

SENATE BILL NO. 56

INTRODUCED BY YELLOWTAIL
BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
ON ADULT AND JUVENILE DETENTION

IN THE SENATE

JANUARY 8, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

 FIRST READING.

JANUARY 18, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 19, 1991 PRINTING REPORT.

JANUARY 21, 1991 ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

JANUARY 22, 1991 SECOND READING, DO PASS.

JANUARY 23, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
AYES, 50; NOES, 0.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 24, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

 FIRST READING.

FEBRUARY 11, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

FEBRUARY 16, 1991 SECOND READING, CONCURRED IN.

FEBRUARY 18, 1991 THIRD READING, CONCURRED IN.
AYES, 98; NOES, 1.

 RETURNED TO SENATE.

IN THE SENATE

FEBRUARY 18, 1991 RECEIVED FROM HOUSE.

SENT TO ENROLLING.

FEBRUARY 22, 1991

REPORTED CORRECTLY ENROLLED.

SIGNED BY PRESIDENT.

FEBRUARY 23, 1991

SIGNED BY SPEAKER.

DELIVERED TO GOVERNOR.

FEBRUARY 27, 1991

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

MARCH 23, 1991

SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

MARCH 25, 1991

THIRD READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 8, 1991

SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

APRIL 9, 1991

THIRD READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 10, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 56
 2 INTRODUCED BY Yellowtail
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON ADULT AND JUVENILE DETENTION

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO RESTRICT PLACEMENT
 7 OR EVALUATION OF PREDISPOSITIONAL YOUTH AT A STATE YOUTH
 8 CORRECTIONAL FACILITY; TO ELIMINATE THE REQUIREMENT THAT THE
 9 DEPARTMENT OF FAMILY SERVICES PROVIDE ADDITIONAL YOUTH
 10 EVALUATION PROGRAMS TO REPLACE SERVICES PERFORMED AT STATE
 11 INSTITUTIONS; TO CLARIFY THE RESPONSIBILITY OF COUNTIES TO
 12 PAY THE COST OF YOUTH EVALUATIONS ORDERED BY THE COURT; TO
 13 REQUIRE PARENTS WHO ARE FINANCIALLY ABLE TO CONTRIBUTE TO
 14 THE COST OF YOUTH EVALUATIONS; AMENDING SECTION 41-5-523,
 15 MCA; REPEALING SECTION 53-30-225, MCA; AND PROVIDING A
 16 DELAYED EFFECTIVE DATE."
 17

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

19 **Section 1.** Section 41-5-523, MCA, is amended to read:
 20 "41-5-523. (Temporary) Disposition of delinquent youth
 21 and youth in need of supervision. (1) If a youth is found to
 22 be delinquent or in need of supervision, the youth court may
 23 enter its judgment making any of the following dispositions:
 24 (a) place the youth on probation;
 25 (b) commit the youth to the department if the court

1 determines that the youth is in need of placement in other
 2 than the youth's own home; provided, however, that:

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

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

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

16 (d) impose a fine as authorized by law if the violation
 17 alleged would constitute a criminal offense if committed by
 18 an adult;

19 (e) require the performance of community service;

20 (f) require the youth, his parents, his guardians, or
 21 the persons having legal custody of the youth to receive
 22 counseling services;

23 (g) require the medical and psychological evaluation of
 24 the youth, his parents, his guardians, or the persons having
 25 legal custody of the youth;



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

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

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

22 (2) When a youth is committed to the department, the
23 department shall determine the appropriate placement and
24 rehabilitation program for the youth after considering the
25 recommendations made under 41-5-527 by the youth placement

1 committee. Placement is subject to the following
2 limitations:

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

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

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

15 (3) A youth placed by the department in a youth
16 correctional facility must be supervised by the department.
17 A youth placed in any other placement must be supervised by
18 the youth probation officer of the youth court having
19 jurisdiction over the youth.

