

1 House BILL NO. 738
 2 INTRODUCED BY Willy Alvarado
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 LAWS RELATING TO THE DETENTION AND SHELTER CARE OF YOUTH;
 6 AMENDING SECTIONS 10-1203, 10-1209, 10-1210, 10-1212,
 7 10-1213, 10-1214, 10-1215, 10-1216, 10-1218, 10-1222,
 8 10-1235, 10-1236, 10-1237, 10-1242, AND 10-1243, R.C.M.
 9 1947."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 10-1203, R.C.M. 1947, is amended to
13 read as follows:

14 "10-1203. Definitions. For the purposes of the Montana
15 Youth Court Act, unless otherwise stated:

16 (1) "Adult" means an individual who is eighteen years
17 of age or older.

18 (2) "Agency" means the department of institutions, the
19 department of social and rehabilitation services, and any
20 division or department of either.

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

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

24 (5) "Foster home" means a private residence approved
25 by the court for placement of a youth.

1 (6) "Guardianship" means the status created and
2 defined by law between a youth and an adult with the
3 reciprocal rights, duties and responsibilities.

4 (7) "Judge," when used without further qualification,
5 means the judge of the youth court.

6 (8) "Legal custody" means the legal status created by
7 order of a court of competent jurisdiction that gives a
8 person the right and duty to: have physical custody of the
9 youth; determine with whom the youth shall live and for what
10 period; protect, train, and discipline the youth; and
11 provide the youth with food, shelter, education, and
12 ordinary medical care. An individual granted legal custody
13 of a youth shall personally exercise his rights and duties
14 as guardian unless otherwise authorized by the court
15 entering the order.

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

22 (10) "Youth" means an individual who is less than
23 eighteen years of age without regard to sex or emancipation.

24 (11) "Youth court" means the court established pursuant
25 to this act to hear all proceedings in which a youth is

1 alleged to be a delinquent youth, a youth in need of
2 supervision or a youth in need of care, and includes the
3 youth court, the judge and probation officers.

4 (12) "Delinquent youth" means a youth:

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

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

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

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

16 (b) habitually disobeys the reasonable and lawful
17 demands of his parents or guardian, or is ungovernable and
18 beyond their control; or

19 (c) being subject to compulsory school attendance is
20 habitually truant from school; or

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

24 (14) "Youth in need of care" means a youth as defined
25 in section 10-1301.

1 (15) "Custodian" means a person other than a parent or
2 guardian, to whom legal custody of the youth has been given,
3 but does not include a person who has only physical
4 custody.

5 (16) "Necessary parties" include the youth, his
6 parents, guardian, custodian or spouse.

7 (17) "~~Detention facility~~" "State youth correctional
8 facility" means a residential facility for the ~~detention and~~
9 rehabilitation of delinquent youth such as Pine Hills School
10 in Miles City, and Mountain View School in Helena, and Swan
11 River youth forest camp.

12 (18) "~~Shelter care~~" means the temporary care of youth
13 in physically unrestricting facilities.

14 (19) "~~Detention~~" means the temporary care of youth in
15 physically restricting facilities.

16 Section 2. Section 10-1209, R.C.M. 1947, is amended to
17 read as follows:

18 "10-1209. Intake procedure. (1) Whenever the court
19 receives information from any agency or person based upon
20 reasonable grounds that a youth is, or appears to be a
21 delinquent youth or a youth in need of supervision; or being
22 subject to a court order or consent order, has violated the
23 terms thereof; the probation officer shall make a
24 preliminary inquiry into the matter.

25 (2) The probation officer may require the presence of

1 any person relevant to the inquiry, and may request
2 subpoenas from the judge to accomplish this purpose. The
3 probation officer may require investigation of the matter by
4 any law enforcement agency or any other appropriate state or
5 local agency.

6 (3) If the probation officer determines that the facts
7 indicate a youth in need of care, the matter shall be
8 immediately referred to the state department of social and
9 rehabilitation services.

10 (4) The probation officer in the conduct of the
11 preliminary inquiry shall:

12 (a) advise the youth of the youth's rights under this
13 act and the Constitutions of the State of Montana and the
14 United States;

15 (b) determine whether the matter is within the
16 jurisdiction of the court;

17 (c) determine, if the youth is in detention or custody
18 shelter care, whether such detention or custody shelter care
19 should be continued based upon criteria set forth in
20 10-1212.

21 Once relevant information is secured, the probation
22 officer shall:

23 (d) determine whether the interest of the public or
24 the youth requires that further action be taken;

25 (e) terminate the inquiry upon the determination that

1 no further action be taken;

2 (f) release the youth immediately upon the
3 determination that the filing of a petition is not
4 authorized.

5 (5) The probation officer upon determining that
6 further action is required may:

7 (a) provide counseling; refer the youth and his
8 parents to another agency providing appropriate services; or
9 take any other action or make any informal adjustment that
10 does not involve probation or detention;

11 (b) provide for treatment or adjustment involving
12 probation or other disposition authorized under section
13 10-1210; provided, however, that such treatment or
14 adjustment is voluntarily accepted by the youth's parents,
15 or guardian, and the youth; and provided further that said
16 matter is referred immediately to the county attorney for
17 review and that the probation officer proceed no further
18 unless authorized by the county attorney;

19 (c) refer the matter to the county attorney for filing
20 a petition charging the youth to be a delinquent youth or a
21 youth in need of supervision.

22 (6) A petition charging a youth held in ~~custody or~~
23 detention must be filed within ~~five~~(5) working days from
24 the date the youth was first confined detained or the
25 petition shall be dismissed and the youth released unless

1 good cause is shown to further detain such youth.

2 (7) If no petition is filed under this section, the
 3 complainant and victim, if any, shall be informed by the
 4 probation officer of the action and the reasons therefor and
 5 shall be advised of the right to submit the matter to the
 6 county attorney for review. The county attorney upon
 7 receiving a request for review, shall consider the facts,
 8 consult with the probation officer, and make the final
 9 decision as to whether a petition shall or shall not be
 10 filed."

11 Section 3. Section 10-1210, R.C.M. 1947, is amended to
 12 read as follows:

13 "10-1210. Consent adjustment without petition.

14 (1) Before a petition is filed, the probation officer may
 15 enter into an informal adjustment, give counsel and advice
 16 to the youth and other interested parties, if it appears:

17 (a) the admitted facts bring the case within the
 18 jurisdiction of the court;

19 (b) counsel and advice without filing a petition would
 20 be in the best interests of the child and the public.

21 (2) Any probation or other disposition imposed under
 22 this section against any youth must conform to the following
 23 procedures:

24 (a) Every consent adjustment shall be reduced to
 25 writing, signed by the youth and his parents or the person

1 having legal custody of the youth.

2 (b) Approval by the youth court judge shall be
 3 required where the complaint alleges commission of a felony
 4 or where the youth has been or will be in any way detained.

5 (3) An incriminating statement relating to any act or
 6 omission constituting delinquency or need of supervision
 7 made by the participant to the person giving counsel or
 8 advice in the discussions or conferences incident thereto
 9 shall not be used against the declarant in any proceeding
 10 under this act, nor shall the incriminating statement be
 11 admissible in any criminal proceeding against the declarant.

12 (4) The following dispositions may be imposed by
 13 informal adjustment:

14 (a) Probation;

15 (b) Placement of the youth in a licensed foster home
 16 or other home approved by the court;

17 (c) Placement of the youth in a private agency
 18 responsible for the care and rehabilitation of such a youth,
 19 including but not limited to, a district youth guidance
 20 home;

21 (d) Transfer of legal custody of the youth to the
 22 department of institutions, provided, however, that such
 23 commitment shall not authorize the department of
 24 institutions to place the youth in a ~~detention facility as~~
 25 ~~defined by this act~~ state youth correctional facility and

1 such commitment shall not exceed a period of ~~six (6)~~ months
2 without a subsequent order of the court, after notice and
3 hearing."

