22 manner as provided in Title 40, chapter 5, for the
 23 collection and enforcement of child support."

24 **Section 2.** Section 41-5-403, MCA, is amended to read:

25 **"41-5-403. Disposition permitted under informal**

1 adjustment -- contributions by parents or guardians for
 2 youth's care. (1) The following dispositions may be imposed
 3 by informal adjustment:

4 (a) probation;

5 (b) placement of the youth fer in substitute care into
 6 in a youth care facility, as defined in 41-3-1102, and as
 7 determined by the department;

8 (c) placement of the youth in with a private agency
 9 responsible for the care and rehabilitation of such--a the
 10 youth as determined by the department;

11 (d) restitution upon approval of the youth court judge.

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

15 (a) age of the youth;

16 (b) ability of the youth to pay;

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

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

19 (e) legal remedies of the victim; however, the ability
 20 of the victim or his insurer to stand any loss may not be
 21 considered in any case.

22 (3) If the youth violates his an aftercare agreement as
 23 provided for in 53-30-226, he must be returned to the court
 24 for further disposition. No A youth may not be placed in a
 25 state youth correctional facility under informal adjustment.

1 (4) If the youth is placed in substitute care requiring
 2 payment by the department, the court shall examine the
 3 financial ability of the youth's parents or guardians to pay
 4 a contribution covering all or part of the costs for the
 5 care, placement, and treatment of the youth, including the
 6 costs of necessary medical, dental, and other health care.

7 (5) If the court determines that the youth's parents or
 8 guardians are financially able to pay a contribution as
 9 provided in subsection (4), the court shall order the
 10 youth's parents or guardians to pay an amount based on the
 11 uniform child support guidelines adopted by the department
 12 of social and rehabilitation services pursuant to 40-5-209.

13 (6) The court may, in its discretion, order
 14 contributions required under subsection (5) to be paid by
 15 means of automatic income withholding in accordance with the
 16 procedures established under Title 40, chapter 5, part 4.

17 (7) Upon a showing of a change in the financial ability
 18 of the youth's parents or guardians to pay, the court may
 19 modify its order for the payment of contributions required
 20 under subsection (5).

21 (8) The department of social and rehabilitation
 22 services shall collect and enforce payment of contributions
 23 ordered by the court pursuant to this section in the same
 24 manner as provided in Title 40, chapter 5, for the
 25 collection and enforcement of child support."

1 **Section 3.** Section 41-5-523, MCA, is amended to read:

2 **"41-5-523. (Temporary) Disposition of delinquent youth**
 3 **and youth in need of supervision.** (1) If a youth is found to
 4 be delinquent or in need of supervision, the youth court may
 5 enter its judgment making any of the following dispositions:

6 (a) place the youth on probation;

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

10 (i) in the case of a youth in need of supervision, the
 11 court shall determine whether continuation in the home would
 12 be contrary to the welfare of the youth and whether
 13 reasonable efforts have been made to prevent or eliminate
 14 the need for removal of the youth from his home. The court
 15 shall include such determination in the order committing the
 16 youth to the department.

17 (ii) in the case of a delinquent youth who is determined
 18 by the court to be a serious juvenile offender, the judge
 19 may specify that the youth be placed in a youth correctional
 20 facility if the judge finds that such placement is necessary
 21 for the protection of the public;

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

23 (d) impose a fine as authorized by law if the violation
 24 alleged would constitute a criminal offense if committed by
 25 an adult;

- 1 (e) require the performance of community service;
- 2 (f) require the youth, his parents, his guardians, or
- 3 the persons having legal custody of the youth to receive
- 4 counseling services;
- 5 (g) require the medical and psychological evaluation of
- 6 the youth, his parents, his guardians, or the persons having
- 7 legal custody of the youth;
- 8 (h) require the parents, guardians, or other persons
- 9 having legal custody of the youth to furnish such services
- 10 as the court may designate;
- 11 (i) order such further care, treatment, evaluation, or
- 12 relief that the court considers beneficial to the youth and
- 13 the community and that does not obligate funding from the
- 14 department without the department's approval, except that a
- 15 youth may not be placed by a youth court in a residential
- 16 treatment facility as defined in 50-5-101. Only the
- 17 department may, pursuant to subsection (1)(b), place a youth
- 18 in a residential treatment facility.
- 19 (j) commit the youth to a mental health facility if,
- 20 based upon the testimony of a professional person as defined
- 21 in 53-21-102, the court finds that the youth is seriously
- 22 mentally ill as defined in 53-21-102. The youth is entitled
- 23 to all rights provided by 53-21-114 through 53-21-119. Upon
- 24 release or discharge from the mental health facility, the
- 25 youth must be returned to the court for further disposition

- 1 in accordance with this section unless the court order has
- 2 expired or the court no longer retains jurisdiction under
- 3 41-5-205.
- 4 (2) When a youth is committed to the department, the
- 5 department shall determine the appropriate placement and
- 6 rehabilitation program for the youth after considering the
- 7 recommendations made under 41-5-527 by the youth placement
- 8 committee. Placement is subject to the following
- 9 limitations:
- 10 (a) A youth in need of supervision may not be placed in
- 11 a youth correctional facility.
- 12 (b) A youth may not be held in a youth correctional
- 13 facility for a period of time in excess of the maximum
- 14 period of imprisonment that could be imposed on an adult
- 15 convicted of the offense or offenses that brought the youth
- 16 under the jurisdiction of the youth court. Nothing in this
- 17 section limits the power of the department to enter into an
- 18 aftercare agreement with the youth pursuant to 53-30-226.
- 19 (c) No youth may be placed in or transferred to a penal
- 20 institution or other facility used for the execution of
- 21 sentence of adults convicted of crimes.
- 22 (3) A youth placed by the department in a youth
- 23 correctional facility must be supervised by the department.
- 24 A youth placed in any other placement must be supervised by
- 25 the youth probation officer of the youth court having

1 jurisdiction over the youth.

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

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

13 (6) Any order of the court may be modified at any time.
14 In the case of a youth committed to the department, an order
15 pertaining to the youth may be modified only upon notice to
16 the department and subsequent hearing.

17 (7) Whenever the court commits a youth to the
18 department, it must transmit with the dispositional judgment
19 copies of a medical report and such other clinical,
20 predisposition, or other reports and information pertinent
21 to the care and treatment of the youth.

22 41-5-523. (Effective July 1, 1991) Disposition of
23 delinquent youth and youth in need of supervision. (1) If a
24 youth is found to be a delinquent youth or a youth in need
25 of supervision, the youth court may enter its judgment

1 making any of the following dispositions:

2 (a) place the youth on probation;

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

6 (i) in the case of a youth in need of supervision, the
7 court shall determine whether continuation in the home would
8 be contrary to the welfare of the youth and whether
9 reasonable efforts have been made to prevent or eliminate
10 the need for removal of the youth from his home. The court
11 shall include such determination in the order committing the
12 youth to the department.

13 (ii) in the case of a delinquent youth who is determined
14 by the court to be a serious juvenile offender, the judge
15 may specify that the youth be placed in a state youth
16 correctional facility if the judge finds that such placement
17 is necessary for the protection of the public;

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

19 (d) impose a fine as authorized by law if the violation
20 alleged would constitute a criminal offense if committed by
21 an adult;

22 (e) require the performance of community service;

23 (f) require the youth, his parents, his guardians, or
24 the persons having legal custody of the youth to receive
25 counseling services;

1 (g) require the medical and psychological evaluation of
2 the youth, his parents, his guardians, or the persons having
3 legal custody of the youth;

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

7 (i) order such further care, treatment, evaluation, or
8 relief that the court considers beneficial to the youth and
9 the community and that does not obligate funding from the
10 department without the department's approval, except that a
11 youth may not be placed by a youth court in a residential
12 treatment facility as defined in 50-5-101. Only the
13 department may, pursuant to subsection (1)(b), place a youth
14 in a residential treatment facility.

15 (j) commit the youth to a mental health facility if,
16 based upon the testimony of a professional person as defined
17 in 53-21-102, the court finds that the youth is seriously
18 mentally ill as defined in 53-21-102. The youth is entitled
19 to all rights provided by 53-21-114 through 53-21-119. Upon
20 release or discharge from the mental health facility, the
21 youth must be returned to the court for further disposition
22 in accordance with this section unless the court order has
23 expired or the court no longer retains jurisdiction under
24 41-5-205.

25 (2) When a youth is committed to the department, the

1 department shall determine the appropriate placement and
2 rehabilitation program for the youth after considering the
3 recommendations made under 41-5-527 by the youth placement
4 committee. Placement is subject to the following
5 limitations:

6 (a) A youth in need of supervision may not be placed in
7 a state youth correctional facility.

8 (b) A youth may not be held in a state youth
9 correctional facility for a period of time in excess of the
10 maximum period of imprisonment that could be imposed on an
11 adult convicted of the offense or offenses that brought the
12 youth under the jurisdiction of the youth court. Nothing in
13 this section limits the power of the department to enter
14 into an aftercare agreement with the youth pursuant to
15 53-30-226.

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

19 (3) A youth placed by the department in a youth
20 correctional facility must be supervised by the department.
21 A youth placed in any other placement must be supervised by
22 the youth probation officer of the youth court having
23 jurisdiction over the youth.

24 (4) At any time after the youth has been taken into
25 custody and before final disposition, the court may, with

1 jurisdiction over the youth.

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

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

13 (6) Any order of the court may be modified at any time.
14 In the case of a youth committed to the department, an order
15 pertaining to the youth may be modified only upon notice to
16 the department and subsequent hearing.

17 (7) Whenever the court commits a youth to the
18 department, it must transmit with the dispositional judgment
19 copies of a medical report and such other clinical,
20 predisposition, or other reports and information pertinent
21 to the care and treatment of the youth.

22 41-5-523. (Effective July 1, 1991) Disposition of
23 delinquent youth and youth in need of supervision. (1) If a
24 youth is found to be a delinquent youth or a youth in need
25 of supervision, the youth court may enter its judgment

1 making any of the following dispositions:

2 (a) place the youth on probation;

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

6 (i) in the case of a youth in need of supervision, the
7 court shall determine whether continuation in the home would
8 be contrary to the welfare of the youth and whether
9 reasonable efforts have been made to prevent or eliminate
10 the need for removal of the youth from his home. The court
11 shall include such determination in the order committing the
12 youth to the department.

13 (ii) in the case of a delinquent youth who is determined
14 by the court to be a serious juvenile offender, the judge
15 may specify that the youth be placed in a state youth
16 correctional facility if the judge finds that such placement
17 is necessary for the protection of the public;

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

19 (d) impose a fine as authorized by law if the violation
20 alleged would constitute a criminal offense if committed by
21 an adult;

22 (e) require the performance of community service;

23 (f) require the youth, his parents, his guardians, or
24 the persons having legal custody of the youth to receive
25 counseling services;

1 (g) require the medical and psychological evaluation of
2 the youth, his parents, his guardians, or the persons having
3 legal custody of the youth;

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

7 (i) order such further care, treatment, evaluation, or
8 relief that the court considers beneficial to the youth and
9 the community and that does not obligate funding from the
10 department without the department's approval, except that a
11 youth may not be placed by a youth court in a residential
12 treatment facility as defined in 50-5-101. Only the
13 department may, pursuant to subsection (1)(b), place a youth
14 in a residential treatment facility.

15 (j) commit the youth to a mental health facility if,
16 based upon the testimony of a professional person as defined
17 in 53-21-102, the court finds that the youth is seriously
18 mentally ill as defined in 53-21-102. The youth is entitled
19 to all rights provided by 53-21-114 through 53-21-119. Upon
20 release or discharge from the mental health facility, the
21 youth must be returned to the court for further disposition
22 in accordance with this section unless the court order has
23 expired or the court no longer retains jurisdiction under
24 41-5-205.

25 (2) When a youth is committed to the department, the

1 department shall determine the appropriate placement and
2 rehabilitation program for the youth after considering the
3 recommendations made under 41-5-527 by the youth placement
4 committee. Placement is subject to the following
5 limitations:

6 (a) A youth in need of supervision may not be placed in
7 a state youth correctional facility.

8 (b) A youth may not be held in a state youth
9 correctional facility for a period of time in excess of the
10 maximum period of imprisonment that could be imposed on an
11 adult convicted of the offense or offenses that brought the
12 youth under the jurisdiction of the youth court. Nothing in
13 this section limits the power of the department to enter
14 into an aftercare agreement with the youth pursuant to
15 53-30-226.

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

19 (3) A youth placed by the department in a youth
20 correctional facility must be supervised by the department.
21 A youth placed in any other placement must be supervised by
22 the youth probation officer of the youth court having
23 jurisdiction over the youth.

24 (4) At any time after the youth has been taken into
25 custody and before final disposition, the court may, with

1 the consent of the youth in the manner provided in 41-5-303
 2 for consent by a youth to a waiver of his constitutional
 3 rights or after the youth has been adjudicated delinquent or
 4 in need of supervision, order the youth to be evaluated for
 5 a period not to exceed 45 days. The county commissioners are
 6 responsible for the cost of the evaluation and may contract
 7 with the department or other public or private agencies to
 8 obtain evaluation services.

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

12 (6) Any order of the court may be modified at any time.
 13 In the case of a youth committed to the department, an order
 14 pertaining to the youth may be modified only upon notice to
 15 the department and subsequent hearing.

16 (7) Whenever the court commits a youth to the
 17 department, it must transmit with the dispositional judgment
 18 copies of a medical report and such other clinical,
 19 predisposition, or other reports and information pertinent
 20 to the care and treatment of the youth.

21 (8) If a youth is committed to the department, the
 22 court shall examine the financial ability of the youth's
 23 parents or guardians to pay a contribution covering all or
 24 part of the costs for the care, commitment, and treatment of
 25 the youth, including the costs of necessary medical, dental,

1 and other health care.

2 (9) If the court determines that the youth's parents or
 3 guardians are financially able to pay a contribution as
 4 provided in subsection (8), the court shall order the
 5 youth's parents or guardians to pay an amount based on the
 6 uniform child support guidelines adopted by the department
 7 of social and rehabilitation services pursuant to 40-5-209.

8 (10) The court may, in its discretion, order
 9 contributions required under subsection (9) to be paid by
 10 means of automatic income withholding in accordance with the
 11 procedures established under Title 40, chapter 5, part 4.

12 (11) Upon a showing of a change in the financial ability
 13 of the youth's parents or guardians to pay, the court may
 14 modify its order for the payment of contributions required
 15 under subsection (9).