20 (4) At any time after the youth has been taken into
21 custody, the court may, with the consent of the youth in the
22 manner provided in 41-5-303 for consent by a youth to a
23 waiver of his constitutional rights or after the youth has
24 been adjudicated delinquent or in need of supervision, order
25 the youth to be evaluated by the department for a period not

1 to exceed 45 days. The department shall determine the place
2 and manner of evaluation.

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

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

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

15 41-5-523. (Effective July 1, 1991) Disposition of
16 ~~delinquent--youth--and--youth--in--need--of--supervision --~~
17 commitment to department -- placement and evaluation of
18 youth -- restrictions. (1) If a youth is found to be a
19 delinquent youth or a youth in need of supervision, the
20 youth court may enter its judgment making any of the
21 following dispositions:

22 (a) place the youth on probation;
23 (b) commit the youth to the department if the court
24 determines that the youth is in need of placement in other
25 than the youth's own home₇, provided₇-however₇ that:

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

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

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

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

17 (e) require the performance of community service;

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

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

24 (h) require the parents, guardians, or other persons
25 having legal custody of the youth to furnish such services

1 as the court may designate;

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

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

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

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

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

11 (c) No A youth may not be placed in or transferred to a
12 penal institution or other facility used for the execution
13 of sentence of adults convicted of crimes.

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

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

1 youth to receive a medical or psychological evaluation at
 2 any time prior to final disposition if the youth waives his
 3 constitutional rights in the manner provided for in
 4 41-5-303. The county commissioners--are determined by the
 5 court as the residence of the youth is responsible for the
 6 cost of the evaluation, except as provided in subsection (5)
 7 and. A county may contract with the department or other
 8 public or private agencies to obtain evaluation services
 9 ordered by the court.

10 (5) The youth court shall determine the financial
 11 ability of the youth's parents to pay the cost of an
 12 evaluation ordered by the court under subsection (4). If
 13 they are financially able, the court shall order the youth's
 14 parents to pay all or part of the cost of the evaluation.

15 (6) The youth court may not order placement or
 16 evaluation of a youth at a state youth correctional facility
 17 unless the youth is found to be a delinquent youth or is
 18 alleged to be a serious juvenile offender.

19 (5)(7) No An evaluation of a youth may not be performed
 20 at the Montana state hospital unless such the youth is
 21 transferred to the district court under 41-5-206.

22 (6)(8) Any An order of the court may be modified at any
 23 time. In the case of a youth committed to the department, an
 24 order pertaining to the youth may be modified only upon
 25 notice to the department and subsequent hearing.

1 (7)(9) Whenever the court commits a youth to the
 2 department, it must transmit with the dispositional judgment
 3 copies of a medical report and such any other clinical,
 4 predisposition, or other reports and information pertinent
 5 to the care and treatment of the youth."

6 NEW SECTION. Section 2. Repealer. Section 53-30-225,
 7 MCA, is repealed.

8 NEW SECTION. Section 3. Effective date. [This act] is
 9 effective July 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0056, as introduced.


DESCRIPTION OF PROPOSED LEGISLATION: An act to restrict placement or evaluation of predispositional youth at a state youth correctional facility; to eliminate the requirement that the Department of Family Services provide additional youth evaluation programs to replace services performed at state institutions; to clarify the responsibility of counties to pay the cost of youth evaluations ordered by the court; to require parents who are financially able to contribute to the cost of youth evaluations; and providing a delayed effective date.

ASSUMPTIONS:

1. The act would be effective July 1, 1992. No expenditure or revenue impact occurs in FY92.
2. Pine Hills School will perform 138 evaluations, Mountain View School will perform 85 evaluations and the Youth Evaluation Program will perform 60 evaluations. These estimates are at the FY90 level.
3. The average length of evaluation in Pine Hills School is 14 days; the average length of evaluation in Mountain View School and the Youth Evaluation Program is 45 days.
4. The average cost of evaluation in Pine Hills School is \$72 per day (estimated), in Mountain View School is \$90 per day (estimated); and in the Youth Evaluation Program is \$49.70 per day (executive recommended budget for FY93).
5. Starting in FY93, the Department will bill the responsible county for evaluation costs.
6. At the beginning of the program in FY93, while alternatives are sought, the number of youth sent for evaluation to the Department of Family Services will remain at the FY90 level.