4 Section 4. Section 10-1212, R.C.M. 1947, is amended to
5 read as follows:

6 "~~10-1212. Detention and shelter care of youth. A youth~~
7 ~~taken into custody shall not be detained prior to the~~
8 ~~hearing on the petition except when: his detention or care~~
9 ~~is required to protect the person or property of others or~~
10 ~~of the youth; he may abscond or be removed from the~~
11 ~~jurisdiction of the court; he has no parent, guardian or~~
12 ~~other person able to provide supervision and care for him~~
13 ~~and return him to the court when required; or an order for~~
14 ~~his detention has been made by the court pursuant to this~~

15 ~~act. (1) A youth taken into custody may not be detained~~
16 ~~prior to the hearing on the petition except when:~~

17 ~~(a) his detention is required to protect the person or~~
18 ~~the property of others or of the youth;~~

19 ~~(b) he has pending court or administrative action or~~
20 ~~is awaiting a transfer to another jurisdiction and may~~
21 ~~abscond or be removed from the jurisdiction of the court;~~

22 ~~(c) there are not adequate assurances that the youth~~
23 ~~will appear for court when required; or~~

24 ~~(d) an order for his detention has been made by the~~
25 ~~court.~~

1 ~~(2) A youth taken into custody may not be sheltered~~
2 ~~prior to the hearing on the petition except when:~~

3 ~~(a) the youth and his family needs shelter care to~~
4 ~~address their problematic situation when it is not possible~~
5 ~~for the youth to remain at home;~~

6 ~~(b) the youth needs to be protected from physical or~~
7 ~~emotional harm;~~

8 ~~(c) the youth needs to be deterred or prevented from~~
9 ~~immediate repetition of his troubling behavior;~~

10 ~~(d) shelter care is necessary to assess the youth and~~
11 ~~his environment;~~

12 ~~(e) shelter care is necessary to provide adequate time~~
13 ~~for case planning and disposition; or~~

14 ~~(f) shelter care is necessary to intervene in a crisis~~
15 ~~situation and provide intensive services or attention that~~
16 ~~might alleviate the problem and reunite the family."~~

17 Section 5. Section 10-1213, R.C.M. 1947, is amended to
18 read as follows:

19 "10-1213. Release or delivery from custody. (1)
20 Whenever a peace officer believes, on reasonable grounds,
21 that a youth can be released to a person who has custody of
22 the youth, then the peace officer may release the youth to
23 that person upon receiving a written promise from the person
24 to bring the youth before the probation officer at a time
25 and place specified in the written promise; or a peace

1 officer may release the youth under any other reasonable
2 circumstances.

3 ~~(2) Whenever the peace officer believes, on reasonable~~
4 ~~grounds, that the youth must be held in custody, then the~~
5 ~~peace officer must notify the probation officer without~~
6 ~~undue delay, and shall, as soon as practicable, provide the~~
7 ~~probation officer with a written report of his reasons for~~
8 ~~holding that youth in custody. If it is necessary to hold~~
9 ~~the youth pending appearance before the youth court, then~~
10 ~~the youth must be held in some place that has been approved~~
11 ~~by the youth court and completely separated from adult~~
12 ~~offenders. Whenever the peace officer believes, on~~
13 ~~reasonable grounds, that the youth must be detained, the~~
14 ~~peace officer must notify the probation officer immediately~~
15 ~~and the probation officer's approval for detention is~~
16 ~~required prior to detaining the youth. If the peace officer~~
17 ~~believes that the youth must be sheltered, the peace officer~~
18 ~~shall notify the probation officer immediately and shall~~
19 ~~provide a written report of his reasons for placing the~~
20 ~~youth in shelter care. If the youth is then held, the youth~~
21 ~~must be sheltered in a place approved by the youth court."~~

22 Section 6. Section 10-1214, R.C.M. 1947, is amended to
23 read as follows:

24 "10-1214. Place of shelter care or detention. (1) A
25 youth alleged to be a delinquent youth or youth in need of

1 supervision may be ~~detained~~ sheltered only in:

2 (a) a licensed foster home or a home approved by the
3 court for the provision of shelter care of youth;

4 (b) a facility operated by a licensed child welfare
5 agency;

6 (c) ~~a district youth guidance home or other youth~~
7 ~~facility or center which is under the direction or~~
8 ~~supervision of the court, other public authority or of a~~
9 ~~private agency approved by the court, or a licensed~~
10 attention home or shelter facility which is operated by a
11 nonprofit corporation or the youth court for the provision
12 of shelter care of youth;

13 ~~(d) a detention facility;~~

14 ~~(e)(d) any other suitable place or facility,~~
15 ~~designated or operated by the court~~ for the supervision of
16 youth in shelter care.

17 (2) The youth may be detained in a jail or other
18 facility for the detention of adults only if: the facilities
19 in subsection (c) ~~or (d)(1)~~ is are not available or do not
20 provide adequate security; the detention is in an area
21 physically and visually separate and removed from those of
22 adults; it appears to the satisfaction of the court that
23 public safety and protection reasonably require detention;
24 ~~the facilities specified in subsection (c) or (b) are not~~
25 ~~sufficient;~~ and the court so orders.

1 ~~(2)(3)~~ The official in charge of a jail or other
 2 facility for the detention of adult offenders or persons
 3 charged with crime shall inform the court immediately if a
 4 person who is or appears to be under the age of eighteen
 5 (18) years is received at the facility. Such official shall
 6 bring the person before the court upon request or deliver
 7 him to a detention facility designated by the court.

8 ~~(3)(4)~~ A youth alleged to be in need of care shall be
 9 placed only in the facilities stated in ~~subsections (a) and~~
 10 ~~(b) of subsection (1) of this section and shall not be~~
 11 ~~detained in a jail or other facility intended or used for~~
 12 ~~the detention of adults charged with criminal offenses or of~~
 13 ~~youths alleged to be delinquents or in need of supervision~~
 14 ~~by virtue of violations of the law."~~

15 Section 7. Section 10-1215, R.C.M. 1947, is amended to
 16 read as follows:

17 "10-1215. Petition -- form and content. A petition
 18 initiating proceedings under this act shall be signed by the
 19 county attorney and shall be entitled, "In the Matter of
 20, a youth," and shall set forth with specificity:

- 21 (1) the facts necessary to invoke the jurisdiction of
- 22 the court together with a statement alleging the youth to be
- 23 a delinquent or in need of supervision;
- 24 (2) the charge of an offense which shall:
- 25 (a) state the name of the offense;

1 (b) cite in customary form the statute, rule,
 2 regulation or other provisions of law which the youth is
 3 alleged to have violated;

4 (c) state the facts constituting the offense in
 5 ordinary and concise language and in such manner as to
 6 enable a person of common understanding to know what is
 7 intended; and

8 (d) state the time and place of the offense as
 9 definitely as can be done;

10 (3) the name, birth date and residence address of the
 11 youth;

12 (4) the names and residence addresses of parents,
 13 guardian, and spouse, of the youth; and if none of the
 14 parents, guardian, or spouse, resides or can be found within
 15 the state, or if there is none, the adult relative residing
 16 nearest to the court;

17 (5) whether the youth is in custody detention or
 18 shelter care; and if so, the place of detention or shelter
 19 care and the time he was ~~taken into custody~~ detained or
 20 sheltered;

21 (6) if any of the matters required to be set forth by
 22 this section are not known, a statement of those matters and
 23 the fact that they are not known; and

24 (7) a list of witnesses to be used in proving the
 25 commission of the offense or offenses charged in the

1 petition, together with their residence addresses. The names
2 and addresses of any witnesses discovered after the filing
3 of the petition shall be furnished to the youth upon
4 request."

5 Section 8. Section 10-1216, R.C.M. 1947, is amended to
6 read as follows:

7 "10-1216. Summons. (1) After a petition has been
8 filed, summons shall be served directly to the youth; to his
9 parent or parents having actual custody of the youth, or to
10 his guardian or custodian, as the case may be; and to such
11 other persons as the court may direct.

12 (2) The summons shall require the parties to whom
13 directed to appear personally before the court at the time
14 fixed by the summons to answer the allegations of the
15 petition. The summons shall advise the parties of their
16 right to counsel under the Montana Youth Court Act and shall
17 have attached to it a copy of the petition.

18 (3) The court may endorse upon the summons an order
19 directing the person or persons having the physical custody
20 or control of the youth to bring the youth to the hearing.