16 (12) The department of social and rehabilitation
 17 services shall collect and enforce payment of contributions
 18 ordered by the court pursuant to this section in the same
 19 manner as provided in Title 40, chapter 5, for the
 20 collection and enforcement of child support."

21 **Section 4.** Section 41-5-524, MCA, is amended to read:

22 "41-5-524. Consent decree with petition. (1) At any
 23 time after the filing of a petition alleging delinquency--or
 24 that a youth is a delinquent youth or a youth in need of
 25 supervision and before the entry of a judgment, the court

1 may, on motion of counsel for the youth or on the court's
 2 own motion, suspend the proceedings and continue the youth
 3 under supervision under terms and conditions negotiated with
 4 probation services and agreed to by all necessary parties.
 5 The court's order continuing the child under supervision
 6 under this section shall be known as a "consent decree". The
 7 procedures used and dispositions permitted under this
 8 section shall conform to the procedures and dispositions
 9 specified in 41-5-401 through 41-5-403 relating to consent
 10 adjustments without petition and the responsibility of the
 11 youth's parents or guardians to pay a contribution for the
 12 costs of placement in substitute care.

13 (2) If the youth or his counsel objects to a consent
 14 decree, the court shall proceed to findings, adjudication,
 15 and disposition of the case.

16 (3) If, either prior to discharge by probation services
 17 or expiration of the consent decree, a new petition alleging
 18 delinquency-or that the youth is a delinquent youth or a
 19 youth in need of supervision is filed against the youth or
 20 if the youth fails to fulfill the expressed terms and
 21 conditions of the consent decree, the petition under which
 22 the youth was continued under supervision may be reinstated
 23 in the discretion of the county attorney in consultation
 24 with probation services. In the event of reinstatement, the
 25 proceeding on the petition shall be continued to conclusion

1 as if the consent decree had never been entered.

2 (4) A youth who is discharged by probation services or
 3 who completes a period under supervision without
 4 reinstatement of the original petition may not again be
 5 proceeded against in any court for the same offense alleged
 6 in the petition, and the original petition shall be
 7 dismissed with prejudice. Nothing in this subsection
 8 precludes a civil suit against the youth for damages arising
 9 from his conduct.

10 (5) In all cases where the terms of the consent decree
 11 shall extend for a period in excess of 6 months, the
 12 probation officer shall at the end of each 6-month period
 13 submit a report which shall be reviewed by the court."

14 **NEW SECTION. Section 5. Parental contributions account**
 15 -- allocation of proceeds. (1) There is a parental
 16 contributions account in the state special revenue fund.

17 (2) Contributions paid by the parents and guardians of
 18 youth under 41-3-406, 41-5-403, 41-5-523, or 41-5-524 must
 19 be deposited in the account.

20 (3) All money in the account, except any amount
 21 required to be returned to federal or county sources, is
 22 allocated to the department to carry out its duties under
 23 52-1-103.

24 **Section 6.** Section 41-3-208, MCA, is amended to read:

25 **"41-3-208. Rulemaking authority.** (1) The department of

1 family services shall adopt rules to govern the procedures
2 used by department personnel in preparing and processing
3 reports and in making investigations authorized by this
4 chapter ~~or 41-3-1123~~.

5 (2) The department may adopt rules to govern the
6 disclosure of case records containing reports of child abuse
7 and neglect."

8 **Section 7.** Section 41-3-408, MCA, is amended to read:

9 **"41-3-408. Limited emancipation.** (1) The court, after
10 the dispositional hearing provided for in 41-3-406, may,
11 upon the request of a youth who is 16 years of age or older,
12 enter an order granting limited emancipation to the youth.

13 (2) Limited emancipation may be granted only if the
14 court has found:

15 (a) that limited emancipation is in the youth's best
16 interests;

17 (b) that the youth desires limited emancipation;

18 (c) that there exists no public interest compelling
19 denial of limited emancipation;

20 (d) that the youth has, or will reasonably obtain,
21 money sufficient to pay for financial obligations incurred
22 as a result of limited emancipation;

23 (e) that the youth, as shown by prior conduct and
24 preparation, understands and may be expected to responsibly
25 exercise those rights and responsibilities incurred as a

1 result of limited emancipation;

2 (f) that the youth has graduated or will continue to
3 diligently pursue graduation from high school, unless
4 circumstances clearly compel deferral of education; and

5 (g) that the youth will undergo periodic counseling
6 with an appropriate advisor.

7 (3) An order of limited emancipation must specifically
8 set forth the rights and responsibilities that are being
9 conferred upon the youth. These may include but are not
10 limited to one or more of the following:

11 (a) the right to live independently of in-house
12 supervision;

13 (b) the right to live in housing of the youth's choice;

14 (c) the right to directly receive and expend money to
15 which the youth is entitled and to conduct his own financial
16 affairs;

17 (d) the right to enter into contractual agreements and
18 incur debts;

19 (e) the right to obtain access to medical treatment and
20 records upon the youth's own authorization; and

21 (f) the right to obtain a license to operate equipment
22 or perform a service.

23 (4) An order of limited emancipation must include a
24 provision requiring that the youth make periodic reports to
25 the court upon terms prescribed by the court.

1 (5) If ~~no order for contribution is made under~~
 2 ~~41-3-1124~~ and the court determines that a youth to whom
 3 limited emancipation is granted does not have sufficient
 4 funds to finance transition to limited emancipated status,
 5 the court may order the department to provide such funds,
 6 not to exceed \$500, directly to the youth. The youth shall
 7 account to the court for the disposition of such funds and
 8 shall repay all such money to the department within 1 year
 9 of the order of limited emancipation unless the court for
 10 cause orders an extension.

11 (6) The court, on its own motion or on the motion of
 12 any parties to the dispositional hearing, may modify or
 13 revoke the order upon a showing that:

14 (a) the youth has committed a material violation of the
 15 law;

16 (b) the youth is failing to diligently pursue
 17 graduation from high school;

18 (c) the youth has violated a condition of the limited
 19 emancipation order;

20 (d) the best interests of the youth are no longer
 21 served by limited emancipation; or

22 (e) the youth has discontinued periodic counseling with
 23 approved advisors.

24 (7) The department shall mail a copy of this part to
 25 all high school counseling offices."

1 **Section 8.** Section 41-3-1115, MCA, is amended to read:

2 "41-3-1115. Foster care review committee. (1) In every
 3 judicial district the youth court judge, in consultation
 4 with the department, shall appoint a foster care review
 5 committee. The members of the committee must be willing to
 6 act without compensation. The committee shall be composed of
 7 not less than five or more than seven members. The members
 8 shall include:

9 (a) a representative of the department;

10 (b) a representative of the youth court;

11 (c) someone knowledgeable in the needs of children in
 12 foster care placements who is not employed by the department
 13 or the youth court;

14 (d) a representative of a local school district;

15 (e) if the child whose care under review is an Indian,
 16 someone, preferably an Indian person, knowledgeable about
 17 Indian cultural and family matters who is appointed
 18 effective only for and during that review; and

19 (f) if there is one, the foster parent of the child
 20 whose care is under review. The foster parent's appointment
 21 is effective only for and during that review.

22 (2) When a child is in foster care under the
 23 supervision of the department ~~or if payment for care is made~~
 24 ~~pursuant to 41-3-1122~~, the committee shall conduct a review
 25 of the foster care status of the child. The review must be

1 conducted within a time limit established by the department.
 2 The time limit must comply with federal law and may not be
 3 later than the 12-month anniversary date of the child's
 4 placement into foster care.

5 (3) The department shall provide the committee with
 6 guidelines for operation of the committee. Within 30 days of
 7 the foster care review, the committee shall provide the
 8 youth court and the department a written report of its
 9 findings and recommendations for further action by the youth
 10 court or the department.

11 (4) The department shall adopt rules necessary to carry
 12 out the purposes of this section.

13 (5) Because of the individual privacy involved,
 14 meetings of the committee, reports of the committee, and
 15 information on individuals' cases shared by committee
 16 members is confidential and subject to the confidentiality
 17 requirements of the department.

18 (6) The committee is subject to the call of the youth
 19 court judge to meet and confer with him on all matters
 20 pertaining to the foster care of a child before the youth
 21 court."

22 **Section 9.** Section 41-4-102, MCA, is amended to read:

23 "41-4-102. **Financial responsibility.** Financial
 24 responsibility for any child placed pursuant to the
 25 provisions of the Interstate Compact on the Placement of

1 Children shall be determined in accordance with the
 2 provisions of Article V thereof in the first instance.
 3 However, in the event of partial or complete default of
 4 performance thereunder, the provisions of Title 40, chapter
 5 5 (Revised Uniform Reciprocal Enforcement of Support Act),
 6 ~~and 41-3-1122, 41-3-404, and 41-3-1123~~ also may be invoked."

7 **Section 10.** Section 41-5-522, MCA, is amended to read:

8 "41-5-522. **Dispositional hearing.** (1) As soon as
 9 practicable after a youth is found to be a delinquent youth
 10 or a youth in need of supervision, the court shall conduct a
 11 dispositional hearing. The dispositional hearing may involve
 12 a determination of the financial liability-as-provided-in
 13 41-3-1123-and-41-3-1124 ability of the youth's parents or
 14 guardians to pay a contribution for the cost of care,
 15 commitment, and treatment of the youth as required in
 16 41-5-523.

17 (2) Before conducting the dispositional hearing, the
 18 court shall direct that a social summary or predisposition
 19 report be made in writing by a probation officer concerning
 20 the youth, his family, his environment, and other matters
 21 relevant to the need for care or rehabilitation or
 22 disposition of the case. The youth court may have the youth
 23 examined, and the results of the examination shall be made
 24 available to the court as part of the social summary or
 25 predisposition report. The court may order the examination

1 of a parent or guardian whose ability to care for or
 2 supervise a youth is at issue before the court. The results
 3 of such examination shall be included in the social summary
 4 or predisposition report. The youth, his parents, guardian,
 5 or counsel shall have the right to subpoena all persons who
 6 have prepared any portion of the social summary or
 7 predisposition report and shall have the right to
 8 cross-examine said parties at the dispositional hearing.

9 (3) Defense counsel shall be furnished with a copy of
 10 the social summary or predisposition report and
 11 psychological report prior to the dispositional hearing.

12 (4) The dispositional hearing shall be conducted in the
 13 manner set forth in subsections (3), (4), and (5) of
 14 41-5-521. The court shall hear all evidence relevant to a
 15 proper disposition of the case best serving the interests of
 16 the youth and the public. Such evidence shall include but
 17 not be limited to the social summary and predisposition
 18 report provided for in subsection (2) of this section.

19 (5) If the court finds that it is in the best interest
 20 of the youth, the youth, his parents, or guardian may be
 21 temporarily excluded from the hearing during the taking of
 22 evidence on the issues of need for treatment and
 23 rehabilitation.

24 (6) In determining whether restitution, as authorized
 25 by 41-5-523, is appropriate in a particular case, the

1 following factors may be considered in addition to any other
 2 evidence:

- 3 (a) age of the youth;
- 4 (b) ability of the youth to pay;
- 5 (c) ability of the parents or legal guardian to pay;
- 6 (d) amount of damage to the victim; and
- 7 (e) legal remedies of the victim; however, the ability
 8 of the victim or his insurer to stand any loss may not be
 9 considered in any case."

10 **NEW SECTION. Section 11. Repealer.** Sections 41-3-1123,
 11 41-3-1124, and 41-3-1125, MCA, are repealed.

12 **NEW SECTION. Section 12. Codification instruction.**
 13 [Section 5] is intended to be codified as an integral part
 14 of Title 41, chapter 5, part 5, and the provisions of Title
 15 41, chapter 5, part 5, apply to [section 5].

16 **NEW SECTION. Section 13. Effective date.** [This act] is
 17 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 HB0993, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act to require a youth's parents or guardians to pay a contribution toward the cost of out-of-home care provided by DFS if they are financially able to pay; contributions to be based on uniform child support guidelines; to establish collection procedures.

ASSUMPTIONS:

Department of Family Services:

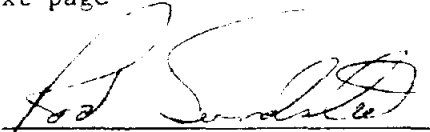
1. Current level shown below is foster care base budget plus House Appropriations committee actions.
2. DFS estimates it has about 612 clients/month whose parent or guardian might be financially able to contribute.
3. It is estimated that 75% (an average of 459 cases per month) will provide some contribution and the average contribution will be \$50/month.
4. The increases shown are above the amounts already added to the DFS budget for increased parental collections of \$55,000 FY92 and \$110,000 FY93.