FISCAL IMPACT:

Dept. of Family Svcs.	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
FTE	5.00	5.00	0.00	5.00	5.00	0.00
Personal Services	109,549	109,549	0	109,415	109,415	0
Operating Costs	507,122	507,122	0	507,256	507,256	0
Total	616,671	616,671	0	616,671	616,671	0
Funding:						
General Fund	616,671	616,671	0	616,671	0	(616,671)
County Evaluation Fees (02)	0	0	0	0	616,671	616,671
Total	616,671	616,671	0	616,671	616,671	0


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning
 DATE 1-14-91

BILL YELLOWTAIL, PRIMARY SPONSOR
 DATE
 Fiscal Note for SB0056, as introduced SB 56

Fiscal Note Request, SB0056, as introduced

Form BD-15

Page 2

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

In FY93, counties will be responsible for costs of evaluations at Mountain View School, Pine Hills School and the DFS Youth Evaluation Program. Estimated current level cost is \$616,671 per year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

If counties eventually discontinue use of the Youth Evaluation Program in the Department of Family Services, an annual general fund savings of approximately \$133,000 would be achieved by closure of the program or its transfer to local control.

SB 56

APPROVED BY COMMITTEE
ON JUDICIARY

1 SENATE BILL NO. 56
 2 INTRODUCED BY YELLOWTAIL
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON ADULT AND JUVENILE DETENTION
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO RESTRICT PLACEMENT
 7 OR EVALUATION OF PREDISPOSITIONAL YOUTH AT A STATE YOUTH
 8 CORRECTIONAL FACILITY; TO ELIMINATE THE REQUIREMENT THAT THE
 9 DEPARTMENT OF FAMILY SERVICES PROVIDE ADDITIONAL YOUTH
 10 EVALUATION PROGRAMS TO REPLACE SERVICES PERFORMED AT STATE
 11 INSTITUTIONS; TO CLARIFY THE RESPONSIBILITY OF COUNTIES TO
 12 PAY THE COST OF YOUTH EVALUATIONS ORDERED BY THE COURT; TO
 13 REQUIRE PARENTS WHO ARE FINANCIALLY ABLE TO CONTRIBUTE TO
 14 THE COST OF YOUTH EVALUATIONS; AMENDING SECTION 41-5-523,
 15 MCA; REPEALING SECTION 53-30-225, MCA; AND PROVIDING A
 16 DELAYED EFFECTIVE DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 41-5-523, MCA, is amended to read:
 20 "41-5-523. (Temporary) Disposition of delinquent youth
 21 and youth in need of supervision. (1) If a youth is found to
 22 be delinquent or in need of supervision, the youth court may
 23 enter its judgment making any of the following dispositions:
 24 (a) place the youth on probation;
 25 (b) commit the youth to the department if the court

1 determines that the youth is in need of placement in other
2 than the youth's own home; provided, however, that:

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

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

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

16 (d) impose a fine as authorized by law if the violation
 17 alleged would constitute a criminal offense if committed by
 18 an adult;

19 (e) require the performance of community service;

20 (f) require the youth, his parents, his guardians, or
 21 the persons having legal custody of the youth to receive
 22 counseling services;

23 (g) require the medical and psychological evaluation of
 24 the youth, his parents, his guardians, or the persons having
 25 legal custody of the youth;

SECOND READING



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

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

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

22 (2) When a youth is committed to the department, the
23 department shall determine the appropriate placement and
24 rehabilitation program for the youth after considering the
25 recommendations made under 41-5-527 by the youth placement

1 committee. Placement is subject to the following
2 limitations:

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

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

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

15 (3) A youth placed by the department in a youth
16 correctional facility must be supervised by the department.
17 A youth placed in any other placement must be supervised by
18 the youth probation officer of the youth court having
19 jurisdiction over the youth.

