

1 House BILL NO. 641  
 2 INTRODUCED BY Russ Tracy  
 3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL  
 6 REVISION OF LAWS RELATING TO THE STATE DEPARTMENT OF  
 7 INSTITUTIONS; AMENDING SECTION 80-1414.1, R.C.M. 1947."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 80-1414.1, R.C.M. 1947, is amended  
 11 to read as follows:

12 \*80-1414.1. Hearing on alleged violation of aftercare  
 13 agreement -- appeal to the district court. (1) When an  
 14 allegation of a violation of the terms and conditions of a  
 15 youth's aftercare agreement is made by the department or--by  
 16 any--person, the youth shall be granted a hearing at or near  
 17 the site of the alleged violation within ~~ten~~(10) days after  
 18 the day that the allegation was made to determine:

19 (a) Whether the youth committed the violation; and  
 20 (b) Whether the violation is of such a nature that he  
 21 should be returned to the juvenile facility from which he  
 22 was released.

23 (2) With regard to this hearing, the youth shall be  
 24 given:

25 (a) Written notice of the alleged violation of his

1 aftercare agreement, including notice that the purpose of  
 2 the hearing is to determine whether he has committed the  
 3 violation, and, if so, whether or not the violation is of  
 4 such a nature that he should be returned to the juvenile  
 5 facility from which he was released;

6 (b) Disclosure of the evidence against him and the  
 7 facts constituting the alleged violation;

8 (c) Opportunity to be heard in person and to present  
 9 witnesses and documentary evidence to controvert the  
 10 evidence against him, and to show that there are compelling  
 11 reasons which justify or mitigate the violation. Either  
 12 party shall have the power to issue subpoenas to witnesses;

13 (d) The right to confront and cross-examine adverse  
 14 witnesses;

15 (e) The right to be represented by an attorney; and  
 16 (f) A record of the hearing which may be taken by tape  
 17 recorder and transcribed on appeal.

18 (3) The department shall appoint a referee who shall  
 19 not be an employee of the department to conduct the hearing.  
 20 The department shall adopt rules and regulations necessary  
 21 to effect a prompt and full review.

22 (4) If the referee finds, by a preponderance of the  
 23 evidence, that the youth did in fact commit the alleged  
 24 violation, and that there are no compelling reasons which  
 25 justified or mitigated the violation, the department may

INTRODUCED BILL

1 return the youth to the juvenile facility from which he was  
 2 released. The referee shall give a written decision to the  
 3 youth listing the reasons for his decision.

4 (5) Either the department or the youth may appeal from  
 5 the decision at the hearing to the district court of the  
 6 county in which the alleged violation occurred, by serving  
 7 and filing a notice of appeal with the court within ~~ten~~{10}  
 8 days of the decision. The district court, upon receipt of a  
 9 notice of appeal, shall order the department to promptly  
 10 certify to the court a record of all proceedings before the  
 11 ~~board department~~ and shall proceed to a prompt hearing on  
 12 the appeal, based upon the record on appeal. The decision  
 13 of the ~~board department~~ shall not be altered except for  
 14 abuse of discretion or manifest injustice.

15 (6) Pending the hearing on a violation, a youth may  
 16 not be detained except when his detention or care is  
 17 required to protect the person or property of the youth or  
 18 of others; or he may abscond or be removed from the  
 19 community in which the alleged violation occurred.  
 20 Procedures for taking into custody and detention of a youth  
 21 charged with violation of his aftercare agreement shall be  
 22 as provided in sections 10-1211, and 10-1214, R.C.M. 1947,  
 23 except that detention pending a hearing on alleged violation  
 24 may not be for longer than ~~seventy-two~~{72} hours unless the  
 25 hearing time is extended, not to exceed 5 additional days.

1 by the youth court upon stipulation of the youth or the  
 2 youth's counsel and the state."

-End-

SECOND READING

MISSING

1 HOUSE BILL NO. 641

2 INTRODUCED BY COURTNEY

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5 A BILL FOR AN ACT ENTITLED: "AN ACT FOR ~~THE~~ GENERAL  
6 ~~REVISION OF LAWS RELATING TO THE STATE DEPARTMENT OF~~  
7 ~~INSTITUTIONS TO REVISE THE PROCEDURE RELATING TO ALLEGED~~  
8 VIOLETIONS OF YOUTH AFTERCARE AGREEMENTS; AMENDING SECTION  
9 80-1414.1, R.C.M. 1947."

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THIRD READING

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