Department of SRS:

5. Costs to Department of Social & Rehabilitation Services (SRS) will be associated with this legislation. The Child Support Enforcement Division (CSED) is currently charged with enforcement of all cases referred to it in which payments under Title IV-E of the Social Security Act are being made to the foster family. Approximately 100 cases of this type existed in the CSED caseload as of February 28, 1991. The Department of Family Services (DFS) indicates that an average of 459 cases would be expected to be active each month through referrals to CSED.
6. To process the additional caseload, CSED would require additional operating costs for caseworker time equivalent to approximately 1.00 FTE. Cost of contract staff (not state employees) needed to handle the new caseload would be \$29,837/FTE in SFY92 and \$30,275/FTE in SFY93.
7. All Foster Care collections made by the CSED will be directed to the state special revenue account in DFS. Incentives paid by the federal government on collections associated with Title IV-E Foster Care cases will be retained by the SRS and deposited in the CSED state special revenue account.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

3-19-91
DATE


TOM COOK, PRIMARY SPONSOR

3-21-91
DATE

Fiscal Note for HB0993, as introduced

HB 993-1

Fiscal Note Request, HB0993, as introduced

Form BD-15

Page 2

FISCAL IMPACT:

Department of Family Services:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Benefits and Claims	17,705,298	17,705,298	0	18,566,126	18,566,126	0
<u>Funding:</u>						
General Fund	12,250,351	12,190,151	(60,200)	12,786,537	12,721,137	(65,400)
State Special	1,539,359	1,599,559	60,200	1,541,881	1,607,281	65,400
Federal Special	<u>3,915,588</u>	<u>3,915,588</u>	<u>0</u>	<u>4,237,708</u>	<u>4,237,708</u>	<u>0</u>
Total	17,705,298	17,705,298	0	18,566,126	18,566,126	
<u>Department of SRS:</u>						
Operating Costs	0	29,837	29,837	0	30,275	30,275
<u>Funding:</u>						
CSED St Special (02)	0	10,145	10,145	0	10,294	10,294
Federal Revenue (03)	<u>0</u>	<u>19,692</u>	<u>19,692</u>	<u>0</u>	<u>19,981</u>	<u>19,981</u>
Total	0	29,837	29,837	0	30,275	30,275
<u>Revenues:</u>						
DFS Third Party Collection (02)	480,000	540,200	60,200	480,000	545,400	65,400
SRS CSED State Special (02)	<u>0</u>	<u>2,947</u>	<u>2,947</u>	<u>0</u>	<u>3,438</u>	<u>3,438</u>
Total	480,000	543,147	63,147	480,000	548,838	68,838
Net General Fund Impact (savings)			60,200			65,400

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 993

INTRODUCED BY ZOOK, PINSONEAULT, CODY, COBB,
THOMAS, KADAS, J. RICE, BENEDICT, HOFFMAN,
MERCER, COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A YOUTH'S PARENTS OR GUARDIANS TO PAY A CONTRIBUTION TOWARD THE COST OF OUT-OF-HOME CARE PROVIDED BY THE DEPARTMENT OF FAMILY SERVICES IF THEY ARE FINANCIALLY ABLE TO PAY; TO REQUIRE CONTRIBUTIONS BY A YOUTH'S PARENTS OR GUARDIANS TO BE BASED ON UNIFORM CHILD SUPPORT GUIDELINES; TO AUTHORIZE THE COLLECTION OF CONTRIBUTIONS BY MEANS OF AUTOMATIC INCOME WITHHOLDING; TO ALLOCATE PROCEEDS FROM THE CONTRIBUTIONS OF PARENTS AND GUARDIANS TO THE DEPARTMENT OF FAMILY SERVICES; AMENDING SECTIONS 41-3-208, 41-3-406, 41-3-408, 41-3-1115, 41-4-102, 41-5-403, 41-5-522, 41-5-523, AND 41-5-524, MCA; REPEALING SECTIONS 41-3-1123, 41-3-1124, AND 41-3-1125, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 41-3-406, MCA, is amended to read:

"41-3-406. Dispositional hearing -- contributions by parents or guardians for youth's care. (1) If a youth is found to be abused, neglected, or dependent a youth in need of care under 41-3-404, the court ~~after the dispositional~~

hearing may enter its judgment making any of the following dispositions to protect the welfare of the youth:

(1)(a) permit the youth to remain with his parents or guardian subject to those conditions and limitations the court may prescribe;

(2)(b) grant an order of limited emancipation to a youth who is 16 years of age or older as provided in 41-3-408;

(3)(c) transfer legal custody to any of the following:

(a)(i) the department of family services;

(b)(ii) a child-placing agency that is willing and able to assume responsibility for the education, care, and maintenance of the youth and which that is licensed or otherwise authorized by law to receive and provide care of the youth; or

(c)(iii) a relative or other individual who, after study by a social service agency designated by the court, is found by the court to be qualified to receive and care for the youth;

(4)(d) order any party to the action to do what is necessary to give effect to the final disposition, including undertaking medical and psychological evaluations, treatment, and counseling;

(5)(e) order such further care and treatment as the court ~~may deem~~ considers in the best interest of the youth.

1 (2) If the youth is transferred to the custody of the
 2 department, the court shall examine the financial ability of
 3 the youth's parents or guardians to pay a contribution
 4 covering all or part of the costs for the care, custody, and
 5 treatment of the youth, including the costs of necessary
 6 medical, dental, and other health care.

7 (3) If the court determines that the youth's parents or
 8 guardians are financially able to pay a contribution as
 9 provided in subsection (2), the court shall order the
 10 youth's parents or guardians to pay an amount based on the
 11 uniform child support guidelines adopted by the department
 12 of social and rehabilitation services pursuant to 40-5-209.

13 (4) The---court---may,---in---its---discretion,---order
 14 contributions---required---under---subsection-(3)-to-be-paid-by
 15 means-of-automatic-income-withholding-in-accordance-with-the
 16 procedures-established-under-Title-40, chapter--5,--part--4:

17 (A) EXCEPT AS PROVIDED IN SUBSECTION (4)(B), CONTRIBUTIONS
 18 ORDERED UNDER THIS SECTION AND EACH MODIFICATION OF AN
 19 EXISTING ORDER ARE ENFORCEABLE BY IMMEDIATE OR DELINQUENCY
 20 INCOME WITHHOLDING, OR BOTH, UNDER TITLE 40, CHAPTER 5, PART
 21 4. AN ORDER FOR CONTRIBUTION THAT IS INCONSISTENT WITH THIS
 22 SECTION IS NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE
 23 PAYMENT OF THE CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF
 24 THE SUPPORT ORDER OR FOR ANY FURTHER ACTION BY THE COURT.

25 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER

1 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
 2 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
 3 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:

4 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
 5 WITHHOLDING; OR

6 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
 7 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
 8 CONTRIBUTIONS.

9 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
 10 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:

11 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
 12 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
 13 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
 14 CHILD; AND

15 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
 16 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS
 17 ORDERED UNDER THIS SECTION.

18 (D) AN ALTERNATIVE ARRANGEMENT MUST:

19 (I) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE
 20 WITH THE ARRANGEMENT;

21 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF
 22 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
 23 CONTRIBUTIONS; AND

24 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE
 25 RECORD OF THE PROCEEDING.

1 (5) Upon a showing of a change in the financial ability
 2 of the youth's parents or guardians to pay, the court may
 3 modify its order for the payment of contributions required
 4 under subsection (3).

5 ~~(6) The department of social and rehabilitation~~
 6 ~~services shall collect and enforce payment of contributions~~
 7 ~~ordered by the court pursuant to this section in the same~~
 8 ~~manner as provided in Title 40, chapter 5, for the~~
 9 ~~collection and enforcement of child support. (A) IF THE~~
 10 COURT ORDERS THE PAYMENT OF CONTRIBUTIONS UNDER THIS
 11 SECTION, THE DEPARTMENT SHALL APPLY TO THE DEPARTMENT OF
 12 SOCIAL AND REHABILITATION SERVICES FOR SUPPORT ENFORCEMENT
 13 SERVICES PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT.

14 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
 15 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
 16 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE
 17 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND
 18 4."

19 **Section 2.** Section 41-5-403, MCA, is amended to read:

20 "41-5-403. Disposition permitted under informal
 21 adjustment -- contributions by parents or guardians for
 22 youth's care. (1) The following dispositions may be imposed
 23 by informal adjustment:

24 (a) probation;

25 (b) placement of the youth for in substitute care into

1 in a youth care facility, as defined in 41-3-1102, and as
 2 determined by the department;

3 (c) placement of the youth ~~in~~ with a private agency
 4 responsible for the care and rehabilitation of ~~such a~~ the
 5 youth as determined by the department;

6 (d) restitution upon approval of the youth court judge.

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

10 (a) age of the youth;

11 (b) ability of the youth to pay;

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

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

14 (e) legal remedies of the victim; however, the ability
 15 of the victim or his insurer to stand any loss may not be
 16 considered in any case.

17 (3) If the youth violates ~~his~~ an aftercare agreement as
 18 provided for in 53-30-226, he must be returned to the court
 19 for further disposition. ~~No~~ A youth may not be placed in a
 20 state youth correctional facility under informal adjustment.

21 (4) If the youth is placed in substitute care requiring
 22 payment by the department, the court shall examine the
 23 financial ability of the youth's parents or guardians to pay
 24 a contribution covering all or part of the costs for the
 25 care, placement, and treatment of the youth, including the

1 costs of necessary medical, dental, and other health care.
 2 (5) If the court determines that the youth's parents or
 3 guardians are financially able to pay a contribution as
 4 provided in subsection (4), the court shall order the
 5 youth's parents or guardians to pay an amount based on the
 6 uniform child support guidelines adopted by the department
 7 of social and rehabilitation services pursuant to 40-5-209.
 8 (6) The court may in its discretion order
 9 contributions required under subsection (5) to be paid by
 10 means of automatic income withholding in accordance with the
 11 procedures established under Title 40, chapter 5, part 4.
 12 (7) Upon a showing of a change in the financial ability
 13 of the youth's parents or guardians to pay, the court may
 14 modify its order for the payment of contributions required
 15 under subsection (5).
 16 (8) The department of social and rehabilitation
 17 services shall collect and enforce payment of contributions
 18 ordered by the court pursuant to this section in the same
 19 manner as provided in Title 40, chapter 5, for the
 20 collection and enforcement of child support. (A) EXCEPT AS
 21 PROVIDED IN SUBSECTION (6)(B), CONTRIBUTIONS ORDERED UNDER
 22 THIS SECTION AND EACH MODIFICATION OF AN EXISTING ORDER ARE
 23 ENFORCEABLE BY IMMEDIATE OR DELINQUENCY INCOME WITHHOLDING,
 24 OR BOTH, UNDER TITLE 40, CHAPTER 5, PART 4. AN ORDER FOR
 25 CONTRIBUTION THAT IS INCONSISTENT WITH THIS SECTION IS

1 NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE PAYMENT OF THE
 2 CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF THE SUPPORT
 3 ORDER OR FOR ANY FURTHER ACTION BY THE COURT.
 4 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER
 5 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
 6 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
 7 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:
 8 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
 9 WITHHOLDING; OR
 10 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
 11 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
 12 CONTRIBUTIONS.
 13 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
 14 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:
 15 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
 16 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
 17 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
 18 CHILD; AND
 19 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
 20 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS
 21 ORDERED UNDER THIS SECTION.
 22 (D) AN ALTERNATIVE ARRANGEMENT MUST:
 23 (I) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE
 24 WITH THE ARRANGEMENT;
 25 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF

1 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
 2 CONTRIBUTIONS; AND

3 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE
 4 RECORD OF THE PROCEEDING.

5 (7) (A) IF THE COURT ORDERS THE PAYMENT OF
 6 CONTRIBUTIONS UNDER THIS SECTION, THE DEPARTMENT SHALL APPLY
 7 TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES FOR
 8 SUPPORT ENFORCEMENT SERVICES PURSUANT TO TITLE IV-D OF THE
 9 SOCIAL SECURITY ACT.

10 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
 11 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
 12 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE
 13 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND
 14 4."

15 **Section 3.** Section 41-5-523, MCA, is amended to read:

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

- 20 (a) place the youth on probation;
- 21 (b) commit the youth to the department if the court
- 22 determines that the youth is in need of placement in other
- 23 than the youth's own home; provided, however, that:
- 24 (i) in the case of a youth in need of supervision, the
- 25 court shall determine whether continuation in the home would

1 be contrary to the welfare of the youth and whether
 2 reasonable efforts have been made to prevent or eliminate
 3 the need for removal of the youth from his home. The court
 4 shall include such determination in the order committing the
 5 youth to the department.

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

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

12 (d) impose a fine as authorized by law if the violation
 13 alleged would constitute a criminal offense if committed by
 14 an adult;

15 (e) require the performance of community service;

16 (f) require the youth, his parents, his guardians, or
 17 the persons having legal custody of the youth to receive
 18 counseling services;

19 (g) require the medical and psychological evaluation of
 20 the youth, his parents, his guardians, or the persons having
 21 legal custody of the youth;

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

25 (i) order such further care, treatment, evaluation, or

1 relief that the court considers beneficial to the youth and
 2 the community and that does not obligate funding from the
 3 department without the department's approval, except that a
 4 youth may not be placed by a youth court in a residential
 5 treatment facility as defined in 50-5-101. Only the
 6 department may, pursuant to subsection (1)(b), place a youth
 7 in a residential treatment facility.

8 (j) commit the youth to a mental health facility if,
 9 based upon the testimony of a professional person as defined
 10 in 53-21-102, the court finds that the youth is seriously
 11 mentally ill as defined in 53-21-102. The youth is entitled
 12 to all rights provided by 53-21-114 through 53-21-119. Upon
 13 release or discharge from the mental health facility, the
 14 youth must be returned to the court for further disposition
 15 in accordance with this section unless the court order has
 16 expired or the court no longer retains jurisdiction under
 17 41-5-205.

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

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

1 (b) A youth may not be held in a youth correctional
 2 facility for a period of time in excess of the maximum
 3 period of imprisonment that could be imposed on an adult
 4 convicted of the offense or offenses that brought the youth
 5 under the jurisdiction of the youth court. Nothing in this
 6 section limits the power of the department to enter into an
 7 aftercare agreement with the youth pursuant to 53-30-226.

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

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

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

24 (5) No evaluation of a youth may be performed at the
 25 Montana state hospital unless such youth is transferred to

1 the district court under 41-5-206.

2 (6) Any order of the court may be modified at any time.
3 In the case of a youth committed to the department, an order
4 pertaining to the youth may be modified only upon notice to
5 the department and subsequent hearing.

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

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

16 (a) place the youth on probation;

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

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

1 youth to the department.

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

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

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

11 (e) require the performance of community service;

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

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

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

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

1 treatment facility as defined in 50-5-101. Only the
2 department may, pursuant to subsection (1)(b), place a youth
3 in a residential treatment facility.

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

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

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

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

1 youth under the jurisdiction of the youth court. Nothing in
2 this section limits the power of the department to enter
3 into an aftercare agreement with the youth pursuant to
4 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 and before final disposition, the court may, with
15 the consent of the youth in the manner provided in 41-5-303
16 for consent by a youth to a waiver of his constitutional
17 rights or after the youth has been adjudicated delinquent or
18 in need of supervision, order the youth to be evaluated for
19 a period not to exceed 45 days. The county commissioners are
20 responsible for the cost of the evaluation and may contract
21 with the department or other public or private agencies to
22 obtain evaluation services.

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

1 (6) Any order of the court may be modified at any time.
2 In the case of a youth committed to the department, an order
3 pertaining to the youth may be modified only upon notice to
4 the department and subsequent hearing.

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

10 (8) If a youth is committed to the department, the
11 court shall examine the financial ability of the youth's
12 parents or guardians to pay a contribution covering all or
13 part of the costs for the care, commitment, and treatment of
14 the youth, including the costs of necessary medical, dental,
15 and other health care.

16 (9) If the court determines that the youth's parents or
17 guardians are financially able to pay a contribution as
18 provided in subsection (8), the court shall order the
19 youth's parents or guardians to pay an amount based on the
20 uniform child support guidelines adopted by the department
21 of social and rehabilitation services pursuant to 40-5-209.