20 (4) At any time after the youth has been taken into
21 custody, the court may, with the consent of the youth in the
22 manner provided in 41-5-303 for consent by a youth to a
23 waiver of his constitutional rights or after the youth has
24 been adjudicated delinquent or in need of supervision, order
25 the youth to be evaluated by the department for a period not

1 to exceed 45 days. The department shall determine the place
2 and manner of evaluation.

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

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

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

15 41-5-523. (Effective July 1, 1991) Disposition of
16 delinquent--youth--and--youth--in--need--of--supervision --
17 commitment to department -- placement and evaluation of
18 youth -- restrictions. (1) If a youth is found to be a
19 delinquent youth or a youth in need of supervision, the
20 youth court may enter its judgment making any of the
21 following dispositions:

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

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

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

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

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

17 (e) require the performance of community service;

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

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

24 (h) require the parents, guardians, or other persons
25 having legal custody of the youth to furnish such services

1 as the court may designate;

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

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

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

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

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

11 (c) No A youth may not be placed in or transferred to a
12 penal institution or other facility used for the execution
13 of sentence of adults convicted of crimes.

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

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

1 youth to receive a medical or psychological evaluation at
 2 any time prior to final disposition if the youth waives his
 3 constitutional rights in the manner provided for in
 4 41-5-303. The county commissioners--are determined by the
 5 court as the residence of the youth is responsible for the
 6 cost of the evaluation, except as provided in subsection (5)
 7 and. A county may contract with the department or other
 8 public or private agencies to obtain evaluation services
 9 ordered by the court.

10 (5) The youth court shall determine the financial
 11 ability of the youth's parents to pay the cost of an
 12 evaluation ordered by the court under subsection (4). If
 13 they are financially able, the court shall order the youth's
 14 parents to pay all or part of the cost of the evaluation.

15 (6) The youth court may not order placement or
 16 evaluation of a youth at a state youth correctional facility
 17 unless the youth is found to be a delinquent youth or is
 18 alleged to ~~be a serious juvenile offender~~ HAVE COMMITTED AN
 19 OFFENSE THAT IS TRANSFERABLE TO CRIMINAL COURT UNDER
 20 41-5-206.

21 (7) No An evaluation of a youth may not be performed
 22 at the Montana state hospital unless such the youth is
 23 transferred to the district court under 41-5-206.

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

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

3 (9) 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 any other clinical,
 6 predisposition, or other reports and information pertinent
 7 to the care and treatment of the youth."

8 NEW SECTION. Section 2. Repealer. Section 53-30-225,
 9 MCA, is repealed.

10 NEW SECTION. Section 3. Effective date. [This act] is
 11 effective July 1, 1992.

-End-

1 SENATE BILL NO. 56
2 INTRODUCED BY YELLOWTAIL
3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
4 ON ADULT AND JUVENILE DETENTION
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO RESTRICT PLACEMENT
7 OR EVALUATION OF PREDISPOSITIONAL YOUTH AT A STATE YOUTH
8 CORRECTIONAL FACILITY; TO ELIMINATE THE REQUIREMENT THAT THE
9 DEPARTMENT OF FAMILY SERVICES PROVIDE ADDITIONAL YOUTH
10 EVALUATION PROGRAMS TO REPLACE SERVICES PERFORMED AT STATE
11 INSTITUTIONS; TO CLARIFY THE RESPONSIBILITY OF COUNTIES TO
12 PAY THE COST OF YOUTH EVALUATIONS ORDERED BY THE COURT; TO
13 REQUIRE PARENTS WHO ARE FINANCIALLY ABLE TO CONTRIBUTE TO
14 THE COST OF YOUTH EVALUATIONS; AMENDING SECTION 41-5-523,
15 MCA; REPEALING SECTION 53-30-225, MCA; AND PROVIDING A
16 DELAYED EFFECTIVE DATE."
17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
19 **Section 1.** Section 41-5-523, MCA, is amended to read:
20 "41-5-523. (Temporary) Disposition of delinquent youth
21 and youth in need of supervision. (1) If a youth is found to
22 be delinquent or in need of supervision, the youth court may
23 enter its judgment making any of the following dispositions:
24 (a) place the youth on probation;
25 (b) commit the youth to the department if the court