21 (4) If it appears from any sworn statement presented
22 to the court that the youth needs to be placed in detention
23 or shelter care, the judge may endorse on the summons an
24 order directing the officer serving the summons to at once
25 take the youth into custody and to take him to the place of

1 detention or shelter care designated by the court, subject
2 to the rights of the youth and parent or person having
3 custody of the youth as set forth in the provisions of the
4 Montana Youth Court Act relating to detention and shelter
5 care criteria and post-detention proceedings.

6 (5) If any youth is in custody shelter care or
7 detained under any provision of this act pending an
8 adjudication, the court, upon petition of the youth, his
9 parents or guardian or his counsel shall, as soon as
10 practicable, conduct a hearing in order to determine whether
11 the circumstances of the case require such custody detention
12 or shelter care and the form the custody detention or
13 shelter care should take. All mentioned parties shall be
14 notified of such petition process at the time of initial
15 detention or shelter care."

16 Section 9. Section 10-1218, R.C.M. 1947, is amended to
17 read as follows:

18 "10-1218. Basic legal rights. (1) When a youth alleged
19 to be a delinquent youth or a youth in need of supervision
20 is taken into custody, the following requirements must be
21 met:

22 (a) the youth shall be immediately and effectively
23 advised of his constitutional rights and his rights under
24 this act;

25 (b) the youth may waive such rights under the

1 following situations:

2 (i) when the youth is under the age of ~~twelve~~{12}
3 years, the parents of the youth may make an effective
4 waiver;

5 (ii) when the youth is over the age of ~~twelve~~{12}
6 years, and the youth and his parent agree, they may make an
7 effective waiver; and

8 (iii) when the youth is over the age of ~~twelve~~{12}
9 years and the youth and his parents do not agree, the youth
10 may make an effective waiver only with advice of counsel.

11 (c) In a proceeding alleging a youth to be a
12 delinquent youth:

13 (i) An extra-judicial statement that would be
14 constitutionally inadmissible in a criminal matter shall not
15 be received in evidence;

16 (ii) Evidence illegally seized or obtained shall not be
17 received in evidence to establish the allegations of a
18 petition against a youth; and

19 (iii) An extra-judicial admission or confession made by
20 the youth out of court is insufficient to support a finding
21 that the youth committed the acts alleged in the petition
22 unless it is corroborated by other evidence.

23 (2) Title 95, R.C.M. 1947, shall apply to all law
24 enforcement investigations relating to a complaint alleging
25 a delinquent youth or youth in need of supervision, except

1 that:

2 (a) No youth shall be fingerprinted or photographed
3 for criminal identification purposes except by order of the
4 youth court judge.

5 (b) No fingerprint records or photographs shall be
6 filed with the federal bureau of investigation, state of
7 Montana identification bureau, or any other than the
8 originating agency, except for sending the fingerprints or
9 photographs to any law enforcement agency for comparison
10 purposes in the original investigation.

11 (c) At such time as the proceedings in the matter
12 including appeals, are complete, the fingerprint records and
13 photographs shall be destroyed; except that such fingerprint
14 records and photographs may be retained by the originating
15 agency for a specific period when ordered by the court for
16 good cause shown.

17 (3) In all proceedings on a petition alleging a
18 delinquent youth or youth in need of supervision as set
19 forth in subsection (1) of this section, the youth, parents
20 and guardian of the youth shall be advised by the court or,
21 in the absence of the court, by its representative that the
22 youth may be represented by counsel at all stages of the
23 proceedings. If counsel is not retained, or if it appears
24 that counsel will not be retained, counsel shall be
25 appointed for the youth, unless the right to appointed

1 counsel is waived by the youth and the parents or guardian.
 2 Neither the youth nor his parent or guardian may waive
 3 counsel if commitment to a ~~detention-facility-or-a-youth~~
 4 ~~forest-comp~~ state correctional facility or to the department
 5 of institutions for a period of more than six (6) months may
 6 result from adjudication.

7 (4) The court, at any stage of a proceeding on a
 8 petition under this act, may appoint a guardian ad litem for
 9 a youth if the youth has no parent or guardian appearing in
 10 his behalf, or if their interests conflict with those of the
 11 youth. A party to the proceeding or an employee or
 12 representative of a party shall not be appointed as guardian
 13 ad litem.

14 (5) In a proceeding on a petition, a party is entitled
 15 to: the opportunity to introduce evidence and otherwise be
 16 heard on the party's own behalf; confront and cross-examine
 17 witnesses testifying against the party; and admit or deny
 18 the allegations against the party in the petition.

19 (6) Persons afforded rights under this act shall be
 20 advised of those rights and any other rights existing under
 21 law at the time of their first appearance in a proceeding on
 22 a petition under the Montana Youth Court Act and at any
 23 other time specified in the Youth Court Act or other law.

24 (7) All post trial motions and other remedies
 25 available to an adult in a criminal proceeding under the

1 Montana Code of Criminal Procedure shall be available to a
 2 youth proceeded against under this act."

3 Section 10. Section 10-1222, R.C.M. 1947, is amended
 4 to read as follows:

5 "10-1222. Disposition of delinquent youth and youth in
 6 need of supervision. (1) If a youth is found to be
 7 delinquent or in need of supervision the court may enter its
 8 judgment making the following disposition:

- 9 (a) place the youth on probation;
 10 (b) place in a licensed foster home or a home approved
 11 by the court;
 12 (c) place the youth in a private agency responsible
 13 for the care and rehabilitation of such a youth, including,
 14 but not limited to, a district youth guidance home;
 15 (d) transfer legal custody to the department of
 16 institutions; provided, however, that in the case of a youth
 17 in need of supervision, such transfer of custody shall not
 18 authorize the department of institutions to place the youth
 19 in a ~~detention--facility~~ state youth correctional facility
 20 and such custody shall not continue for a period of more
 21 than six (6) months without a subsequent court order after
 22 notice and hearing;
 23 (e) such further care and treatment or evaluation that
 24 the court deems beneficial to the youth, consistent with
 25 subsection (d) of this section.

1 (2) At any time after the youth has been taken into
 2 custody the court may, with the consent of the youth in the
 3 manner provided in section 10-1218(1), R.C.M. 1947, for
 4 consent by a youth to waiver of his constitutional rights,
 5 or after the youth has been adjudicated delinquent or in
 6 need of supervision:

7 (a) order the youth to be evaluated for a period not
 8 to exceed forty-five (45) days of evaluation at a reception
 9 and evaluation center for youths; or

10 (b) in the case of a delinquent youth sixteen (16)
 11 years or older who the court deems a suitable person for
 12 placement at a youth forest camp, notify the director of the
 13 department of institutions of the finding. The director of
 14 the department of institutions shall then designate to the
 15 court the ~~youth-detention-facility~~ state youth correctional
 16 facility to which the youth shall be delivered for
 17 evaluation. The court may then commit the youth to the
 18 department of institutions for a period not to exceed
 19 ~~forty-five (45)~~ days for the purpose of evaluation as to the
 20 youth's suitability for placement, and order the youth
 21 delivered for evaluation to the ~~youth-facility~~ state youth
 22 correctional facility designated by the director. If after
 23 the evaluation, the department of institutions reports to
 24 the court that such child is suitable for placement in a
 25 youth forest camp, and if there is space available at a

1 camp, the court may then commit such child directly to the
 2 youth forest camp under the terms of commitment of this act.
 3 If the department of institutions reports and states the
 4 reasons to the court why the youth is not suitable for
 5 placement, the youth shall be returned to the court for such
 6 further disposition as the court may deem advisable under
 7 the provisions of this act. The costs of transporting the
 8 youth to the designated youth facility for evaluation and
 9 cost of returning the youth to the court shall be borne by
 10 the county of residence of the youth.

11 (3) No youth shall be committed or transferred to a
 12 penal institution or other facility used for the execution
 13 of sentence of adult persons convicted of crimes except as
 14 provided by subsection (2) (b) above.

15 (4) Any order of the court may be modified at any
 16 time.

17 (5) Whenever the court vests legal custody in an
 18 agency, institution or department, it must transmit with the
 19 dispositional judgment copies of a medical report, and such
 20 other clinical, predisposition or other reports and
 21 information pertinent to the care and treatment of the
 22 youth.

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

25 ORDER OF COMMITMENT

1 State of Montana, County of, ss:
 2 In the district court for the Judicial District.
 3 On the day of, 19.....,, a minor
 4 of this county, years of age, was brought before me
 5 charged with, Upon due proof I find that
 6 is a suitable person to be committed to the department
 7 of institutions.