22 (10) ~~The court may, in its discretion, order~~
23 ~~contributions required under subsection (9) to be paid by~~
24 ~~means of automatic income withholding in accordance with the~~
25 ~~procedures established under Title 40, chapter 5, part 4.~~

1 (A) EXCEPT AS PROVIDED IN SUBSECTION (10)(B), CONTRIBUTIONS
2 ORDERED UNDER THIS SECTION, AND EACH MODIFICATION OF AN
3 EXISTING ORDER ARE ENFORCEABLE BY IMMEDIATE OR DELINQUENCY
4 INCOME WITHHOLDING, OR BOTH, UNDER TITLE 40, CHAPTER 5, PART
5 4. AN ORDER FOR CONTRIBUTION THAT IS INCONSISTENT WITH THIS
6 SECTION IS NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE
7 PAYMENT OF THE CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF
8 THE SUPPORT ORDER OR FOR ANY FURTHER ACTION BY THE COURT.

9 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER
10 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
11 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
12 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:

13 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
14 WITHHOLDING; OR

15 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
16 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
17 CONTRIBUTIONS.

18 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
19 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:

20 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
21 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
22 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
23 CHILD; AND

24 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
25 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS

1 ORDERED UNDER THIS SECTION.

2 (D) AN ALTERNATIVE ARRANGEMENT MUST:

3 (I) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE
 4 WITH THE ARRANGEMENT;

5 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF
 6 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
 7 CONTRIBUTIONS; AND

8 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE
 9 RECORD OF THE PROCEEDING.

10 (11) Upon a showing of a change in the financial ability
 11 of the youth's parents or guardians to pay, the court may
 12 modify its order for the payment of contributions required
 13 under subsection (9).

14 ~~(12) The department of social and rehabilitation~~
 15 ~~services shall collect and enforce payment of contributions~~
 16 ~~ordered by the court pursuant to this section in the same~~
 17 ~~manner as provided in Title 40, chapter 5, for the~~
 18 ~~collection and enforcement of child support.~~ (A) IF THE
 19 COURT ORDERS THE PAYMENT OF CONTRIBUTIONS UNDER THIS
 20 SECTION, THE DEPARTMENT SHALL APPLY TO THE DEPARTMENT OF
 21 SOCIAL AND REHABILITATION SERVICES FOR SUPPORT ENFORCEMENT
 22 SERVICES PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT.

23 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
 24 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
 25 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE

1 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND

2 4."

3 **Section 4.** Section 41-5-524, MCA, is amended to read:

4 "41-5-524. Consent decree with petition. (1) At any
 5 time after the filing of a petition alleging delinquency--or
 6 that a youth is a delinquent youth or a youth in need of
 7 supervision and before the entry of a judgment, the court
 8 may, on motion of counsel for the youth or on the court's
 9 own motion, suspend the proceedings and continue the youth
 10 under supervision under terms and conditions negotiated with
 11 probation services and agreed to by all necessary parties.
 12 The court's order continuing the child under supervision
 13 under this section shall be known as a "consent decree". The
 14 procedures used and dispositions permitted under this
 15 section shall conform to the procedures and dispositions
 16 specified in 41-5-401 through 41-5-403 relating to consent
 17 adjustments without petition and the responsibility of the
 18 youth's parents or guardians to pay a contribution for the
 19 costs of placement in substitute care.

20 (2) If the youth or his counsel objects to a consent
 21 decree, the court shall proceed to findings, adjudication,
 22 and disposition of the case.

23 (3) If, either prior to discharge by probation services
 24 or expiration of the consent decree, a new petition alleging
 25 delinquency--or that the youth is a delinquent youth or a

1 youth in need of supervision is filed against the youth or
 2 if the youth fails to fulfill the expressed terms and
 3 conditions of the consent decree, the petition under which
 4 the youth was continued under supervision may be reinstated
 5 in the discretion of the county attorney in consultation
 6 with probation services. In the event of reinstatement, the
 7 proceeding on the petition shall be continued to conclusion
 8 as if the consent decree had never been entered.

9 (4) A youth who is discharged by probation services or
 10 who completes a period under supervision without
 11 reinstatement of the original petition may not again be
 12 proceeded against in any court for the same offense alleged
 13 in the petition, and the original petition shall be
 14 dismissed with prejudice. Nothing in this subsection
 15 precludes a civil suit against the youth for damages arising
 16 from his conduct.

17 (5) In all cases where the terms of the consent decree
 18 shall extend for a period in excess of 6 months, the
 19 probation officer shall at the end of each 6-month period
 20 submit a report which shall be reviewed by the court."

21 NEW SECTION. Section 5. Parental contributions account
 22 -- allocation of proceeds. (1) There is a parental
 23 contributions account in the state special revenue fund.

24 (2) Contributions paid by the parents and guardians of
 25 youth under 41-3-406, 41-5-403, 41-5-523, or 41-5-524 must

1 be deposited in the account.

2 (3) All money in the account, except any amount
 3 required to be returned to federal or county sources, is
 4 allocated to the department to carry out its duties under
 5 52-1-103.

6 **Section 6.** Section 41-3-208, MCA, is amended to read:

7 "41-3-208. Rulemaking authority. (1) The department of
 8 family services shall adopt rules to govern the procedures
 9 used by department personnel in preparing and processing
 10 reports and in making investigations authorized by this
 11 chapter or ~~41-3-1123~~.

12 (2) The department may adopt rules to govern the
 13 disclosure of case records containing reports of child abuse
 14 and neglect."

15 **Section 7.** Section 41-3-408, MCA, is amended to read:

16 "41-3-408. Limited emancipation. (1) The court, after
 17 the dispositional hearing provided for in 41-3-406, may,
 18 upon the request of a youth who is 16 years of age or older,
 19 enter an order granting limited emancipation to the youth.

20 (2) Limited emancipation may be granted only if the
 21 court has found:

22 (a) that limited emancipation is in the youth's best
 23 interests;

24 (b) that the youth desires limited emancipation;

25 (c) that there exists no public interest compelling

1 denial of limited emancipation;

2 (d) that the youth has, or will reasonably obtain,
3 money sufficient to pay for financial obligations incurred
4 ~~as~~ a result of limited emancipation;

5 (e) that the youth, as shown by prior conduct and
6 preparation, understands and may be expected to responsibly
7 exercise those rights and responsibilities incurred as a
8 result of limited emancipation;

9 (f) that the youth has graduated or will continue to
10 diligently pursue graduation from high school, unless
11 circumstances clearly compel deferral of education; and

12 (g) that the youth will undergo periodic counseling
13 with an appropriate advisor.

14 (3) An order of limited emancipation must specifically
15 set forth the rights and responsibilities that are being
16 conferred upon the youth. These may include but are not
17 limited to one or more of the following:

18 (a) the right to live independently of in-house
19 supervision;

20 (b) the right to live in housing of the youth's choice;

21 (c) the right to directly receive and expend money to
22 which the youth is entitled and to conduct his own financial
23 affairs;

24 (d) the right to enter into contractual agreements and
25 incur debts;

1 (e) the right to obtain access to medical treatment and
2 records upon the youth's own authorization; and

3 (f) the right to obtain a license to operate equipment
4 or perform a service.

5 (4) An order of limited emancipation must include a
6 provision requiring that the youth make periodic reports to
7 the court upon terms prescribed by the court.

8 (5) If ~~no order for contribution is made under~~
9 ~~41-3-1124~~ and the court determines that a youth to whom
10 limited emancipation is granted does not have sufficient
11 funds to finance transition to limited emancipated status,
12 the court may order the department to provide such funds,
13 not to exceed \$500, directly to the youth. The youth shall
14 account to the court for the disposition of such funds and
15 shall repay all such money to the department within 1 year
16 of the order of limited emancipation unless the court for
17 cause orders an extension.

18 (6) The court, on its own motion or on the motion of
19 any parties to the dispositional hearing, may modify or
20 revoke the order upon a showing that:

21 (a) the youth has committed a material violation of the
22 law;

23 (b) the youth is failing to diligently pursue
24 graduation from high school;

25 (c) the youth has violated a condition of the limited

1 emancipation order;

2 (d) the best interests of the youth are no longer
3 served by limited emancipation; or

4 (e) the youth has discontinued periodic counseling with
5 approved advisors.

6 (7) The department shall mail a copy of this part to
7 all high school counseling offices."

8 **Section 8.** Section 41-3-1115, MCA, is amended to read:

9 "41-3-1115. **Foster care review committee.** (1) In every
10 judicial district the youth court judge, in consultation
11 with the department, shall appoint a foster care review
12 committee. The members of the committee must be willing to
13 act without compensation. The committee shall be composed of
14 not less than five or more than seven members. The members
15 shall include:

16 (a) a representative of the department;

17 (b) a representative of the youth court;

18 (c) someone knowledgeable in the needs of children in
19 foster care placements who is not employed by the department
20 or the youth court;

21 (d) a representative of a local school district;

22 (e) if the child whose care under review is an Indian,
23 someone, preferably an Indian person, knowledgeable about
24 Indian cultural and family matters who is appointed
25 effective only for and during that review; and

1 (f) if there is one, the foster parent of the child
2 whose care is under review. The foster parent's appointment
3 is effective only for and during that review.

4 (2) When a child is in foster care under the
5 supervision of the department ~~or if payment for care is made~~
6 ~~pursuant to 41-3-1122~~, the committee shall conduct a review
7 of the foster care status of the child. The review must be
8 conducted within a time limit established by the department.
9 The time limit must comply with federal law and may not be
10 later than the 12-month anniversary date of the child's
11 placement into foster care.

12 (3) The department shall provide the committee with
13 guidelines for operation of the committee. Within 30 days of
14 the foster care review, the committee shall provide the
15 youth court and the department a written report of its
16 findings and recommendations for further action by the youth
17 court or the department.

18 (4) The department shall adopt rules necessary to carry
19 out the purposes of this section.

20 (5) Because of the individual privacy involved,
21 meetings of the committee, reports of the committee, and
22 information on individuals' cases shared by committee
23 members is confidential and subject to the confidentiality
24 requirements of the department.

25 (6) The committee is subject to the call of the youth

1 court judge to meet and confer with him on all matters
2 pertaining to the foster care of a child before the youth
3 court."

4 **Section 9.** Section 41-4-102, MCA, is amended to read:

5 "41-4-102. Financial responsibility. Financial
6 responsibility for any child placed pursuant to the
7 provisions of the Interstate Compact on the Placement of
8 Children shall be determined in accordance with the
9 provisions of Article V thereof in the first instance.
10 However, in the event of partial or complete default of
11 performance thereunder, the provisions of Title 40, chapter
12 5 (Revised Uniform Reciprocal Enforcement of Support Act),
13 and ~~41-3-1122, 41-3-404, and 41-3-1123~~ 41-3-406, AND
14 41-3-1122 also may be invoked."

15 **Section 10.** Section 41-5-522, MCA, is amended to read:

16 "41-5-522. Dispositional hearing. (1) As soon as
17 practicable after a youth is found to be a delinquent youth
18 or a youth in need of supervision, the court shall conduct a
19 dispositional hearing. The dispositional hearing may involve
20 a determination of the financial liability--as--provided--in
21 41-3-1123--and--41-3-1124 ability of the youth's parents or
22 guardians to pay a contribution for the cost of care,
23 commitment, and treatment of the youth as required in
24 41-5-523.

25 (2) Before conducting the dispositional hearing, the

1 court shall direct that a social summary or predisposition
2 report be made in writing by a probation officer concerning
3 the youth, his family, his environment, and other matters
4 relevant to the need for care or rehabilitation or
5 disposition of the case. The youth court may have the youth
6 examined, and the results of the examination shall be made
7 available to the court as part of the social summary or
8 predisposition report. The court may order the examination
9 of a parent or guardian whose ability to care for or
10 supervise a youth is at issue before the court. The results
11 of such examination shall be included in the social summary
12 or predisposition report. The youth, his parents, guardian,
13 or counsel shall have the right to subpoena all persons who
14 have prepared any portion of the social summary or
15 predisposition report and shall have the right to
16 cross-examine said parties at the dispositional hearing.

17 (3) Defense counsel shall be furnished with a copy of
18 the social summary or predisposition report and
19 psychological report prior to the dispositional hearing.

20 (4) The dispositional hearing shall be conducted in the
21 manner set forth in subsections (3), (4), and (5) of
22 41-5-521. The court shall hear all evidence relevant to a
23 proper disposition of the case best serving the interests of
24 the youth and the public. Such evidence shall include but
25 not be limited to the social summary and predisposition

1 report provided for in subsection (2) of this section.

2 (5) If the court finds that it is in the best interest
3 of the youth, the youth, his parents, or guardian may be
4 temporarily excluded from the hearing during the taking of
5 evidence on the issues of need for treatment and
6 rehabilitation.

7 (6) In determining whether restitution, as authorized
8 by 41-5-523, is appropriate in a particular case, the
9 following factors may be considered in addition to any other
10 evidence:

- 11 (a) age of the youth;
12 (b) ability of the youth to pay;
13 (c) ability of the parents or legal guardian to pay;
14 (d) amount of damage to the victim; and
15 (e) legal remedies of the victim; however, the ability
16 of the victim or his insurer to stand any loss may not be
17 considered in any case."

18 NEW SECTION. Section 11. Repealer. Sections 41-3-1123,
19 41-3-1124, and 41-3-1125, MCA, are repealed.

20 NEW SECTION. Section 12. Codification instruction.
21 [Section 5] is intended to be codified as an integral part
22 of Title 41, chapter 5, part 5, and the provisions of Title
23 41, chapter 5, part 5, apply to [section 5].

24 NEW SECTION. Section 13. Effective date. [This act] is
25 effective July 1, 1991.

-End-

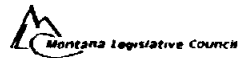
1 HOUSE BILL NO. 993
 2 INTRODUCED BY ZOOK, PINSONEAULT, CODY, COBB,
 3 THOMAS, KADAS, J. RICE, BENEDICT, HOFFMAN,
 4 MERCER, COCCHIARELLA

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A YOUTH'S
 7 PARENTS OR GUARDIANS TO PAY A CONTRIBUTION TOWARD THE COST
 8 OF OUT-OF-HOME CARE PROVIDED BY THE DEPARTMENT OF FAMILY
 9 SERVICES IF THEY ARE FINANCIALLY ABLE TO PAY; TO REQUIRE
 10 CONTRIBUTIONS BY A YOUTH'S PARENTS OR GUARDIANS TO BE BASED
 11 ON UNIFORM CHILD SUPPORT GUIDELINES; TO AUTHORIZE THE
 12 COLLECTION OF CONTRIBUTIONS BY MEANS OF AUTOMATIC INCOME
 13 WITHHOLDING; TO ALLOCATE PROCEEDS FROM THE CONTRIBUTIONS OF
 14 PARENTS AND GUARDIANS TO THE DEPARTMENT OF FAMILY SERVICES;
 15 AMENDING SECTIONS 41-3-208, 41-3-406, 41-3-408, 41-3-1115,
 16 41-4-102, 41-5-403, 41-5-522, 41-5-523, AND 41-5-524, MCA;
 17 REPEALING SECTIONS 41-3-1123, 41-3-1124, AND 41-3-1125, MCA;
 18 AND PROVIDING AN EFFECTIVE DATE."