1 determines that the youth is in need of placement in other
2 than the youth's own home; provided, however, that:
3 (i) in the case of a youth in need of supervision, the
4 court shall determine whether continuation in the home would
5 be contrary to the welfare of the youth and whether
6 reasonable efforts have been made to prevent or eliminate
7 the need for removal of the youth from his home. The court
8 shall include such determination in the order committing the
9 youth to the department.
10 (ii) in the case of a delinquent youth who is determined
11 by the court to be a serious juvenile offender, the judge
12 may specify that the youth be placed in a youth correctional
13 facility if the judge finds that such placement is necessary
14 for the protection of the public;
15 (c) order restitution by the youth or his parents;
16 (d) impose a fine as authorized by law if the violation
17 alleged would constitute a criminal offense if committed by
18 an adult;
19 (e) require the performance of community service;
20 (f) require the youth, his parents, his guardians, or
21 the persons having legal custody of the youth to receive
22 counseling services;
23 (g) require the medical and psychological evaluation of
24 the youth, his parents, his guardians, or the persons having
25 legal custody of the youth;

THIRD READING



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

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

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

22 (2) When a youth is committed to the department, the
23 department shall determine the appropriate placement and
24 rehabilitation program for the youth after considering the
25 recommendations made under 41-5-527 by the youth placement

1 committee. Placement is subject to the following
2 limitations:

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

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

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

15 (3) A youth placed by the department in a youth
16 correctional facility must be supervised by the department.
17 A youth placed in any other placement must be supervised by
18 the youth probation officer of the youth court having
19 jurisdiction over the youth.

20 (4) At any time after the youth has been taken into
21 custody, the court may, with the consent of the youth in the
22 manner provided in 41-5-303 for consent by a youth to a
23 waiver of his constitutional rights or after the youth has
24 been adjudicated delinquent or in need of supervision, order
25 the youth to be evaluated by the department for a period not

1 to exceed 45 days. The department shall determine the place
2 and manner of evaluation.

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

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

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

15 41-5-523. (Effective July 1, 1991) Disposition of
16 ~~delinquent--youth--and--youth--in--need--of--supervision --~~
17 commitment to department -- placement and evaluation of
18 youth -- restrictions. (1) If a youth is found to be a
19 delinquent youth or a youth in need of supervision, the
20 youth court may enter its judgment making any of the
21 following dispositions:

22 (a) place the youth on probation;

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

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

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

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

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

17 (e) require the performance of community service;

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

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

24 (h) require the parents, guardians, or other persons
25 having legal custody of the youth to furnish such services

1 as the court may designate;

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

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

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

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

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

11 (c) No A youth may not be placed in or transferred to a
12 penal institution or other facility used for the execution
13 of sentence of adults convicted of crimes.

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

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

1 youth to receive a medical or psychological evaluation at
 2 any time prior to final disposition if the youth waives his
 3 constitutional rights in the manner provided for in
 4 41-5-303. The county commissioners--are determined by the
 5 court as the residence of the youth is responsible for the
 6 cost of the evaluation, except as provided in subsection (5)
 7 and. A county may contract with the department or other
 8 public or private agencies to obtain evaluation services
 9 ordered by the court.

10 (5) The youth court shall determine the financial
 11 ability of the youth's parents to pay the cost of an
 12 evaluation ordered by the court under subsection (4). If
 13 they are financially able, the court shall order the youth's
 14 parents to pay all or part of the cost of the evaluation.

15 (6) The youth court may not order placement or
 16 evaluation of a youth at a state youth correctional facility
 17 unless the youth is found to be a delinquent youth or is
 18 alleged to be a serious juvenile offender HAVE COMMITTED AN
 19 OFFENSE THAT IS TRANSFERABLE TO CRIMINAL COURT UNDER
 20 41-5-206.

21 {5}{7} No An evaluation of a youth may not be performed
 22 at the Montana state hospital unless such the youth is
 23 transferred to the district court under 41-5-206.