8 It is ordered that be committed to the
 9 department of institutions until

10 The names, addresses and occupations of the parents
 11 are:

12 Name	12 Address	12 Occupation
13	13	13
14	14	14

15 The names and addresses of their nearest relatives are:
 16
 17

18 Witness my hand this day of A.D. 19...
 19
 20 Judge"

21 Section 11. Section 10-1235, R.C.M. 1947, is amended
 22 to read as follows:

23 *10-1235. Order of adjudication -- non-criminal. No
 24 commitment of any youth to any institution state youth
 25 correctional facility under this act shall be deemed

1 commitment to a penal institution. No adjudication upon the
 2 status of any youth in the jurisdiction of the court shall
 3 operate to impose any of the civil disability imposed on a
 4 person by reason of conviction of a criminal offense, nor
 5 shall such adjudication be deemed a criminal conviction, nor
 6 shall any youth be charged with or convicted of any crime in
 7 any court except as provided in this act. Neither the
 8 disposition of a youth under this act, nor evidence given in
 9 youth court proceedings under this act, shall be admissible
 10 in evidence except as otherwise provided in this act."

11 Section 12. Section 10-1236, R.C.M. 1947, is amended
 12 to read as follows:

13 *10-1236. Foster shelter care and foster homes. (1)
 14 The youth court may establish procedures for finding,
 15 maintaining and administering ~~temporary and permanent~~
 16 licensed shelter care and foster homes or other homes
 17 approved by the court for youth within the provisions of
 18 this act.

19 (2) The licensed shelter care and foster homes
 20 established under this section shall be funded at a rate
 21 consistent with other shelter care and foster homes
 22 established for other purposes under law. Shelter care as
 23 defined by this act may be funded through state
 24 appropriation to the youth courts and the departments of
 25 institutions and social and rehabilitation services.

1 ~~(3) All foster homes licensed by the social and~~
 2 ~~rehabilitation services, established shall be financed by~~
 3 ~~the department of social and rehabilitation services as set~~
 4 ~~forth in section 71-219 (b), R.C.M. 1947. The licensed~~
 5 foster homes established under this section shall be funded
 6 at a rate consistent with other foster homes established for
 7 other purposes under law."

8 Section 13. Section 10-1237, R.C.M. 1947, is amended
 9 to read as follows:

10 "10-1237. Shelter care and youth detention home
 11 facilities. (1) In all counties the county commissioners may
 12 provide by purchase, lease, or otherwise, a place to be
 13 known as the youth detention home facility, which shall not
 14 be used for the confinement of adult persons charged with
 15 criminal offenses, where delinquent youths, and youth in
 16 need of supervision may be detained until final disposition,
 17 which place shall be maintained by the county as in other
 18 like cases. The judge having jurisdiction may appoint such
 19 personnel as required, who shall have charge of said home
 20 facility and of the youths detained therein.

21 ~~Such home shall be furnished in a comfortable manner~~
 22 ~~as nearly as may be as a family home.~~ The compensation of
 23 such personnel shall be fixed by the court, and such
 24 compensation and the maintaining of such home facility shall
 25 be paid out of the county treasury which may be supplemented

1 by state appropriation and federal funds.

2 (2) Youth courts and nonprofit corporations may
 3 provide by purchase, lease, or otherwise, a place to be
 4 known as a shelter care facility. Such facility shall be
 5 physically unrestricting and may be used to provide shelter
 6 care for youth alleged or adjudicated delinquent, in need of
 7 supervision, or in need of care. Such facility shall be
 8 separate and apart from any facility housing adults charged
 9 with criminal offenses. State appropriations and federal
 10 funds may be received by the youth court or private
 11 nonprofit corporations for establishment, maintenance, or
 12 operation of such facility. Such facility shall be furnished
 13 in a comfortable manner and be as nearly as possible like a
 14 family home."

15 Section 14. Section 10-1242, R.C.M. 1947, is amended
 16 to read as follows:

17 "10-1242. Establishment of district youth guidance
 18 home program. The legislative assembly, in recognition of
 19 the wide and varied needs of delinquent youths and youths in
 20 need of supervision of this state and of the desirability of
 21 meeting these needs on a community level to the fullest
 22 extent possible, and in order to reduce the need for
 23 custodial care in existing ~~state institutions~~ state youth
 24 correctional facilities, establishes by this act a district
 25 youth guidance home program to provide facilities and

1 services for the rehabilitation of delinquent youths and
2 youths in need of supervision and establishes a program to
3 provide such facilities and services through local nonprofit
4 corporations and the department of institutions."

5 Section 15. Section 10-1243, R.C.M. 1947, is amended
6 to read as follows:

7 "10-1243. Definitions. For purposes of this act:

8 ~~(a)(1)~~ Delinquent youth. A youth as defined in section
9 10-1203(12).

10 ~~(b)(2)~~ A youth in need of supervision. A youth as
11 defined in section 10-1203(13).

12 ~~(c)(3)~~ District youth guidance home. A district youth
13 guidance home is a family-oriented residence established in
14 a judicial district of the state of Montana as an
15 alternative to existing state ~~institutions youth~~
16 correctional facilities, the function of which is to provide
17 a home and guidance through adult supervision for delinquent
18 youths and youths in need of supervision."

-End-

Approved by Committee
on Judiciary

1 House BILL NO. 738
 2 INTRODUCED BY Wally Burdick
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 LAWS RELATING TO THE DETENTION AND SHELTER CARE OF YOUTH;
 6 AMENDING SECTIONS 10-1203, 10-1209, 10-1210, 10-1212,
 7 10-1213, 10-1214, 10-1215, 10-1216, 10-1218, 10-1222,
 8 10-1235, 10-1236, 10-1237, 10-1242, AND 10-1243, R.C.M.
 9 1947."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 10-1203, R.C.M. 1947, is amended to
13 read as follows:

14 "10-1203. Definitions. For the purposes of the Montana
15 Youth Court Act, unless otherwise stated:

16 (1) "Adult" means an individual who is eighteen years
17 of age or older.

18 (2) "Agency" means the department of institutions, the
19 department of social and rehabilitation services, and any
20 division or department of either.

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

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

24 (5) "Foster home" means a private residence approved
25 by the court for placement of a youth.

There are no changes in HB 738 & will not be re-run.

Please refer to white copy for complete text. SECOND READING

1 (6) "Guardianship" means the status created and
2 defined by law between a youth and an adult with the
3 reciprocal rights, duties and responsibilities.

4 (7) "Judge," when used without further qualification,
5 means the judge of the youth court.

6 (8) "Legal custody" means the legal status created by
7 order of a court of competent jurisdiction that gives a
8 person the right and duty to: have physical custody of the
9 youth; determine with whom the youth shall live and for what
10 period; protect, train, and discipline the youth; and
11 provide the youth with food, shelter, education, and
12 ordinary medical care. An individual granted legal custody
13 of a youth shall personally exercise his rights and duties
14 as guardian unless otherwise authorized by the court
15 entering the order.

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

22 (10) "Youth" means an individual who is less than
23 eighteen years of age without regard to sex or emancipation.

24 (11) "Youth court" means the court established pursuant
25 to this act to hear all proceedings in which a youth is

HB 738

1 alleged to be a delinquent youth, a youth in need of
2 supervision or a youth in need of care, and includes the
3 youth court, the judge and probation officers.

4 (12) "Delinquent youth" means a youth:

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

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

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

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

16 (b) habitually disobeys the reasonable and lawful
17 demands of his parents or guardian, or is ungovernable and
18 beyond their control; or

19 (c) being subject to compulsory school attendance is
20 habitually truant from school; or

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

24 (14) "Youth in need of care" means a youth as defined
25 in section 10-1301.

1 (15) "Custodian" means a person other than a parent or
2 guardian, to whom legal custody of the youth has been given,
3 but does not include a person who has only physical
4 custody.

5 (16) "Necessary parties" include the youth, his
6 parents, guardian, custodian or spouse.

7 (17) "~~Detention facility~~" "State youth correctional
8 facility" means a residential facility for the detention and
9 rehabilitation of delinquent youth such as Pine Hills School
10 in Miles City, and Mountain View School in Helena, and Swan
11 River youth forest camp.