19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 **Section 1.** Section 41-3-406, MCA, is amended to read:
 22 "41-3-406. Dispositional hearing -- contributions by
 23 parents or guardians for youth's care. (1) If a youth is
 24 found to be abused, neglected, or dependent a youth in need
 25 of care under 41-3-404, the court ~~after the dispositional~~

There are no changes in this bill,
 and will not be reprinted. Please
 refer to yellow copy for complete
 text.



MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 993 (third reading copy -- blue), respectfully report that House Bill No. 993 be amended and as so amended be concurred in:

1. Title, line 15.

Following: "41-3-208,"

Insert: "41-3-403,"

Strike: "41-3-1115,"

2. Page 1, line 21.

Following: line 20

Insert: "Section 1. Section 41-3-403, MCA, is amended to read:

"41-3-403. Order for immediate protection of youth. (1) (a)

Upon the filing of a petition for temporary investigative authority and protective services, the court may issue an order granting such relief as may be required for the immediate protection of the youth.

(b) The order, along with the petition and supporting documents, shall be served by a peace officer or a representative of the department of family services on the person or persons named therein. When the youth is placed in a medical facility or protective facility, the department shall notify the parents or parent, guardian, or other person having legal custody of the youth, at the time the placement is made or as soon thereafter as possible.

(c) The order shall require the person served to comply immediately with the terms thereof or to appear before the court issuing the order on the date specified and show cause why he has not complied with the order. The show cause hearing must be conducted within 20 days of the issuance of the order by the judge or a master appointed by the judge. The person filing the petition has the burden of presenting evidence establishing probable cause for the issuance of the order. Except as otherwise provided herein, the rules of civil procedure shall apply.

(d) Upon a failure to comply or show cause the court may hold the person in contempt or place temporary legal custody of the youth with the department of family services until further order.

(2) The court may grant the following kinds of relief:

(a) right of entry by a peace officer or department of family services worker;

(b) medical and psychological evaluation of youth or parents, guardians, or person having legal custody;

(c) require the youth, parents, guardians, or person having legal custody to receive counseling services;

(d) place the youth in temporary medical facility or facility for protection of the youth;

(e) require the parents, guardian, or other person having custody to furnish such services as the court may designate;

(f) inquire into the financial ability of the parents, guardian, or other person having custody of the youth to contribute to the costs for the care, custody, and treatment of the youth and order contribution for those costs pursuant to the requirements of 41-3-406(3) through (6);

~~(f)~~(g) such other temporary disposition as may be required in the best interest of the youth."

Renumber: subsequent sections

3. Page 25, line 8 through page 27, line 3.

Strike: section 8 in its entirety

Renumber: subsequent sections

4. Page 26, lines 21 and 23.

Strike: "5"

Insert: "6"

Signed: 
Richard Pinsoneault, Chairman

~~41-3-403~~
Coord.

SB 4-4 @ 4:40
Sec. of Senate

1 HOUSE BILL NO. 993

2 INTRODUCED BY ZOOK, PINSONEAULT, CODY, COBB,
3 THOMAS, KADAS, J. RICE, BENEDICT, HOFFMAN,
4 MERCER, COCCHIARELLA

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A YOUTH'S
7 PARENTS OR GUARDIANS TO PAY A CONTRIBUTION TOWARD THE COST
8 OF OUT-OF-HOME CARE PROVIDED BY THE DEPARTMENT OF FAMILY
9 SERVICES IF THEY ARE FINANCIALLY ABLE TO PAY; TO REQUIRE
10 CONTRIBUTIONS BY A YOUTH'S PARENTS OR GUARDIANS TO BE BASED
11 ON UNIFORM CHILD SUPPORT GUIDELINES; TO AUTHORIZE THE
12 COLLECTION OF CONTRIBUTIONS BY MEANS OF AUTOMATIC INCOME
13 WITHHOLDING; TO ALLOCATE PROCEEDS FROM THE CONTRIBUTIONS OF
14 PARENTS AND GUARDIANS TO THE DEPARTMENT OF FAMILY SERVICES;
15 AMENDING SECTIONS 41-3-208, 41-3-403, 41-3-406, 41-3-408,
16 ~~41-3-1115~~, 41-4-102, 41-5-403, 41-5-522, 41-5-523, AND
17 41-5-524, MCA; REPEALING SECTIONS 41-3-1123, 41-3-1124, AND
18 41-3-1125, MCA; AND PROVIDING AN EFFECTIVE DATE."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 **SECTION 1. SECTION 41-3-403, MCA, IS AMENDED TO READ:**

22 **"41-3-403. Order for immediate protection of youth.**

23 (1) (a) Upon the filing of a petition for temporary
24 investigative authority and protective services, the court
25 may issue an order granting such relief as may be required

1 for the immediate protection of the youth.

2 (b) The order, along with the petition and supporting
3 documents, shall be served by a peace officer or a
4 representative of the department of family services on the
5 person or persons named therein. When the youth is placed in
6 a medical facility or protective facility, the department
7 shall notify the parents or parent, guardian, or other
8 person having legal custody of the youth, at the time the
9 placement is made or as soon thereafter as possible.

10 (c) The order shall require the person served to comply
11 immediately with the terms thereof or to appear before the
12 court issuing the order on the date specified and show cause
13 why he has not complied with the order. The show cause
14 hearing must be conducted within 20 days of the issuance of
15 the order by the judge or a master appointed by the judge.
16 The person filing the petition has the burden of presenting
17 evidence establishing probable cause for the issuance of the
18 order. Except as otherwise provided herein, the rules of
19 civil procedure shall apply.

20 (d) Upon a failure to comply or show cause the court
21 may hold the person in contempt or place temporary legal
22 custody of the youth with the department of family services
23 until further order.

24 (2) The court may grant the following kinds of relief:

25 (a) right of entry by a peace officer or department of

1 family services worker;

2 (b) medical and psychological evaluation of youth or
3 parents, guardians, or person having legal custody;

4 (c) require the youth, parents, guardians, or person
5 having legal custody to receive counseling services;

6 (d) place the youth in temporary medical facility or
7 facility for protection of the youth;

8 (e) require the parents, guardian, or other person
9 having custody to furnish such services as the court may
10 designate;

11 (f) inquire into the financial ability of the parents,
12 guardian, or other person having custody of the youth to
13 contribute to the costs for the care, custody, and treatment
14 of the youth and order contribution for those costs pursuant
15 to the requirements of 41-3-406(3) through (6);

16 (g) such other temporary disposition as may be
17 required in the best interest of the youth."

18 **Section 2.** Section 41-3-406, MCA, is amended to read:

19 "**41-3-406. Disposition hearing -- contributions by**
20 parents or guardians for youth's care. (1) If a youth is
21 found to be abused,--neglected,--or-dependent a youth in need
22 of care under 41-3-404, the court after--the-dispositional
23 hearing may enter its judgment making any of the following
24 dispositions to protect the welfare of the youth:

25 (1)(a) permit the youth to remain with his parents or

1 guardian subject to those conditions and limitations the
2 court may prescribe;

3 (2)(b) grant an order of limited emancipation to a
4 youth who is 16 years of age or older as provided in
5 41-3-408;

6 (3)(c) transfer legal custody to any of the following:

7 (a)(i) the department of family services;

8 (b)(ii) a child-placing agency that is willing and able
9 to assume responsibility for the education, care, and
10 maintenance of the youth and which that is licensed or
11 otherwise authorized by law to receive and provide care of
12 the youth; or

13 (c)(iii) a relative or other individual who, after study
14 by a social service agency designated by the court, is found
15 by the court to be qualified to receive and care for the
16 youth;

17 (4)(d) order any party to the action to do what is
18 necessary to give effect to the final disposition, including
19 undertaking medical and psychological evaluations,
20 treatment, and counseling;

21 (5)(e) order such further care and treatment as the
22 court may-deem considers in the best interest of the youth.

23 (2) If the youth is transferred to the custody of the
24 department, the court shall examine the financial ability of
25 the youth's parents or guardians to pay a contribution

1 covering all or part of the costs for the care, custody, and
 2 treatment of the youth, including the costs of necessary
 3 medical, dental, and other health care.

4 (3) If the court determines that the youth's parents or
 5 guardians are financially able to pay a contribution as
 6 provided in subsection (2), the court shall order the
 7 youth's parents or guardians to pay an amount based on the
 8 uniform child support guidelines adopted by the department
 9 of social and rehabilitation services pursuant to 40-5-209.

10 (4) ~~The court may, in its discretion, order~~
 11 ~~contributions required under subsection (3) to be paid by~~
 12 ~~means of automatic income withholding in accordance with the~~
 13 ~~procedures established under Title 40, Chapter 5, Part 4.~~

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (4)(B), CONTRIBUTIONS
 15 ORDERED UNDER THIS SECTION AND EACH MODIFICATION OF AN
 16 EXISTING ORDER ARE ENFORCEABLE BY IMMEDIATE OR DELINQUENCY
 17 INCOME WITHHOLDING, OR BOTH, UNDER TITLE 40, CHAPTER 5, PART
 18 4. AN ORDER FOR CONTRIBUTION THAT IS INCONSISTENT WITH THIS
 19 SECTION IS NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE
 20 PAYMENT OF THE CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF
 21 THE SUPPORT ORDER OR FOR ANY FURTHER ACTION BY THE COURT.

22 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER
 23 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
 24 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
 25 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:

1 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
 2 WITHHOLDING; OR

3 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
 4 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
 5 CONTRIBUTIONS.

6 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
 7 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:

8 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
 9 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
 10 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
 11 CHILD; AND

12 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
 13 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS
 14 ORDERED UNDER THIS SECTION.

15 (D) AN ALTERNATIVE ARRANGEMENT MUST:

16 (I) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE
 17 WITH THE ARRANGEMENT;

18 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF
 19 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
 20 CONTRIBUTIONS; AND

21 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE
 22 RECORD OF THE PROCEEDING.

23 (5) Upon a showing of a change in the financial ability
 24 of the youth's parents or guardians to pay, the court may
 25 modify its order for the payment of contributions required

1 under subsection (3).

2 (6) The department of social and rehabilitation
3 services shall collect and enforce payment of contributions
4 ordered by the court pursuant to this section in the same
5 manner as provided in Title 40, Chapter 5, for the
6 collection and enforcement of child support. (A) IF THE
7 COURT ORDERS THE PAYMENT OF CONTRIBUTIONS UNDER THIS
8 SECTION, THE DEPARTMENT SHALL APPLY TO THE DEPARTMENT OF
9 SOCIAL AND REHABILITATION SERVICES FOR SUPPORT ENFORCEMENT
10 SERVICES PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT.

11 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
12 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
13 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE
14 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND
15 4."

16 **Section 3.** Section 41-5-403, MCA, is amended to read:

17 "41-5-403. Disposition permitted under informal
18 adjustment -- contributions by parents or guardians for
19 youth's care. (1) The following dispositions may be imposed
20 by informal adjustment:

21 (a) probation;

22 (b) placement of the youth for in substitute care into
23 in a youth care facility, as defined in 41-3-1102, and as
24 determined by the department;

25 (c) placement of the youth in with a private agency

1 responsible for the care and rehabilitation of such--a the
2 youth as determined by the department;

3 (d) restitution upon approval of the youth court judge.

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

7 (a) age of the youth;

8 (b) ability of the youth to pay;

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

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

11 (e) legal remedies of the victim; however, the ability
12 of the victim or his insurer to stand any loss may not be
13 considered in any case.

14 (3) If the youth violates his an aftercare agreement as
15 provided for in 53-30-226, he must be returned to the court
16 for further disposition. No A youth may not be placed in a
17 state youth correctional facility under informal adjustment.

18 (4) If the youth is placed in substitute care requiring
19 payment by the department, the court shall examine the
20 financial ability of the youth's parents or guardians to pay
21 a contribution covering all or part of the costs for the
22 care, placement, and treatment of the youth, including the
23 costs of necessary medical, dental, and other health care.

24 (5) If the court determines that the youth's parents or
25 guardians are financially able to pay a contribution as

1 provided in subsection (4), the court shall order the
2 youth's parents or guardians to pay an amount based on the
3 uniform child support guidelines adopted by the department
4 of social and rehabilitation services pursuant to 40-5-209.

5 (6) The---court---may,---in---its---discretion,---order
6 contributions-required-under-subsection-(5)-to-be-paid-by
7 means-of-automatic-income-withholding-in-accordance-with-the
8 procedures-established-under-Title-40,chapter-5,part-4.

9 {7}-Upon-a-showing-of-a-change-in-the-financial-ability
10 of--the--youth's--parents-or-guardians-to-pay, the-court-may
11 modify-its-order-for-the-payment-of--contributions--required
12 under-subsection-(5).

13 {8}-The---department---of---social---and---rehabilitation
14 services-shall-collect-and-enforce-payment-of--contributions
15 ordered-by--the--court-pursuant-to-this-section-in-the-same
16 manner--as--provided--in--Title--40,--chapter--5,--for--the
17 collection--and--enforcement-of-child-support; (A) EXCEPT AS
18 PROVIDED IN SUBSECTION (6)(B), CONTRIBUTIONS ORDERED UNDER
19 THIS SECTION AND EACH MODIFICATION OF AN EXISTING ORDER ARE
20 ENFORCEABLE BY IMMEDIATE OR DELINQUENCY INCOME WITHHOLDING,
21 OR BOTH, UNDER TITLE 40, CHAPTER 5, PART 4. AN ORDER FOR
22 CONTRIBUTION THAT IS INCONSISTENT WITH THIS SECTION IS
23 NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE PAYMENT OF THE
24 CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF THE SUPPORT
25 ORDER OR FOR ANY FURTHER ACTION BY THE COURT.

1 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER
2 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
3 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
4 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:

5 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
6 WITHHOLDING; OR

7 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
8 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
9 CONTRIBUTIONS.

10 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
11 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:

12 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
13 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
14 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
15 CHILD; AND

16 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
17 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS
18 ORDERED UNDER THIS SECTION.