24 {6}{8} Any An order of the court may be modified at any
 25 time. In the case of a youth committed to the department, an

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

3 {7}{9} 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 any other clinical,
 6 predisposition, or other reports and information pertinent
 7 to the care and treatment of the youth."

8 NEW SECTION. Section 2. Repealer. Section 53-30-225,
 9 MCA, is repealed.

10 NEW SECTION. Section 3. Effective date. [This act] is
 11 effective July 1, 1992.

-End-

SENATE BILL NO. 56
INTRODUCED BY YELLOWTAIL

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
ON ADULT AND JUVENILE DETENTION

A BILL FOR AN ACT ENTITLED: "AN ACT TO RESTRICT PLACEMENT OR EVALUATION OF PREDISPOSITIONAL YOUTH AT A STATE YOUTH CORRECTIONAL FACILITY; TO ELIMINATE THE REQUIREMENT THAT THE DEPARTMENT OF FAMILY SERVICES PROVIDE ADDITIONAL YOUTH EVALUATION PROGRAMS TO REPLACE SERVICES PERFORMED AT STATE INSTITUTIONS; TO CLARIFY THE RESPONSIBILITY OF COUNTIES TO PAY THE COST OF YOUTH EVALUATIONS ORDERED BY THE COURT; TO REQUIRE PARENTS WHO ARE FINANCIALLY ABLE TO CONTRIBUTE TO THE COST OF YOUTH EVALUATIONS; AMENDING SECTION 41-5-523, MCA; REPEALING SECTION 53-30-225, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

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

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

- (a) place the youth on probation;
- (b) commit the youth to the department if the court

determines that the youth is in need of placement in other than the youth's own home; provided, however, that:

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

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

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

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

(e) require the performance of community service;

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

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

REFERENCE BILL



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

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

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

22 (2) When a youth is committed to the department, the
23 department shall determine the appropriate placement and
24 rehabilitation program for the youth after considering the
25 recommendations made under 41-5-527 by the youth placement

1 committee. Placement is subject to the following
2 limitations:

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

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

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

15 (3) A youth placed by the department in a youth
16 correctional facility must be supervised by the department.
17 A youth placed in any other placement must be supervised by
18 the youth probation officer of the youth court having
19 jurisdiction over the youth.

20 (4) At any time after the youth has been taken into
21 custody, the court may, with the consent of the youth in the
22 manner provided in 41-5-303 for consent by a youth to a
23 waiver of his constitutional rights or after the youth has
24 been adjudicated delinquent or in need of supervision, order
25 the youth to be evaluated by the department for a period not

1 to exceed 45 days. The department shall determine the place
2 and manner of evaluation.

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

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

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

15 41-5-523. (Effective July 1, 1991) Disposition of
16 ~~delinquent--youth--and--youth--in--need--of--supervision --~~
17 ~~commitment to department -- placement and evaluation of~~
18 ~~youth -- restrictions.~~ (1) If a youth is found to be a
19 delinquent youth or a youth in need of supervision, the
20 youth court may enter its judgment making any of the
21 following dispositions:

22 (a) place the youth on probation;

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

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

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

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

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

17 (e) require the performance of community service;

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

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

24 (h) require the parents, guardians, or other persons
25 having legal custody of the youth to furnish ~~such~~ services

1 as the court may designate;

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

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

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

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

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

11 (c) ~~No~~ A youth may not be placed in or transferred to a
12 penal institution or other facility used for the execution
13 of sentence of adults convicted of crimes.

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

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

1 youth to receive a medical or psychological evaluation at
 2 any time prior to final disposition if the youth waives his
 3 constitutional rights in the manner provided for in
 4 41-5-303. The county commissioners--are determined by the
 5 court as the residence of the youth is responsible for the
 6 cost of the evaluation, except as provided in subsection (5)
 7 and. A county may contract with the department or other
 8 public or private agencies to obtain evaluation services
 9 ordered by the court.