12 (18) "Shelter care" means the temporary care of youth
13 in physically unrestricted facilities.

14 (19) "Detention" means the temporary care of youth in
15 physically restricting facilities.

16 Section 2. Section 10-1209, R.C.M. 1947, is amended to
17 read as follows:

18 "10-1209. Intake procedure. (1) Whenever the court
19 receives information from any agency or person based upon
20 reasonable grounds that a youth is, or appears to be a
21 delinquent youth or a youth in need of supervision; or being
22 subject to a court order or consent order, has violated the
23 terms thereof; the probation officer shall make a
24 preliminary inquiry into the matter.

25 (2) The probation officer may require the presence of

THIRD READING

MISSING

April 6, 1977

STANDING COMMITTEE REPORT
Senate Committee on Taxation

That House Bill No. 738 be amended as follows:

1. Amend page 11, section 5, lines 12 through 16.

Following: "~~offenders:~~"

Strike: "Whenever the peace officer believes, on reasonable grounds, that the youth must be detained, the peace officer must notify the probation officer immediately and the probation officer's approval for detention is required prior to detaining the youth."

Insert: "Whenever the peace officer believes, on reasonable grounds, that the youth must be held in custody, then the peace officer must notify the probation officer without undue delay, and shall, as soon as practicable, provide the probation officer with a written report of his reasons for holding that youth in custody. If it is necessary to hold the youth pending appearance before the youth court, then the youth must be held in some place that has been approved by the youth court and is completely separated from adult offenders."

2. Amend page 21, section 10, line 15.

Following: "~~facility~~"

Strike: "state youth correctional"

3. Amend page 21, section 10, lines 21 and 22.

Following: "~~facility~~"

Strike: "state youth correctional"

Insert: "youth"

4. Amend page 25, section 12, line 7.

Following: "IN"

Strike: "SECTION"

5. Amend page 25, section 12, line 8.

Following: "(B)"

Strike: ", R.C.M. 1947"

6. Amend page 25, section 12, lines 8 through 11.

Following: "."

Strike: lines 8 through 11 in their entirety

1 HOUSE BILL NO. 738

2 INTRODUCED BY MELOY, DUSSAULT

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 LAWS RELATING TO THE DETENTION AND SHELTER CARE OF YOUTH;
6 AMENDING SECTIONS 10-1203, 10-1209, 10-1210, 10-1212,
7 10-1213, 10-1214, 10-1215, 10-1216, 10-1218, 10-1222,
8 10-1235, 10-1236, 10-1237, 10-1242, AND 10-1243, R.C.M.
9 1947."

10

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

12 Section 1. Section 10-1203, R.C.M. 1947, is amended to
13 read as follows:

14 "10-1203. Definitions. For the purposes of the Montana
15 Youth Court Act, unless otherwise stated:

16 (1) "Adult" means an individual who is eighteen years
17 of age or older.

18 (2) "Agency" means the department of institutions, the
19 department of social and rehabilitation services, and any
20 division or department of either.

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

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

24 (5) "Foster home" means a private residence approved
25 by the court for placement of a youth.

1 (6) "Guardianship" means the status created and
2 defined by law between a youth and an adult with the
3 reciprocal rights, duties and responsibilities.

4 (7) "Judge," when used without further qualification,
5 means the judge of the youth court.

6 (8) "Legal custody" means the legal status created by
7 order of a court of competent jurisdiction that gives a
8 person the right and duty to: have physical custody of the
9 youth; determine with whom the youth shall live and for what
10 period; protect, train, and discipline the youth; and
11 provide the youth with food, shelter, education, and
12 ordinary medical care. An individual granted legal custody
13 of a youth shall personally exercise his rights and duties
14 as guardian unless otherwise authorized by the court
15 entering the order.

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

22 (10) "Youth" means an individual who is less than
23 eighteen years of age without regard to sex or emancipation.

24 (11) "Youth court" means the court established pursuant
25 to this act to hear all proceedings in which a youth is

1 alleged to be a delinquent youth, a youth in need of
 2 supervision or a youth in need of care, and includes the
 3 youth court, the judge and probation officers.

4 (12) "Delinquent youth" means a youth:

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

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

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

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

16 (b) habitually disobeys the reasonable and lawful
 17 demands of his parents or guardian, or is ungovernable and
 18 beyond their control; or

19 (c) being subject to compulsory school attendance is
 20 habitually truant from school; or

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

24 (14) "Youth in need of care" means a youth as defined
 25 in section 10-1301.

1 (15) "Custodian" means a person other than a parent or
 2 guardian, to whom legal custody of the youth has been given,
 3 but does not include a person who has only physical
 4 custody.

5 (16) "Necessary parties" include the youth, his
 6 parents, guardian, custodian or spouse.

7 (17) "~~Detention--facility~~" "State youth correctional
 8 facility" means a residential facility for the ~~detention-and~~
 9 rehabilitation of delinquent youth such as Pine Hills School
 10 in Miles City, and Mountain View School in Helena, and ~~Swan~~
 11 River youth forest camp.

12 (18) "Shelter care" means the temporary care of youth
 13 in physically unrestricting facilities.

14 (19) "Detention" means the temporary care of youth in
 15 physically restricting facilities."

16 Section 2. Section 10-1209, R.C.M. 1947, is amended to
 17 read as follows:

18 "10-1209. Intake procedure. (1) Whenever the court
 19 receives information from any agency or person based upon
 20 reasonable grounds that a youth is, or appears to be a
 21 delinquent youth or a youth in need of supervision; or being
 22 subject to a court order or consent order, has violated the
 23 terms thereof; the probation officer shall make a
 24 preliminary inquiry into the matter.

25 (2) The probation officer may require the presence of

1 any person relevant to the inquiry, and may request
 2 subpoenas from the judge to accomplish this purpose. The
 3 probation officer may require investigation of the matter by
 4 any law enforcement agency or any other appropriate state or
 5 local agency.

6 (3) If the probation officer determines that the facts
 7 indicate a youth in need of care, the matter shall be
 8 immediately referred to the state department of social and
 9 rehabilitation services.

10 (4) The probation officer in the conduct of the
 11 preliminary inquiry shall:

12 (a) advise the youth of the youth's rights under this
 13 act and the Constitutions of the State of Montana and the
 14 United States;

15 (b) determine whether the matter is within the
 16 jurisdiction of the court;

17 (c) determine, if the youth is in detention or custody
 18 shelter care, whether such detention or custody shelter care
 19 should be continued based upon criteria set forth in
 20 10-1212.

21 Once relevant information is secured, the probation
 22 officer shall:

23 (d) determine whether the interest of the public or
 24 the youth requires that further action be taken;

25 (e) terminate the inquiry upon the determination that

1 no further action be taken;

2 (f) release the youth immediately upon the
 3 determination that the filing of a petition is not
 4 authorized.

5 (5) The probation officer upon determining that
 6 further action is required may:

7 (a) provide counseling; refer the youth and his
 8 parents to another agency providing appropriate services; or
 9 take any other action or make any informal adjustment that
 10 does not involve probation or detention;

11 (b) provide for treatment or adjustment involving
 12 probation or other disposition authorized under section
 13 10-1210; provided, however, that such treatment or
 14 adjustment is voluntarily accepted by the youth's parents,
 15 or guardian, and the youth; and provided further that said
 16 matter is referred immediately to the county attorney for
 17 review and that the probation officer proceed no further
 18 unless authorized by the county attorney;

19 (c) refer the matter to the county attorney for filing
 20 a petition charging the youth to be a delinquent youth or a
 21 youth in need of supervision.

22 (6) A petition charging a youth held in custody or
 23 detention must be filed within ~~five~~ five working days from
 24 the date the youth was first confined ~~detained~~ or the
 25 petition shall be dismissed and the youth released unless

1 good cause is shown to further detain such youth.

2 (7) If no petition is filed under this section, the
3 complainant and victim, if any, shall be informed by the
4 probation officer of the action and the reasons therefor and
5 shall be advised of the right to submit the matter to the
6 county attorney for review. The county attorney upon
7 receiving a request for review, shall consider the facts,
8 consult with the probation officer, and make the final
9 decision as to whether a petition shall or shall not be
10 filed."

11 Section 3. Section 10-1210, R.C.M. 1947, is amended to
12 read as follows:

13 "10-1210. Consent adjustment without petition.