19 (D) AN ALTERNATIVE ARRANGEMENT MUST:

20 (I) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE
21 WITH THE ARRANGEMENT;

22 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF
23 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
24 CONTRIBUTIONS; AND

25 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE

1 RECORD OF THE PROCEEDING.

2 (7) (A) IF THE COURT ORDERS THE PAYMENT OF
3 CONTRIBUTIONS UNDER THIS SECTION, THE DEPARTMENT SHALL APPLY
4 TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES FOR
5 SUPPORT ENFORCEMENT SERVICES PURSUANT TO TITLE IV-D OF THE
6 SOCIAL SECURITY ACT.

7 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
8 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
9 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE
10 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND
11 4."

12 **Section 4.** 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 a delinquent youth or a youth in need
11 of supervision, the youth court may enter its judgment
12 making any of the 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 state youth
2 correctional facility if the judge finds that such placement
3 is necessary 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 state youth correctional facility.

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

1 53-30-226.

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

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

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

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

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

1 the department and subsequent hearing.

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

7 (8) If a youth is committed to the department, the
8 court shall examine the financial ability of the youth's
9 parents or guardians to pay a contribution covering all or
10 part of the costs for the care, commitment, and treatment of
11 the youth, including the costs of necessary medical, dental,
12 and other health care.

13 (9) If the court determines that the youth's parents or
14 guardians are financially able to pay a contribution as
15 provided in subsection (8), the court shall order the
16 youth's parents or guardians to pay an amount based on the
17 uniform child support guidelines adopted by the department
18 of social and rehabilitation services pursuant to 40-5-209.

19 ~~(10) The court may, in its discretion, order~~
20 ~~contributions required under subsection (9) to be paid by~~
21 ~~means of automatic income withholding in accordance with the~~
22 ~~procedures established under Title 40, chapter 5, part 4.~~

23 (A) EXCEPT AS PROVIDED IN SUBSECTION (10)(B), CONTRIBUTIONS
24 ORDERED UNDER THIS SECTION AND EACH MODIFICATION OF AN
25 EXISTING ORDER ARE ENFORCEABLE BY IMMEDIATE OR DELINQUENCY

1 INCOME WITHHOLDING, OR BOTH, UNDER TITLE 40, CHAPTER 5, PART
2 4. AN ORDER FOR CONTRIBUTION THAT IS INCONSISTENT WITH THIS
3 SECTION IS NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE
4 PAYMENT OF THE CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF
5 THE SUPPORT ORDER OR FOR ANY FURTHER ACTION BY THE COURT.

6 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER
7 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
8 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
9 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:

10 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
11 WITHHOLDING; OR

12 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
13 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
14 CONTRIBUTIONS.

15 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
16 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:

17 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
18 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
19 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
20 CHILD; AND

21 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
22 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS
23 ORDERED UNDER THIS SECTION.

24 (D) AN ALTERNATIVE ARRANGEMENT MUST:

25 (I) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE

1 WITH THE ARRANGEMENT;

2 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF
3 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
4 CONTRIBUTIONS; AND

5 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE
6 RECORD OF THE PROCEEDING.

7 (11) Upon a showing of a change in the financial ability
8 of the youth's parents or guardians to pay, the court may
9 modify its order for the payment of contributions required
10 under subsection (9).

11 (12) ~~The department of social and rehabilitation~~
12 ~~services shall collect and enforce payment of contributions~~
13 ~~ordered by the court pursuant to this section in the same~~
14 ~~manner as provided in Title 40, chapter 5, for the~~
15 ~~collection and enforcement of child support; (A) IF THE~~
16 COURT ORDERS THE PAYMENT OF CONTRIBUTIONS UNDER THIS
17 SECTION, THE DEPARTMENT SHALL APPLY TO THE DEPARTMENT OF
18 SOCIAL AND REHABILITATION SERVICES FOR SUPPORT ENFORCEMENT
19 SERVICES PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT.

20 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
21 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
22 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE
23 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND
24 4."

25 **Section 5.** Section 41-5-524, MCA, is amended to read:

1 **"41-5-524. Consent decree with petition.** (1) At any
2 time after the filing of a petition alleging ~~delinquency or~~
3 that a youth is a delinquent youth or a youth in need of
4 supervision and before the entry of a judgment, the court
5 may, on motion of counsel for the youth or on the court's
6 own motion, suspend the proceedings and continue the youth
7 under supervision under terms and conditions negotiated with
8 probation services and agreed to by all necessary parties.
9 The court's order continuing the child under supervision
10 under this section shall be known as a "consent decree". The
11 procedures used and dispositions permitted under this
12 section shall conform to the procedures and dispositions
13 specified in 41-5-401 through 41-5-403 relating to consent
14 adjustments without petition and the responsibility of the
15 youth's parents or guardians to pay a contribution for the
16 costs of placement in substitute care.

17 (2) If the youth or his counsel objects to a consent
18 decree, the court shall proceed to findings, adjudication,
19 and disposition of the case.

20 (3) If, either prior to discharge by probation services
21 or expiration of the consent decree, a new petition alleging
22 ~~delinquency or~~ that the youth is a delinquent youth or a
23 youth in need of supervision is filed against the youth or
24 if the youth fails to fulfill the expressed terms and
25 conditions of the consent decree, the petition under which

1 the youth was continued under supervision may be reinstated
 2 in the discretion of the county attorney in consultation
 3 with probation services. In the event of reinstatement, the
 4 proceeding on the petition shall be continued to conclusion
 5 as if the consent decree had never been entered.

6 (4) A youth who is discharged by probation services or
 7 who completes a period under supervision without
 8 reinstatement of the original petition may not again be
 9 proceeded against in any court for the same offense alleged
 10 in the petition, and the original petition shall be
 11 dismissed with prejudice. Nothing in this subsection
 12 precludes a civil suit against the youth for damages arising
 13 from his conduct.

14 (5) In all cases where the terms of the consent decree
 15 shall extend for a period in excess of 6 months, the
 16 probation officer shall at the end of each 6-month period
 17 submit a report which shall be reviewed by the court."

18 **NEW SECTION. Section 6. Parental contributions account**
 19 -- allocation of proceeds. (1) There is a parental
 20 contributions account in the state special revenue fund.

21 (2) Contributions paid by the parents and guardians of
 22 youth under 41-3-406, 41-5-403, 41-5-523, or 41-5-524 must
 23 be deposited in the account.

24 (3) All money in the account, except any amount
 25 required to be returned to federal or county sources, is

1 allocated to the department to carry out its duties under
 2 52-1-103.

3 **Section 7. Section 41-3-208, MCA, is amended to read:**

4 **"41-3-208. Rulemaking authority.** (1) The department of
 5 family services shall adopt rules to govern the procedures
 6 used by department personnel in preparing and processing
 7 reports and in making investigations authorized by this
 8 chapter ~~or 41-3-1123~~.

9 (2) The department may adopt rules to govern the
 10 disclosure of case records containing reports of child abuse
 11 and neglect."

12 **Section 8. Section 41-3-408, MCA, is amended to read:**

13 **"41-3-408. Limited emancipation.** (1) The court, after
 14 the dispositional hearing provided for in 41-3-406, may,
 15 upon the request of a youth who is 16 years of age or older,
 16 enter an order granting limited emancipation to the youth.

17 (2) Limited emancipation may be granted only if the
 18 court has found:

19 (a) that limited emancipation is in the youth's best
 20 interests;

21 (b) that the youth desires limited emancipation;

22 (c) that there exists no public interest compelling
 23 denial of limited emancipation;

24 (d) that the youth has, or will reasonably obtain,
 25 money sufficient to pay for financial obligations incurred

1 as a result of limited emancipation;

2 (e) that the youth, as shown by prior conduct and
3 preparation, understands and may be expected to responsibly
4 exercise those rights and responsibilities incurred as a
5 result of limited emancipation;

6 (f) that the youth has graduated or will continue to
7 diligently pursue graduation from high school, unless
8 circumstances clearly compel deferral of education; and

9 (g) that the youth will undergo periodic counseling
10 with an appropriate advisor.

11 (3) An order of limited emancipation must specifically
12 set forth the rights and responsibilities that are being
13 conferred upon the youth. These may include but are not
14 limited to one or more of the following:

15 (a) the right to live independently of in-house
16 supervision;

17 (b) the right to live in housing of the youth's choice;

18 (c) the right to directly receive and expend money to
19 which the youth is entitled and to conduct his own financial
20 affairs;

21 (d) the right to enter into contractual agreements and
22 incur debts;

23 (e) the right to obtain access to medical treatment and
24 records upon the youth's own authorization; and

25 (f) the right to obtain a license to operate equipment

1 or perform a service.

2 (4) An order of limited emancipation must include a
3 provision requiring that the youth make periodic reports to
4 the court upon terms prescribed by the court.

5 (5) If ~~no order for contribution is made under~~
6 ~~41-3-1124~~ and the court determines that a youth to whom
7 limited emancipation is granted does not have sufficient
8 funds to finance transition to limited emancipated status,
9 the court may order the department to provide such funds,
10 not to exceed \$500, directly to the youth. The youth shall
11 account to the court for the disposition of such funds and
12 shall repay all such money to the department within 1 year
13 of the order of limited emancipation unless the court for
14 cause orders an extension.

15 (6) The court, on its own motion or on the motion of
16 any parties to the dispositional hearing, may modify or
17 revoke the order upon a showing that:

18 (a) the youth has committed a material violation of the
19 law;

20 (b) the youth is failing to diligently pursue
21 graduation from high school;

22 (c) the youth has violated a condition of the limited
23 emancipation order;

24 (d) the best interests of the youth are no longer
25 served by limited emancipation; or

1 (e) the youth has discontinued periodic counseling with
2 approved advisors.

3 (7) The department shall mail a copy of this part to
4 all high school counseling offices."

5 Section 8, Section 41-3-1115, MCA, is amended to read:
6 "41-3-1115. Foster care review committee. (i) In every
7 judicial district the youth court judge, in consultation
8 with the department, shall appoint a foster care review
9 committee. The members of the committee must be willing to
10 act without compensation. The committee shall be composed of
11 not less than five or more than seven members. The members
12 shall include:

- 13 (a) a representative of the department;
- 14 (b) a representative of the youth court;
- 15 (c) someone knowledgeable in the needs of children in
16 foster care placements who is not employed by the department
17 or the youth court;
- 18 (d) a representative of a local school district;
- 19 (e) if the child whose care under review is an Indian,
20 someone, preferably an Indian person, knowledgeable about
21 Indian cultural and family matters who is appointed
22 effective only for and during that review; and
- 23 (f) if there is one, the foster parent of the child
24 whose care is under review. The foster parent's appointment
25 is effective only for and during that review.

1 (2) When a child is in foster care under the
2 supervision of the department or if payment for care is made
3 pursuant to 41-3-1122, the committee shall conduct a review
4 of the foster care status of the child. The review must be
5 conducted within a time limit established by the department.
6 The time limit must comply with federal law and may not be
7 later than the 12-month anniversary date of the child's
8 placement into foster care.

9 (3) The department shall provide the committee with
10 guidelines for operation of the committee. Within 30 days of
11 the foster care review, the committee shall provide the
12 youth court and the department a written report of its
13 findings and recommendations for further action by the youth
14 court or the department.

15 (4) The department shall adopt rules necessary to carry
16 out the purposes of this section.

17 (5) Because of the individual privacy involved,
18 meetings of the committee, reports of the committee, and
19 information on individuals' cases shared by committee
20 members is confidential and subject to the confidentiality
21 requirements of the department.

22 (6) The committee is subject to the call of the youth
23 court judge to meet and confer with him on all matters
24 pertaining to the foster care of a child before the youth
25 court."

1 **Section 9.** Section 41-4-102, MCA, is amended to read:

2 "41-4-102. **Financial responsibility.** Financial
3 responsibility for any child placed pursuant to the
4 provisions of the Interstate Compact on the Placement of
5 Children shall be determined in accordance with the
6 provisions of Article V thereof in the first instance.
7 However, in the event of partial or complete default of
8 performance thereunder, the provisions of Title 40, chapter
9 5 (Revised Uniform Reciprocal Enforcement of Support Act),
10 ~~and--41-3-1122,--41-3-404,--and--41-3-1123~~ 41-3-406, AND
11 41-3-1122 also may be invoked."

12 **Section 10.** Section 41-5-522, MCA, is amended to read:

13 "41-5-522. **Dispositional hearing.** (1) As soon as
14 practicable after a youth is found to be a delinquent youth
15 or a youth in need of supervision, the court shall conduct a
16 dispositional hearing. The dispositional hearing may involve
17 a determination of the financial ~~stability-as-provided-in~~
18 ~~41-3-1123-and-41-3-1124~~ ability of the youth's parents or
19 guardians to pay a contribution for the cost of care,
20 commitment, and treatment of the youth as required in
21 41-5-523.

22 (2) Before conducting the dispositional hearing, the
23 court shall direct that a social summary or predisposition
24 report be made in writing by a probation officer concerning
25 the youth, his family, his environment, and other matters

1 relevant to the need for care or rehabilitation or
2 disposition of the case. The youth court may have the youth
3 examined, and the results of the examination shall be made
4 available to the court as part of the social summary or
5 predisposition report. The court may order the examination
6 of a parent or guardian whose ability to care for or
7 supervise a youth is at issue before the court. The results
8 of such examination shall be included in the social summary
9 or predisposition report. The youth, his parents, guardian,
10 or counsel shall have the right to subpoena all persons who
11 have prepared any portion of the social summary or
12 predisposition report and shall have the right to
13 cross-examine said parties at the dispositional hearing.

14 (3) Defense counsel shall be furnished with a copy of
15 the social summary or predisposition report and
16 psychological report prior to the dispositional hearing.

17 (4) The dispositional hearing shall be conducted in the
18 manner set forth in subsections (3), (4), and (5) of
19 41-5-521. The court shall hear all evidence relevant to a
20 proper disposition of the case best serving the interests of
21 the youth and the public. Such evidence shall include but
22 not be limited to the social summary and predisposition
23 report provided for in subsection (2) of this section.

24 (5) If the court finds that it is in the best interest
25 of the youth, the youth, his parents, or guardian may be

1 temporarily excluded from the hearing during the taking of
2 evidence on the issues of need for treatment and
3 rehabilitation.

4 (6) In determining whether restitution, as authorized
5 by 41-5-523, is appropriate in a particular case, the
6 following factors may be considered in addition to any other
7 evidence:

8 (a) age of the youth;

9 (b) ability of the youth to pay;

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

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

12 (e) legal remedies of the victim; however, the ability
13 of the victim or his insurer to stand any loss may not be
14 considered in any case."