10 (5) The youth court shall determine the financial
 11 ability of the youth's parents to pay the cost of an
 12 evaluation ordered by the court under subsection (4). If
 13 they are financially able, the court shall order the youth's
 14 parents to pay all or part of the cost of the evaluation.

15 (6) The youth court may not order placement or
 16 evaluation of a youth at a state youth correctional facility
 17 unless the youth is found to be a delinquent youth or is
 18 alleged to be a serious juvenile offender HAVE COMMITTED AN
 19 OFFENSE THAT IS TRANSFERABLE TO CRIMINAL COURT UNDER
 20 41-5-206.

21 {5}{7} No An evaluation of a youth may not be performed
 22 at the Montana state hospital unless such the youth is
 23 transferred to the district court under 41-5-206.

24 {6}{8} Any An order of the court may be modified at any
 25 time. In the case of a youth committed to the department, an

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

3 {7}{9} 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 any other clinical,
 6 predisposition, or other reports and information pertinent
 7 to the care and treatment of the youth."

8 NEW SECTION. Section 2. Repealer. Section 53-30-225,
 9 MCA, is repealed.

10 NEW SECTION. Section 3. Effective date. [This act] is
 11 effective July 1, 1992.

-End-

GOVERNOR'S AMENDMENTS
TO SENATE BILL 56
(REFERENCE COPY, AS AMENDED)
February 27, 1991

1. Title, line 15
Following: "53-30-225, MCA;"
Delete: "AND"
2. Title, line 16
Following: "DATE"
Insert: "AND PROVIDING A COORDINATION INSTRUCTION"
3. Page 10, line 12
Following: line 11
Insert: "NEW SECTION. Section 4. Coordination instruction. If Senate Bill 37 is not passed and approved, then this act is void and without effect."

Gov. Amend
SB56

1 SENATE BILL NO. 56
 2 INTRODUCED BY YELLOWTAIL
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON ADULT AND JUVENILE DETENTION
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO RESTRICT PLACEMENT
 7 OR EVALUATION OF PREDISPOSITIONAL YOUTH AT A STATE YOUTH
 8 CORRECTIONAL FACILITY; TO ELIMINATE THE REQUIREMENT THAT THE
 9 DEPARTMENT OF FAMILY SERVICES PROVIDE ADDITIONAL YOUTH
 10 EVALUATION PROGRAMS TO REPLACE SERVICES PERFORMED AT STATE
 11 INSTITUTIONS; TO CLARIFY THE RESPONSIBILITY OF COUNTIES TO
 12 PAY THE COST OF YOUTH EVALUATIONS ORDERED BY THE COURT; TO
 13 REQUIRE PARENTS WHO ARE FINANCIALLY ABLE TO CONTRIBUTE TO
 14 THE COST OF YOUTH EVALUATIONS; AMENDING SECTION 41-5-523,
 15 MCA; REPEALING SECTION 53-30-225, MCA; AND PROVIDING A
 16 DELAYED EFFECTIVE DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 41-5-523, MCA, is amended to read:
 20 "41-5-523. (Temporary) Disposition of delinquent youth
 21 and youth in need of supervision. (1) If a youth is found to
 22 be delinquent or in need of supervision, the youth court may
 23 enter its judgment making any of the following dispositions:
 24 (a) place the youth on probation;
 25 (b) commit the youth to the department if the court

1 determines that the youth is in need of placement in other
 2 than the youth's own home; provided, however, that:
 3 (i) in the case of a youth in need of supervision, the
 4 court shall determine whether continuation in the home would
 5 be contrary to the welfare of the youth and whether
 6 reasonable efforts have been made to prevent or eliminate
 7 the need for removal of the youth from his home. The court
 8 shall include such determination in the order committing the
 9 youth to the department.
 10 (ii) in the case of a delinquent youth who is determined
 11 by the court to be a serious juvenile offender, the judge
 12 may specify that the youth be placed in a youth correctional
 13 facility if the judge finds that such placement is necessary
 14 for the protection of the public;
 15 (c) order restitution by the youth or his parents;
 16 (d) impose a fine as authorized by law if the violation
 17 alleged would constitute a criminal offense if committed by
 18 an adult;
 19 (e) require the performance of community service;
 20 (f) require the youth, his parents, his guardians, or
 21 the persons having legal custody of the youth to receive
 22 counseling services;
 23 (g) require the medical and psychological evaluation of
 24 the youth, his parents, his guardians, or the persons having
 25 legal custody of the youth;