14 (1) Before a petition is filed, the probation officer may
15 enter into an informal adjustment, give counsel and advice
16 to the youth and other interested parties, if it appears:

17 (a) the admitted facts bring the case within the
18 jurisdiction of the court;

19 (b) counsel and advice without filing a petition would
20 be in the best interests of the child and the public.

21 (2) Any probation or other disposition imposed under
22 this section against any youth must conform to the following
23 procedures:

24 (a) Every consent adjustment shall be reduced to
25 writing, signed by the youth and his parents or the person

1 having legal custody of the youth.

2 (b) Approval by the youth court judge shall be
3 required where the complaint alleges commission of a felony
4 or where the youth has been or will be in any way detained.

5 (3) An incriminating statement relating to any act or
6 omission constituting delinquency or need of supervision
7 made by the participant to the person giving counsel or
8 advice in the discussions or conferences incident thereto
9 shall not be used against the declarant in any proceeding
10 under this act, nor shall the incriminating statement be
11 admissible in any criminal proceeding against the declarant.

12 (4) The following dispositions may be imposed by
13 informal adjustment:

14 (a) Probation;

15 (b) Placement of the youth in a licensed foster home
16 or other home approved by the court;

17 (c) Placement of the youth in a private agency
18 responsible for the care and rehabilitation of such a youth,
19 including but not limited to, a district youth guidance
20 home;

21 (d) Transfer of legal custody of the youth to the
22 department of institutions, provided, however, that such
23 commitment shall not authorize the department of
24 institutions to place the youth in a ~~detention facility as~~
25 ~~defined by this act~~ state youth correctional facility and

1 such commitment shall not exceed a period of six (6) months
 2 without a subsequent order of the court, after notice and
 3 hearing."

4 Section 4. Section 10-1212, R.C.M. 1947, is amended to
 5 read as follows:

6 "10-1212. Detention and shelter care of youth. ~~A youth~~
 7 ~~taken into custody shall not be detained prior to the~~
 8 ~~hearing on the petition except when his detention or care~~
 9 ~~is required to protect the person or property of others or~~
 10 ~~of the youth; he may abscond or be removed from the~~
 11 ~~jurisdiction of the court; he has no parent, guardian, or~~
 12 ~~other person able to provide supervision and care for him~~
 13 ~~and return him to the court when required; or an order for~~
 14 ~~his detention has been made by the court pursuant to this~~

15 act. (1) A youth taken into custody may not be detained
 16 prior to the hearing on the petition except when:

17 (a) his detention is required to protect the person or
 18 the property of others or of the youth;

19 (b) he has pending court or administrative action or
 20 is awaiting a transfer to another jurisdiction and may
 21 abscond or be removed from the jurisdiction of the court;

22 (c) there are not adequate assurances that the youth
 23 will appear for court when required; or

24 (d) an order for his detention has been made by the
 25 court.

1 (2) A youth taken into custody may not be sheltered
 2 prior to the hearing on the petition except when:

3 (a) the youth and his family needs shelter care to
 4 address their problematic situation when it is not possible
 5 for the youth to remain at home;

6 (b) the youth needs to be protected from physical or
 7 emotional harm;

8 (c) the youth needs to be deterred or prevented from
 9 immediate repetition of his troubling behavior;

10 (d) shelter care is necessary to assess the youth and
 11 his environment;

12 (e) shelter care is necessary to provide adequate time
 13 for case planning and disposition; or

14 (f) shelter care is necessary to intervene in a crisis
 15 situation and provide intensive services or attention that
 16 might alleviate the problem and reunite the family."

17 Section 5. Section 10-1213, R.C.M. 1947, is amended to
 18 read as follows:

19 "10-1213. Release or delivery from custody. (1)
 20 Whenever a peace officer believes, on reasonable grounds,
 21 that a youth can be released to a person who has custody of
 22 the youth, then the peace officer may release the youth to
 23 that person upon receiving a written promise from the person
 24 to bring the youth before the probation officer at a time
 25 and place specified in the written promise; or a peace

1 officer may release the youth under any other reasonable
2 circumstances.

3 ~~(2) Whenever the peace officer believes, on reasonable~~
4 ~~grounds, that the youth must be held in custody, then the~~
5 ~~peace officer must notify the probation officer without~~
6 ~~undue delay and shall, as soon as practicable, provide the~~
7 ~~probation officer with a written report of his reasons for~~
8 ~~holding that youth in custody. If it is necessary to hold~~
9 ~~the youth pending appearance before the youth court, then~~
10 ~~the youth must be held in some place that has been approved~~
11 ~~by the youth court and completely separated from adult~~
12 ~~offenders. Whenever the peace officer believes, on~~
13 ~~reasonable grounds, that the youth must be detained, the~~
14 ~~peace officer must notify the probation officer immediately~~
15 ~~and the probation officer's approval for detention is~~
16 ~~required prior to detaining the youth.~~ WHENEVER THE PEACE
17 OFFICER BELIEVES, ON REASONABLE GROUNDS, THAT THE YOUTH MUST
18 BE HELD IN CUSTODY, THEN THE PEACE OFFICER MUST NOTIFY THE
19 PROBATION OFFICER WITHOUT UNDUE DELAY, AND SHALL, AS SOON AS
20 PRACTICABLE, PROVIDE THE PROBATION OFFICER WITH A WRITTEN
21 REPORT OF HIS REASONS FOR HOLDING THAT YOUTH IN CUSTODY. IF
22 IT IS NECESSARY TO HOLD THE YOUTH PENDING APPEARANCE BEFORE
23 THE YOUTH COURT, THEN THE YOUTH MUST BE HELD IN SOME PLACE
24 THAT HAS BEEN APPROVED BY THE YOUTH COURT AND IS COMPLETELY
25 SEPARATED FROM ADULT OFFENDERS. If the peace officer

1 ~~believes that the youth must be sheltered, the peace officer~~
2 ~~shall notify the probation officer immediately and shall~~
3 ~~provide a written report of his reasons for placing the~~
4 ~~youth in shelter care. If the youth is then held, the youth~~
5 ~~must be sheltered in a place approved by the youth court."~~

6 Section 6. Section 10-1214, R.C.M. 1947, is amended to
7 read as follows:

8 "10-1214. Place of shelter care or detention. (1) A
9 youth alleged to be a delinquent youth or youth in need of
10 supervision may be detained sheltered only in:

11 (a) a licensed foster home or a home approved by the
12 court for the provision of shelter care of youth;

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

15 (c) ~~a district youth guidance home or other youth~~
16 ~~facility or center which is under the direction or~~
17 ~~supervision of the court, other public authority or of a~~
18 ~~private agency approved by the court, or a licensed~~
19 ~~attention home or shelter facility which is operated by a~~
20 ~~nonprofit corporation or the youth court for the provision~~
21 ~~of shelter care of youth;~~

22 ~~(d) a detention facility;~~

23 ~~(e)(d) any other suitable place or facility,~~
24 ~~designated or operated by the court for the supervision of~~
25 ~~youth in shelter care.~~

1 (2) The youth may be detained in a jail or other
 2 facility for the detention of adults only if: the facilities
 3 in subsection ~~(c) or (d)~~ (1) ~~is~~ are not available or do not
 4 provide adequate security; the detention is in an area
 5 physically and visually separate and removed from those of
 6 adults; it appears to the satisfaction of the court that
 7 public safety and protection reasonably require detention;
 8 ~~the facilities specified in subsection (c) or (d) are not~~
 9 ~~sufficient~~ and the court so orders.

10 ~~(2)~~(3) The official in charge of a jail or other
 11 facility for the detention of adult offenders or persons
 12 charged with crime shall inform the court immediately if a
 13 person who is or appears to be under the age of eighteen
 14 (18) years is received at the facility. Such official shall
 15 bring the person before the court upon request or deliver
 16 him to a detention facility designated by the court.