15 NEW SECTION. **Section 11. Repealer.** Sections 41-3-1123,
16 41-3-1124, and 41-3-1125, MCA, are repealed.

17 NEW SECTION. **Section 12. Codification instruction.**
18 [Section 5 6] is intended to be codified as an integral part
19 of Title 41, chapter 5, part 5, and the provisions of Title
20 41, chapter 5, part 5, apply to [section 5 6].

21 NEW SECTION. **Section 13. Effective date.** [This act] is
22 effective July 1, 1991.

-End-

1 HOUSE BILL NO. 993

2 INTRODUCED BY ZOOK, PINSONEAULT, CODY, COBB,

3 THOMAS, KADAS, J. RICE, BENEDICT, HOFFMAN,

4 MERCER, COCCHIARELLA

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A YOUTH'S
7 PARENTS OR GUARDIANS TO PAY A CONTRIBUTION TOWARD THE COST
8 OF OUT-OF-HOME CARE PROVIDED BY THE DEPARTMENT OF FAMILY
9 SERVICES IF THEY ARE FINANCIALLY ABLE TO PAY; TO REQUIRE
10 CONTRIBUTIONS BY A YOUTH'S PARENTS OR GUARDIANS TO BE BASED
11 ON UNIFORM CHILD SUPPORT GUIDELINES; TO AUTHORIZE THE
12 COLLECTION OF CONTRIBUTIONS BY MEANS OF AUTOMATIC INCOME
13 WITHHOLDING; TO ALLOCATE PROCEEDS FROM THE CONTRIBUTIONS OF
14 PARENTS AND GUARDIANS TO THE DEPARTMENT OF FAMILY SERVICES;
15 AMENDING SECTIONS 41-3-208, 41-3-403, 41-3-406, 41-3-408,
16 ~~41-3-1115~~, 41-4-102, 41-5-403, 41-5-522, 41-5-523, AND
17 41-5-524, MCA; REPEALING SECTIONS 41-3-1123, 41-3-1124, AND
18 41-3-1125, MCA; AND PROVIDING AN EFFECTIVE DATE."
19

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

21 **SECTION 1. SECTION 41-3-403, MCA, IS AMENDED TO READ:**22 ***41-3-403. Order for immediate protection of youth.**

23 (1) (a) Upon the filing of a petition for temporary
24 investigative authority and protective services, the court
25 may issue an order granting such relief as may be required

1 for the immediate protection of the youth.

2 (b) The order, along with the petition and supporting
3 documents, shall be served by a peace officer or a
4 representative of the department of family services on the
5 person or persons named therein. When the youth is placed in
6 a medical facility or protective facility, the department
7 shall notify the parents or parent, guardian, or other
8 person having legal custody of the youth, at the time the
9 placement is made or as soon thereafter as possible.

10 (c) The order shall require the person served to comply
11 immediately with the terms thereof or to appear before the
12 court issuing the order on the date specified and show cause
13 why he has not complied with the order. The show cause
14 hearing must be conducted within 20 days of the issuance of
15 the order by the judge or a master appointed by the judge.
16 The person filing the petition has the burden of presenting
17 evidence establishing probable cause for the issuance of the
18 order. Except as otherwise provided herein, the rules of
19 civil procedure shall apply.

20 (d) Upon a failure to comply or show cause the court
21 may hold the person in contempt or place temporary legal
22 custody of the youth with the department of family services
23 until further order.

24 (2) The court may grant the following kinds of relief:

25 (a) right of entry by a peace officer or department of

1 family services worker;

2 (b) medical and psychological evaluation of youth or
3 parents, guardians, or person having legal custody;

4 (c) require the youth, parents, guardians, or person
5 having legal custody to receive counseling services;

6 (d) place the youth in temporary medical facility or
7 facility for protection of the youth;

8 (e) require the parents, guardian, or other person
9 having custody to furnish such services as the court may
10 designate;

11 (f) inquire into the financial ability of the parents,
12 guardian, or other person having custody of the youth to
13 contribute to the costs for the care, custody, and treatment
14 of the youth and order contribution for those costs pursuant
15 to the requirements of 41-3-406(3) through (6);

16 (g) such other temporary disposition as may be
17 required in the best interest of the youth."

18 **Section 2.** Section 41-3-406, MCA, is amended to read:

19 "**41-3-406. Dispositional hearing -- contributions by**
20 **parents or guardians for youth's care. (1) If a youth is**
21 **found to be abused, neglected, or dependent a youth in need**
22 **of care under 41-3-404, the court ~~after the dispositional~~**
23 **hearing may enter its judgment making any of the following**
24 **dispositions to protect the welfare of the youth:**

25 (a) permit the youth to remain with his parents or

1 guardian subject to those conditions and limitations the
2 court may prescribe;

3 (b) grant an order of limited emancipation to a
4 youth who is 16 years of age or older as provided in
5 41-3-408;

6 (c) transfer legal custody to any of the following:

7 (i) the department of family services;

8 (ii) a child-placing agency that is willing and able
9 to assume responsibility for the education, care, and
10 maintenance of the youth and which that is licensed or
11 otherwise authorized by law to receive and provide care of
12 the youth; or

13 (iii) a relative or other individual who, after study
14 by a social service agency designated by the court, is found
15 by the court to be qualified to receive and care for the
16 youth;

17 (d) order any party to the action to do what is
18 necessary to give effect to the final disposition, including
19 undertaking medical and psychological evaluations,
20 treatment, and counseling;

21 (e) order such further care and treatment as the
22 court ~~may deem~~ considers in the best interest of the youth.

23 (2) If the youth is transferred to the custody of the
24 department, the court shall examine the financial ability of
25 the youth's parents or guardians to pay a contribution

1 covering all or part of the costs for the care, custody, and
 2 treatment of the youth, including the costs of necessary
 3 medical, dental, and other health care.

4 (3) If the court determines that the youth's parents or
 5 guardians are financially able to pay a contribution as
 6 provided in subsection (2), the court shall order the
 7 youth's parents or guardians to pay an amount based on the
 8 uniform child support guidelines adopted by the department
 9 of social and rehabilitation services pursuant to 40-5-209.

10 (4) ~~The court may, in its discretion, order~~
 11 ~~contributions required under subsection (3) to be paid by~~
 12 ~~means of automatic income withholding in accordance with the~~
 13 ~~procedures established under Title 40, chapter 5, part 4.~~

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (4)(B), CONTRIBUTIONS
 15 ORDERED UNDER THIS SECTION AND EACH MODIFICATION OF AN
 16 EXISTING ORDER ARE ENFORCEABLE BY IMMEDIATE OR DELINQUENCY
 17 INCOME WITHHOLDING, OR BOTH, UNDER TITLE 40, CHAPTER 5, PART
 18 4. AN ORDER FOR CONTRIBUTION THAT IS INCONSISTENT WITH THIS
 19 SECTION IS NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE
 20 PAYMENT OF THE CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF
 21 THE SUPPORT ORDER OR FOR ANY FURTHER ACTION BY THE COURT.

22 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER
 23 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
 24 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
 25 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:

1 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
 2 WITHHOLDING; OR

3 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
 4 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
 5 CONTRIBUTIONS.

6 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
 7 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:

8 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
 9 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
 10 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
 11 CHILD; AND

12 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
 13 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS
 14 ORDERED UNDER THIS SECTION.

15 (D) AN ALTERNATIVE ARRANGEMENT MUST:

16 (I) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE
 17 WITH THE ARRANGEMENT;

18 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF
 19 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
 20 CONTRIBUTIONS; AND

21 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE
 22 RECORD OF THE PROCEEDING.

23 (5) Upon a showing of a change in the financial ability
 24 of the youth's parents or guardians to pay, the court may
 25 modify its order for the payment of contributions required

1 under subsection (3).

2 (6) The department of social and rehabilitation
 3 services shall collect and enforce payment of contributions
 4 ordered by the court pursuant to this section in the same
 5 manner as provided in Title 40, chapter 5, for the
 6 collection and enforcement of child support. (A) IF THE
 7 COURT ORDERS THE PAYMENT OF CONTRIBUTIONS UNDER THIS
 8 SECTION, THE DEPARTMENT SHALL APPLY TO THE DEPARTMENT OF
 9 SOCIAL AND REHABILITATION SERVICES FOR SUPPORT ENFORCEMENT
 10 SERVICES PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT.

11 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
 12 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
 13 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE
 14 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND
 15 4."

16 **Section 3.** Section 41-5-403, MCA, is amended to read:

17 **"41-5-403.** Disposition permitted under informal
 18 adjustment -- contributions by parents or guardians for
 19 youth's care. (1) The following dispositions may be imposed
 20 by informal adjustment:

21 (a) probation;
 22 (b) placement of the youth for in substitute care into
 23 in a youth care facility, as defined in 41-3-1102, and as
 24 determined by the department;

25 (c) placement of the youth in with a private agency

1 responsible for the care and rehabilitation of ~~such--a~~ the
 2 youth as determined by the department;

3 (d) restitution upon approval of the youth court judge.

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

- 7 (a) age of the youth;
- 8 (b) ability of the youth to pay;
- 9 (c) ability of the parents or legal guardian to pay;
- 10 (d) amount of damage to the victim; and
- 11 (e) legal remedies of the victim; however, the ability
 12 of the victim or his insurer to stand any loss may not be
 13 considered in any case.

14 (3) If the youth violates ~~his~~ an aftercare agreement as
 15 provided for in 53-30-226, he must be returned to the court
 16 for further disposition. ~~No~~ A youth may not be placed in a
 17 state youth correctional facility under informal adjustment.

18 (4) If the youth is placed in substitute care requiring
 19 payment by the department, the court shall examine the
 20 financial ability of the youth's parents or guardians to pay
 21 a contribution covering all or part of the costs for the
 22 care, placement, and treatment of the youth, including the
 23 costs of necessary medical, dental, and other health care.

24 (5) If the court determines that the youth's parents or
 25 guardians are financially able to pay a contribution as

1 provided in subsection (4), the court shall order the
 2 youth's parents or guardians to pay an amount based on the
 3 uniform child support guidelines adopted by the department
 4 of social and rehabilitation services pursuant to 40-5-209.

5 (6) The---court---may,---in---its---discretion,---order
 6 contributions-required-under-subsection-(5)-to--be--paid--by
 7 means-of-automatic-income-withholding-in-accordance-with-the
 8 procedures-established-under-Title-40, chapter-5, part-4.

9 (7)--Upon-a-showing-of-a-change-in-the-financial-ability
 10 of--the--youth's--parents-or-guardians-to-pay, the-court-may
 11 modify-its-order-for-the-payment-of--contributions--required
 12 under-subsection-(5);

13 (8)--The---department---of---social--and--rehabilitation
 14 services-shall-collect-and-enforce-payment-of--contributions
 15 ordered--by--the--court-pursuant-to-this-section-in-the-same
 16 manner--as--provided--in--Title--40,--chapter--5,--for--the
 17 collection--and--enforcement-of-child-support; (A) EXCEPT AS
 18 PROVIDED IN SUBSECTION (6)(B), CONTRIBUTIONS ORDERED UNDER
 19 THIS SECTION AND EACH MODIFICATION OF AN EXISTING ORDER ARE
 20 ENFORCEABLE BY IMMEDIATE OR DELINQUENCY INCOME WITHHOLDING,
 21 OR BOTH, UNDER TITLE 40, CHAPTER 5, PART 4. AN ORDER FOR
 22 CONTRIBUTION THAT IS INCONSISTENT WITH THIS SECTION IS
 23 NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE PAYMENT OF THE
 24 CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF THE SUPPORT
 25 ORDER OR FOR ANY FURTHER ACTION BY THE COURT.

1 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER
 2 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
 3 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
 4 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:

5 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
 6 WITHHOLDING; OR

7 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
 8 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
 9 CONTRIBUTIONS.

10 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
 11 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:

12 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
 13 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
 14 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
 15 CHILD; AND

16 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
 17 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS
 18 ORDERED UNDER THIS SECTION.

19 (D) AN ALTERNATIVE ARRANGEMENT MUST:

20 (1) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE
 21 WITH THE ARRANGEMENT;

22 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF
 23 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
 24 CONTRIBUTIONS; AND

25 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE

1 RECORD OF THE PROCEEDING.

2 (7) (A) IF THE COURT ORDERS THE PAYMENT OF
3 CONTRIBUTIONS UNDER THIS SECTION, THE DEPARTMENT SHALL APPLY
4 TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES FOR
5 SUPPORT ENFORCEMENT SERVICES PURSUANT TO TITLE IV-D OF THE
6 SOCIAL SECURITY ACT.

7 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
8 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
9 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE
10 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND
11 4."

12 **Section 4.** 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 a delinquent youth or a youth in need
11 of supervision, the youth court may enter its judgment
12 making any of the 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 state youth
2 correctional facility if the judge finds that such placement
3 is necessary 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 state youth correctional facility.

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

1 53-30-226.

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

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

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

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

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

1 the department and subsequent hearing.

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

7 (8) If a youth is committed to the department, the
8 court shall examine the financial ability of the youth's
9 parents or guardians to pay a contribution covering all or
10 part of the costs for the care, commitment, and treatment of
11 the youth, including the costs of necessary medical, dental,
12 and other health care.

13 (9) If the court determines that the youth's parents or
14 guardians are financially able to pay a contribution as
15 provided in subsection (8), the court shall order the
16 youth's parents or guardians to pay an amount based on the
17 uniform child support guidelines adopted by the department
18 of social and rehabilitation services pursuant to 40-5-209.

19 ~~(10) The court may, in its discretion, order~~
20 ~~contributions required under subsection (9) to be paid by~~
21 ~~means of automatic income withholding in accordance with the~~
22 ~~procedures established under Title 40, chapter 5, part 4.~~

23 (A) EXCEPT AS PROVIDED IN SUBSECTION (10)(B), CONTRIBUTIONS
24 ORDERED UNDER THIS SECTION AND EACH MODIFICATION OF AN
25 EXISTING ORDER ARE ENFORCEABLE BY IMMEDIATE OR DELINQUENCY

1 INCOME WITHHOLDING, OR BOTH, UNDER TITLE 40, CHAPTER 5, PART
2 4. AN ORDER FOR CONTRIBUTION THAT IS INCONSISTENT WITH THIS
3 SECTION IS NEVERTHELESS SUBJECT TO WITHHOLDING FOR THE
4 PAYMENT OF THE CONTRIBUTION WITHOUT NEED FOR AN AMENDMENT OF
5 THE SUPPORT ORDER OR FOR ANY FURTHER ACTION BY THE COURT.