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

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

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

22 (2) When a youth is committed to the department, the
23 department shall determine the appropriate placement and
24 rehabilitation program for the youth after considering the
25 recommendations made under 41-5-527 by the youth placement

1 committee. Placement is subject to the following
2 limitations:

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

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

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

15 (3) A youth placed by the department in a youth
16 correctional facility must be supervised by the department.
17 A youth placed in any other placement must be supervised by
18 the youth probation officer of the youth court having
19 jurisdiction over the youth.

20 (4) At any time after the youth has been taken into
21 custody, the court may, with the consent of the youth in the
22 manner provided in 41-5-303 for consent by a youth to a
23 waiver of his constitutional rights or after the youth has
24 been adjudicated delinquent or in need of supervision, order
25 the youth to be evaluated by the department for a period not

1 to exceed 45 days. The department shall determine the place
2 and manner of evaluation.

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

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

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

15 41-5-523. (Effective July 1, 1991) Disposition of
16 delinquent--youth--and--youth--in--need--of--supervision --
17 commitment to department -- placement and evaluation of
18 youth -- restrictions. (1) If a youth is found to be a
19 delinquent youth or a youth in need of supervision, the
20 youth court may enter its judgment making any of the
21 following dispositions:

22 (a) place the youth on probation;

23 (b) commit the youth to the department if the court
24 determines that the youth is in need of placement in other
25 than the youth's own home₇, provided₇-however₇ that:

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

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

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

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

17 (e) require the performance of community service;

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

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

24 (h) require the parents, guardians, or other persons
25 having legal custody of the youth to furnish such services

1 as the court may designate;

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

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

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

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

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

11 (c) No A youth may not be placed in or transferred to a
12 penal institution or other facility used for the execution
13 of sentence of adults convicted of crimes.

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

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

1 youth to receive a medical or psychological evaluation at
 2 any time prior to final disposition if the youth waives his
 3 constitutional rights in the manner provided for in
 4 41-5-303. The county commissioners--are determined by the
 5 court as the residence of the youth is responsible for the
 6 cost of the evaluation, except as provided in subsection (5)
 7 and. A county may contract with the department or other
 8 public or private agencies to obtain evaluation services
 9 ordered by the court.

10 (5) The youth court shall determine the financial
 11 ability of the youth's parents to pay the cost of an
 12 evaluation ordered by the court under subsection (4). If
 13 they are financially able, the court shall order the youth's
 14 parents to pay all or part of the cost of the evaluation.

15 (6) The youth court may not order placement or
 16 evaluation of a youth at a state youth correctional facility
 17 unless the youth is found to be a delinquent youth or is
 18 alleged to be a serious juvenile offender HAVE COMMITTED AN
 19 OFFENSE THAT IS TRANSFERABLE TO CRIMINAL COURT UNDER
 20 41-5-206.

21 +5+(7) No An evaluation of a youth may not be performed
 22 at the Montana state hospital unless such the youth is
 23 transferred to the district court under 41-5-206.

24 +6+(8) Any An order of the court may be modified at any
 25 time. In the case of a youth committed to the department, an

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

3 +7+(9) 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 any other clinical,
 6 predisposition, or other reports and information pertinent
 7 to the care and treatment of the youth."

8 NEW SECTION. Section 2. Repealer. Section 53-30-225,
 9 MCA, is repealed.

10 NEW SECTION. Section 3. Effective date. [This act] is
 11 effective July 1, 1992.

12 NEW SECTION. SECTION 4. COORDINATION INSTRUCTION. IF
 13 SENATE BILL NO. 37 IS NOT PASSED AND APPROVED, THEN [THIS
 14 ACT] IS VOID.

-End-