17 ~~(3)~~(4) A youth alleged to be in need of care shall be
 18 placed only in the facilities stated in ~~subsections (c) and~~
 19 ~~(b)~~ of subsection (1) of this section and shall not be
 20 detained in a jail or other facility intended or used for
 21 the detention of adults charged with criminal offenses ~~or of~~
 22 ~~youths alleged to be delinquents or in need of supervision~~
 23 ~~by virtue of violations of the law."~~

24 Section 7. Section 10-1215, R.C.M. 1947, is amended to
 25 read as follows:

1 "10-1215. Petition -- form and content. A petition
 2 initiating proceedings under this act shall be signed by the
 3 county attorney and shall be entitled, "In the Matter of
 4, a youth," and shall set forth with specificity:

5 (1) the facts necessary to invoke the jurisdiction of
 6 the court together with a statement alleging the youth to be
 7 a delinquent or in need of supervision;

8 (2) the charge of an offense which shall:

9 (a) state the name of the offense;

10 (b) cite in customary form the statute, rule,
 11 regulation or other provisions of law which the youth is
 12 alleged to have violated;

13 (c) state the facts constituting the offense in
 14 ordinary and concise language and in such manner as to
 15 enable a person of common understanding to know what is
 16 intended; and

17 (d) state the time and place of the offense as
 18 definitely as can be done;

19 (3) the name, birth date and residence address of the
 20 youth;

21 (4) the names and residence addresses of parents,
 22 guardian, and spouse, of the youth; and if none of the
 23 parents, guardian, or spouse, resides or can be found within
 24 the state, or if there is none, the adult relative residing
 25 nearest to the court;

1 (5) whether the youth is in custody detention or
 2 shelter care, and if so, the place of detention or shelter
 3 care and the time he was ~~taken into custody~~ detained or
 4 sheltered;

5 (6) if any of the matters required to be set forth by
 6 this section are not known, a statement of those matters and
 7 the fact that they are not known; and

8 (7) a list of witnesses to be used in proving the
 9 commission of the offense or offenses charged in the
 10 petition, together with their residence addresses. The names
 11 and addresses of any witnesses discovered after the filing
 12 of the petition shall be furnished to the youth upon
 13 request."

14 Section 8. Section 10-1216, R.C.M. 1947, is amended to
 15 read as follows:

16 "10-1216. Summons. (1) After a petition has been
 17 filed, summons shall be served directly to the youth; to his
 18 parent or parents having actual custody of the youth, or to
 19 his guardian or custodian, as the case may be; and to such
 20 other persons as the court may direct.

21 (2) The summons shall require the parties to whom
 22 directed to appear personally before the court at the time
 23 fixed by the summons to answer the allegations of the
 24 petition. The summons shall advise the parties of their
 25 right to counsel under the Montana Youth Court Act and shall

1 have attached to it a copy of the petition.

2 (3) The court may endorse upon the summons an order
 3 directing the person or persons having the physical custody
 4 or control of the youth to bring the youth to the hearing.

5 (4) If it appears from any sworn statement presented
 6 to the court that the youth needs to be placed in detention
 7 or shelter care, the judge may endorse on the summons an
 8 order directing the officer serving the summons to at once
 9 take the youth into custody and to take him to the place of
 10 detention or shelter care designated by the court, subject
 11 to the rights of the youth and parent or person having
 12 custody of the youth as set forth in the provisions of the
 13 Montana Youth Court Act relating to detention and shelter
 14 care criteria and post-detention proceedings.

15 (5) If any youth is in custody shelter care or
 16 detained under any provision of this act pending an
 17 adjudication, the court, upon petition of the youth, his
 18 parents or guardian or his counsel shall, as soon as
 19 practicable, conduct a hearing in order to determine whether
 20 the circumstances of the case require such custody detention
 21 or shelter care and the form the custody detention or
 22 shelter care should take. All mentioned parties shall be
 23 notified of such petition process at the time of initial
 24 detention or shelter care."

25 Section 9. Section 10-1218, R.C.M. 1947, is amended to

1 read as follows:

2 "10-1218. Basic legal rights. (1) When a youth alleged
3 to be a delinquent youth or a youth in need of supervision
4 is taken into custody, the following requirements must be
5 met:

6 (a) the youth shall be immediately and effectively
7 advised of his constitutional rights and his rights under
8 this act;

9 (b) the youth may waive such rights under the
10 following situations:

11 (i) when the youth is under the age of ~~twelve--(12)~~
12 years, the parents of the youth may make an effective
13 waiver;

14 (ii) when the youth is over the age of ~~twelve--(12)~~
15 years, and the youth and his parent agree, they may make an
16 effective waiver; and

17 (iii) when the youth is over the age of ~~twelve--(12)~~
18 years and the youth and his parents do not agree, the youth
19 may make an effective waiver only with advice of counsel.

20 (c) In a proceeding alleging a youth to be a
21 delinquent youth:

22 (i) An extra-judicial statement that would be
23 constitutionally inadmissible in a criminal matter shall not
24 be received in evidence;

25 (ii) Evidence illegally seized or obtained shall not be

1 received in evidence to establish the allegations of a
2 petition against a youth; and

3 (iii) An extra-judicial admission or confession made by
4 the youth out of court is insufficient to support a finding
5 that the youth committed the acts alleged in the petition
6 unless it is corroborated by other evidence.

7 (2) Title 95, R.C.M. 1947, shall apply to all law
8 enforcement investigations relating to a complaint alleging
9 a delinquent youth or youth in need of supervision, except
10 that:

11 (a) No youth shall be fingerprinted or photographed
12 for criminal identification purposes except by order of the
13 youth court judge.

14 (b) No fingerprint records or photographs shall be
15 filed with the federal bureau of investigation, state of
16 Montana identification bureau, or any other than the
17 originating agency, except for sending the fingerprints or
18 photographs to any law enforcement agency for comparison
19 purposes in the original investigation.

20 (c) At such time as the proceedings in the matter
21 including appeals, are complete, the fingerprint records and
22 photographs shall be destroyed; except that such fingerprint
23 records and photographs may be retained by the originating
24 agency for a specific period when ordered by the court for
25 good cause shown.

1 (3) In all proceedings on a petition alleging a
 2 delinquent youth or youth in need of supervision as set
 3 forth in subsection (1) of this section, the youth, parents
 4 and guardian of the youth shall be advised by the court or,
 5 in the absence of the court, by its representative that the
 6 youth may be represented by counsel at all stages of the
 7 proceedings. If counsel is not retained, or if it appears
 8 that counsel will not be retained, counsel shall be
 9 appointed for the youth, unless the right to appointed
 10 counsel is waived by the youth and the parents or guardian.
 11 Neither the youth nor his parent or guardian may waive
 12 counsel if commitment to a ~~detention facility or~~ youth
 13 ~~forest-camp~~ state correctional facility or to the department
 14 of institutions for a period of more than six (6) months may
 15 result from adjudication.

16 (4) The court, at any stage of a proceeding on a
 17 petition under this act, may appoint a guardian ad litem for
 18 a youth if the youth has no parent or guardian appearing in
 19 his behalf, or if their interests conflict with those of the
 20 youth. A party to the proceeding or an employee or
 21 representative of a party shall not be appointed as guardian
 22 ad litem.

23 (5) In a proceeding on a petition, a party is entitled
 24 to: the opportunity to introduce evidence and otherwise be
 25 heard on the party's own behalf; confront and cross-examine

1 witnesses testifying against the party; and admit or deny
 2 the allegations against the party in the petition.

3 (6) Persons afforded rights under this act shall be
 4 advised of those rights and any other rights existing under
 5 law at the time of their first appearance in a proceeding on
 6 a petition under the Montana Youth Court Act and at any
 7 other time specified in the Youth Court Act or other law.

8 (7) All post trial motions and other remedies
 9 available to an adult in a criminal proceeding under the
 10 Montana Code of Criminal Procedure shall be available to a
 11 youth proceeded against under this act."

12 Section 10. Section 10-1222, R.C.M. 1947, is amended
 13 to read as follows:

14 "10-1222. Disposition of delinquent youth and youth in
 15 need of supervision. (1) If a youth is found to be
 16 delinquent or in need of supervision the court may enter its
 17 judgment making the following disposition:

- 18 (a) place the youth on probation;
- 19 (b) place in a licensed foster home or a home approved
 20 by the court;
- 21 (c) place the youth in a private agency responsible
 22 for the care and rehabilitation of such a youth, including,
 23 but not limited to, a district youth guidance home;
- 24 (d) transfer legal custody to the department of
 25 institutions; provided, however, that in the case of a youth

1 in need of supervision, such transfer of custody shall not
 2 authorize the department of institutions to place the youth
 3 in a ~~detention-facility~~ state youth correctional facility
 4 and such custody shall not continue for a period of more
 5 than six (6) months without a subsequent court order after
 6 notice and hearing;

7 (e) such further care and treatment or evaluation that
 8 the court deems beneficial to the youth, consistent with
 9 subsection (d) of this section.