6 (B) A COURT-ORDERED EXCEPTION FROM CONTRIBUTIONS UNDER
7 THIS SECTION MUST BE IN WRITING AND BE INCLUDED IN THE
8 ORDER. AN EXCEPTION FROM THE IMMEDIATE INCOME WITHHOLDING
9 REQUIREMENT MAY BE GRANTED IF THE COURT FINDS THERE IS:

10 (I) GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME
11 WITHHOLDING; OR

12 (II) THERE IS AN ALTERNATIVE ARRANGEMENT BETWEEN THE
13 DEPARTMENT AND THE PERSON WHO IS ORDERED TO PAY
14 CONTRIBUTIONS.

15 (C) A FINDING OF GOOD CAUSE NOT TO REQUIRE IMMEDIATE
16 INCOME WITHHOLDING MUST, AT A MINIMUM, BE BASED UPON:

17 (I) A WRITTEN DETERMINATION AND EXPLANATION BY THE
18 COURT OF THE REASONS WHY THE IMPLEMENTATION OF IMMEDIATE
19 INCOME WITHHOLDING IS NOT IN THE BEST INTERESTS OF THE
20 CHILD; AND

21 (II) PROOF OF TIMELY PAYMENT OF PREVIOUSLY ORDERED
22 SUPPORT IN CASES INVOLVING MODIFICATION OF CONTRIBUTIONS
23 ORDERED UNDER THIS SECTION.

24 (D) AN ALTERNATIVE ARRANGEMENT MUST:

25 (I) PROVIDE SUFFICIENT SECURITY TO ENSURE COMPLIANCE

1 WITH THE ARRANGEMENT:

2 (II) BE IN WRITING AND BE SIGNED BY A REPRESENTATIVE OF
3 THE DEPARTMENT AND THE PERSON REQUIRED TO MAKE
4 CONTRIBUTIONS; AND

5 (III) IF APPROVED BY THE COURT, BE ENTERED INTO THE
6 RECORD OF THE PROCEEDING.

7 (11) Upon a showing of a change in the financial ability
8 of the youth's parents or guardians to pay, the court may
9 modify its order for the payment of contributions required
10 under subsection (9).

11 (12) ~~The department of social and rehabilitation~~
12 ~~services shall collect and enforce payment of contributions~~
13 ~~ordered by the court pursuant to this section in the same~~
14 ~~manner as provided in Title 40, chapter 57 for the~~
15 ~~collection and enforcement of child support.~~ (A) IF THE
16 COURT ORDERS THE PAYMENT OF CONTRIBUTIONS UNDER THIS
17 SECTION, THE DEPARTMENT SHALL APPLY TO THE DEPARTMENT OF
18 SOCIAL AND REHABILITATION SERVICES FOR SUPPORT ENFORCEMENT
19 SERVICES PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT.

20 (B) THE DEPARTMENT OF SOCIAL AND REHABILITATION
21 SERVICES MAY COLLECT AND ENFORCE A CONTRIBUTION ORDER UNDER
22 THIS SECTION BY ANY MEANS AVAILABLE UNDER LAW, INCLUDING THE
23 REMEDIES PROVIDED FOR IN TITLE 40, CHAPTER 5, PARTS 2 AND
24 4."

25 **Section 5.** Section 41-5-524, MCA, is amended to read:

1 "41-5-524. Consent decree with petition. (1) At any
2 time after the filing of a petition alleging delinquency or
3 that a youth is a delinquent youth or a youth in need of
4 supervision and before the entry of a judgment, the court
5 may, on motion of counsel for the youth or on the court's
6 own motion, suspend the proceedings and continue the youth
7 under supervision under terms and conditions negotiated with
8 probation services and agreed to by all necessary parties.
9 The court's order continuing the child under supervision
10 under this section shall be known as a "consent decree". The
11 procedures used and dispositions permitted under this
12 section shall conform to the procedures and dispositions
13 specified in 41-5-401 through 41-5-403 relating to consent
14 adjustments without petition and the responsibility of the
15 youth's parents or guardians to pay a contribution for the
16 costs of placement in substitute care.

17 (2) If the youth or his counsel objects to a consent
18 decree, the court shall proceed to findings, adjudication,
19 and disposition of the case.

20 (3) If, either prior to discharge by probation services
21 or expiration of the consent decree, a new petition alleging
22 delinquency or that the youth is a delinquent youth or a
23 youth in need of supervision is filed against the youth or
24 if the youth fails to fulfill the expressed terms and
25 conditions of the consent decree, the petition under which

1 the youth was continued under supervision may be reinstated
2 in the discretion of the county attorney in consultation
3 with probation services. In the event of reinstatement, the
4 proceeding on the petition shall be continued to conclusion
5 as if the consent decree had never been entered.

6 (4) A youth who is discharged by probation services or
7 who completes a period under supervision without
8 reinstatement of the original petition may not again be
9 proceeded against in any court for the same offense alleged
10 in the petition, and the original petition shall be
11 dismissed with prejudice. Nothing in this subsection
12 precludes a civil suit against the youth for damages arising
13 from his conduct.

14 (5) In all cases where the terms of the consent decree
15 shall extend for a period in excess of 6 months, the
16 probation officer shall at the end of each 6-month period
17 submit a report which shall be reviewed by the court."

18 NEW SECTION. **Section 6.** Parental contributions account
19 -- allocation of proceeds. (1) There is a parental
20 contributions account in the state special revenue fund.

21 (2) Contributions paid by the parents and guardians of
22 youth under 41-3-406, 41-5-403, 41-5-523, or 41-5-524 must
23 be deposited in the account.

24 (3) All money in the account, except any amount
25 required to be returned to federal or county sources, is

1 allocated to the department to carry out its duties under
2 52-1-103.

3 **Section 7.** Section 41-3-208, MCA, is amended to read:

4 **"41-3-208. Rulemaking authority.** (1) The department of
5 family services shall adopt rules to govern the procedures
6 used by department personnel in preparing and processing
7 reports and in making investigations authorized by this
8 chapter ~~or 41-3-1123~~.

9 (2) The department may adopt rules to govern the
10 disclosure of case records containing reports of child abuse
11 and neglect."

12 **Section 8.** Section 41-3-408, MCA, is amended to read:

13 **"41-3-408. Limited emancipation.** (1) The court, after
14 the dispositional hearing provided for in 41-3-406, may,
15 upon the request of a youth who is 16 years of age or older,
16 enter an order granting limited emancipation to the youth.

17 (2) Limited emancipation may be granted only if the
18 court has found:

19 (a) that limited emancipation is in the youth's best
20 interests;

21 (b) that the youth desires limited emancipation;

22 (c) that there exists no public interest compelling
23 denial of limited emancipation;

24 (d) that the youth has, or will reasonably obtain,
25 money sufficient to pay for financial obligations incurred

1 as a result of limited emancipation;

2 (e) that the youth, as shown by prior conduct and
3 preparation, understands and may be expected to responsibly
4 exercise those rights and responsibilities incurred as a
5 result of limited emancipation;

6 (f) that the youth has graduated or will continue to
7 diligently pursue graduation from high school, unless
8 circumstances clearly compel deferral of education; and

9 (g) that the youth will undergo periodic counseling
10 with an appropriate advisor.

11 (3) An order of limited emancipation must specifically
12 set forth the rights and responsibilities that are being
13 conferred upon the youth. These may include but are not
14 limited to one or more of the following:

15 (a) the right to live independently of in-house
16 supervision;

17 (b) the right to live in housing of the youth's choice;

18 (c) the right to directly receive and expend money to
19 which the youth is entitled and to conduct his own financial
20 affairs;

21 (d) the right to enter into contractual agreements and
22 incur debts;

23 (e) the right to obtain access to medical treatment and
24 records upon the youth's own authorization; and

25 (f) the right to obtain a license to operate equipment

1 or perform a service.

2 (4) An order of limited emancipation must include a
3 provision requiring that the youth make periodic reports to
4 the court upon terms prescribed by the court.

5 (5) If ~~no order for contribution is made under~~
6 ~~41-3-1124~~ and the court determines that a youth to whom
7 limited emancipation is granted does not have sufficient
8 funds to finance transition to limited emancipated status,
9 the court may order the department to provide such funds,
10 not to exceed \$500, directly to the youth. The youth shall
11 account to the court for the disposition of such funds and
12 shall repay all such money to the department within 1 year
13 of the order of limited emancipation unless the court for
14 cause orders an extension.

15 (6) The court, on its own motion or on the motion of
16 any parties to the dispositional hearing, may modify or
17 revoke the order upon a showing that:

18 (a) the youth has committed a material violation of the
19 law;

20 (b) the youth is failing to diligently pursue
21 graduation from high school;

22 (c) the youth has violated a condition of the limited
23 emancipation order;

24 (d) the best interests of the youth are no longer
25 served by limited emancipation; or

1 (e) the youth has discontinued periodic counseling with
2 approved advisors.

3 (7) The department shall mail a copy of this part to
4 all high school counseling offices."

5 Section-8,--Section-41-3-1115,--MCA,--is--amended--to--read:

6 "41-3-1115,--Foster-care-review-committee,--(1)--in--every
7 judicial--district--the--youth--court--judge,--in--consultation
8 with--the--department,--shall--appoint--a--foster--care--review
9 committee,--The--members--of--the--committee--must--be--willing--to
10 act--without--compensation,--The--committee--shall--be--composed--of
11 not--less--than--five--or--more--than--seven--members,--The--members
12 shall--include:

- 13 (a)--a--representative--of--the--department;
- 14 (b)--a--representative--of--the--youth--court;
- 15 (c)--someone--knowledgeable--in--the--needs--of--children--in
16 foster--care--placements--who--is--not--employed--by--the--department
17 or--the--youth--court;
- 18 (d)--a--representative--of--a--local--school--district;
- 19 (e)--if--the--child--whose--care--under--review--is--an--Indian,
20 someone,--preferably--an--Indian--person,--knowledgeable--about
21 Indian--cultural--and--family--matters--who--is--appointed
22 effective--only--for--and--during--that--review,--and
- 23 (f)--if--there--is--one,--the--foster--parent--of--the--child
24 whose--care--is--under--review,--The--foster--parent's--appointment
25 is--effective--only--for--and--during--that--review.

1 (2)--When--a--child--is--in--foster--care--under--the
2 supervision--of--the--department--or--if--payment--for--care--is--made
3 pursuant--to--41-3-1122,--the--committee--shall--conduct--a--review
4 of--the--foster--care--status--of--the--child,--The--review--must--be
5 conducted--within--a--time--limit--established--by--the--department,
6 The--time--limit--must--comply--with--federal--law--and--may--not--be
7 later--than--the--12-month--anniversary--date--of--the--child's
8 placement--into--foster--care.

9 (3)--The--department--shall--provide--the--committee--with
10 guidelines--for--operation--of--the--committee,--Within--30--days--of
11 the--foster--care--review,--the--committee--shall--provide--the
12 youth--court--and--the--department--a--written--report--of--its
13 findings--and--recommendations--for--further--action--by--the--youth
14 court--or--the--department.

15 (4)--The--department--shall--adopt--rules--necessary--to--carry
16 out--the--purposes--of--this--section.

17 (5)--Because--of--the--individual--privacy--involved,
18 meetings--of--the--committee,--reports--of--the--committee,--and
19 information--on--individuals'--cases--shared--by--committee
20 members--is--confidential--and--subject--to--the--confidentiality
21 requirements--of--the--department.

22 (6)--The--committee--is--subject--to--the--call--of--the--youth
23 court--judge--to--meet--and--confer--with--him--on--all--matters
24 pertaining--to--the--foster--care--of--a--child--before--the--youth
25 court."

Section 9. Section 41-4-102, MCA, is amended to read:

"41-4-102. **Financial responsibility.** Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of Title 40, chapter 5 (Revised Uniform Reciprocal Enforcement of Support Act), ~~and--41-3-1122,--41-3-404,--and--41-3-1123~~ 41-3-406, AND 41-3-1122 also may be invoked."

Section 10. Section 41-5-522, MCA, is amended to read:

"41-5-522. **Dispositional hearing.** (1) As soon as practicable after a youth is found to be a delinquent youth or a youth in need of supervision, the court shall conduct a dispositional hearing. The dispositional hearing may involve a determination of the financial ~~ability-as-provided-in~~ 41-3-1123-and-41-3-1124 ability of the youth's parents or guardians to pay a contribution for the cost of care, commitment, and treatment of the youth as required in 41-5-523.

(2) Before conducting the dispositional hearing, the court shall direct that a social summary or predisposition report be made in writing by a probation officer concerning the youth, his family, his environment, and other matters

relevant to the need for care or rehabilitation or disposition of the case. The youth court may have the youth examined, and the results of the examination shall be made available to the court as part of the social summary or predisposition report. The court may order the examination of a parent or guardian whose ability to care for or supervise a youth is at issue before the court. The results of such examination shall be included in the social summary or predisposition report. The youth, his parents, guardian, or counsel shall have the right to subpoena all persons who have prepared any portion of the social summary or predisposition report and shall have the right to cross-examine said parties at the dispositional hearing.

(3) Defense counsel shall be furnished with a copy of the social summary or predisposition report and psychological report prior to the dispositional hearing.

(4) The dispositional hearing shall be conducted in the manner set forth in subsections (3), (4), and (5) of 41-5-521. The court shall hear all evidence relevant to a proper disposition of the case best serving the interests of the youth and the public. Such evidence shall include but not be limited to the social summary and predisposition report provided for in subsection (2) of this section.

(5) If the court finds that it is in the best interest of the youth, the youth, his parents, or guardian may be

1 temporarily excluded from the hearing during the taking of
2 evidence on the issues of need for treatment and
3 rehabilitation.

4 (6) In determining whether restitution, as authorized
5 by 41-5-523, is appropriate in a particular case, the
6 following factors may be considered in addition to any other
7 evidence:

8 (a) age of the youth;

9 (b) ability of the youth to pay;

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

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

12 (e) legal remedies of the victim; however, the ability
13 of the victim or his insurer to stand any loss may not be
14 considered in any case."

15 NEW SECTION. **Section 11.** Repealer. Sections 41-3-1123,
16 41-3-1124, and 41-3-1125, MCA, are repealed.

17 NEW SECTION. **Section 12.** Codification instruction.
18 [Section 5 6] is intended to be codified as an integral part
19 of Title 41, chapter 5, part 5, and the provisions of Title
20 41, chapter 5, part 5, apply to [section 5 6].

21 NEW SECTION. **Section 13.** Effective date. [This act] is
22 effective July 1, 1991.

-End-