10 (2) At any time after the youth has been taken into
 11 custody the court may, with the consent of the youth in the
 12 manner provided in section 10-1218(1), R.C.M. 1947, for
 13 consent by a youth to waiver of his constitutional rights,
 14 or after the youth has been adjudicated delinquent or in
 15 need of supervision:

16 (a) order the youth to be evaluated for a period not
 17 to exceed forty-five (45) days of evaluation at a reception
 18 and evaluation center for youths; or

19 (b) in the case of a delinquent youth sixteen (16)
 20 years or older who the court deems a suitable person for
 21 placement at a youth forest camp, notify the director of the
 22 department of institutions of the finding. The director of
 23 the department of institutions shall then designate to the
 24 court the ~~youth-detention-facility~~ state-youth--correctional
 25 facility to which the youth shall be delivered for

1 evaluation. The court may then commit the youth to the
 2 department of institutions for a period not to exceed
 3 ~~forty-five (45)~~ days for the purpose of evaluation as to the
 4 youth's suitability for placement, and order the youth
 5 delivered for evaluation to the ~~youth-facility~~ state-youth
 6 correctional YOUTH facility designated by the director. If
 7 after the evaluation, the department of institutions reports
 8 to the court that such child is suitable for placement in a
 9 youth forest camp, and if there is space available at a
 10 camp, the court may then commit such child directly to the
 11 youth forest camp under the terms of commitment of this act.
 12 If the department of institutions reports and states the
 13 reasons to the court why the youth is not suitable for
 14 placement, the youth shall be returned to the court for such
 15 further disposition as the court may deem advisable under
 16 the provisions of this act. The costs of transporting the
 17 youth to the designated youth facility for evaluation and
 18 cost of returning the youth to the court shall be borne by
 19 the county of residence of the youth.

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

24 (4) Any order of the court may be modified at any
 25 time.

1 (5) Whenever the court vests legal custody in an
2 agency, institution or department, it must transmit with the
3 dispositional judgment copies of a medical report, and such
4 other clinical, predisposition or other reports and
5 information pertinent to the care and treatment of the
6 youth.

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

9 ORDER OF COMMITMENT

10 State of Montana, County of ss:

11 In the district court for the Judicial District.

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

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

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

21 Name	Address	Occupation
22
23

24 The names and addresses of their nearest relatives are:
25

1
2 Witness my hand this day of A.D. 19...
3
4 Judge*

5 Section 11. Section 10-1235, R.C.M. 1947, is amended
6 to read as follows:

7 "10-1235. Order of adjudication -- non-criminal. No
8 commitment of any youth to any institution state youth
9 correctional facility under this act shall be deemed
10 commitment to a penal institution. No adjudication upon the
11 status of any youth in the jurisdiction of the court shall
12 operate to impose any of the civil disability imposed on a
13 person by reason of conviction of a criminal offense, nor
14 shall such adjudication be deemed a criminal conviction, nor
15 shall any youth be charged with or convicted of any crime in
16 any court except as provided in this act. Neither the
17 disposition of a youth under this act, nor evidence given in
18 youth court proceedings under this act, shall be admissible
19 in evidence except as otherwise provided in this act."

20 Section 12. Section 10-1236, R.C.M. 1947, is amended
21 to read as follows:

22 "10-1236. Foster Shelter care and foster homes. (1)
23 The youth court may establish procedures for finding,
24 maintaining and administering ~~temporary---and---~~ permanent
25 licensed shelter care and foster homes or other homes

1 approved by the court for youth within the provisions of
2 this act.

3 (2) The licensed shelter care and foster homes
4 established under this section shall be funded at a rate
5 consistent with other shelter care and foster homes
6 established for other purposes under law. Shelter care as
7 defined by this act may be funded through state
8 appropriation to the youth courts and the departments of
9 institutions and social and rehabilitation services.

10 (3) ~~All foster homes licensed by the social and~~
11 ~~rehabilitation services established shall be financed by~~
12 ~~the department of social and rehabilitation services as set~~
13 ~~forth in section 71-210 (b) R.C.M. 1947. ALL FOSTER HOMES~~
14 LICENSED BY THE SOCIAL AND REHABILITATION SERVICES,
15 ESTABLISHED SHALL BE FINANCED BY THE DEPARTMENT OF SOCIAL
16 AND REHABILITATION SERVICES AS SET FORTH IN SECTION 71-210
17 (B) R.C.M. 1947. The licensed foster homes established
18 under this section shall be funded at a rate consistent with
19 other foster homes established for other purposes under
20 law"

21 Section 13. Section 10-1237, R.C.M. 1947, is amended
22 to read as follows:

23 "10-1237. Shelter care and Youth detention home
24 facilities. (1) In all counties the county commissioners may
25 provide by purchase, lease, or otherwise, a place to be

1 known as the youth detention home facility, which shall not
2 be used for the confinement of adult persons charged with
3 criminal offenses, where delinquent youths, and youth in
4 need of supervision may be detained until final disposition,
5 which place shall be maintained by the county as in other
6 like cases. The judge having jurisdiction may appoint such
7 personnel as required, who shall have charge of said home
8 facility and of the youths detained therein.

9 ~~Such home shall be furnished in a comfortable manner,~~
10 ~~as nearly as may be as a family home.~~ The compensation of
11 such personnel shall be fixed by the court, and such
12 compensation and the maintaining of such home facility shall
13 be paid out of the county treasury which may be supplemented
14 by state appropriation and federal funds.

15 (2) Youth courts and nonprofit corporations may
16 provide by purchase, lease, or otherwise, a place to be
17 known as a shelter care facility. Such facility shall be
18 physically unrestricting and may be used to provide shelter
19 care for youth alleged or adjudicated delinquent, in need of
20 supervision, or in need of care. Such facility shall be
21 separate and apart from any facility housing adults charged
22 with criminal offenses. State appropriations and federal
23 funds may be received by the youth court or private
24 nonprofit corporations for establishment, maintenance, or
25 operation of such facility. Such facility shall be furnished

1 in a comfortable manner and be as nearly as possible like a
 2 family home."

3 Section 14. Section 10-1242, R.C.M. 1947, is amended
 4 to read as follows:

5 "10-1242. Establishment of district youth guidance
 6 home program. The legislative assembly, in recognition of
 7 the wide and varied needs of delinquent youths and youths in
 8 need of supervision of this state and of the desirability of
 9 meeting these needs on a community level to the fullest
 10 extent possible, and in order to reduce the need for
 11 custodial care in existing ~~state-institutions~~ state youth
 12 correctional facilities, establishes by this act a district
 13 youth guidance home program to provide facilities and
 14 services for the rehabilitation of delinquent youths and
 15 youths in need of supervision and establishes a program to
 16 provide such facilities and services through local nonprofit
 17 corporations and the department of institutions."

18 Section 15. Section 10-1243, R.C.M. 1947, is amended
 19 to read as follows:

20 "10-1243. Definitions. For purposes of this act:

21 ~~(a)(1)~~ Delinquent youth. A youth as defined in section
 22 10-1203(12).

23 ~~(b)(2)~~ A youth in need of supervision. A youth as
 24 defined in section 10-1203(13).

25 ~~(c)(3)~~ District youth guidance home. A district youth

1 guidance home is a family-oriented residence established in
 2 a judicial district of the state of Montana as an
 3 alternative to existing state ~~institutions~~ youth
 4 correctional facilities, the function of which is to provide
 5 a home and guidance through adult supervision for delinquent
 6 youths and youths in need of supervision."

-End-

1 HOUSE BILL NO. 738
 2 INTRODUCED BY MELOY, DUSSAULT
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 LAWS RELATING TO THE DETENTION AND SHELTER CARE OF YOUTH;
 6 AMENDING SECTIONS 10-1203, 10-1209, 10-1210, 10-1212,
 7 10-1213, 10-1214, 10-1215, 10-1216, 10-1218, 10-1222,
 8 10-1235, 10-1236, 10-1237, 10-1242, AND 10-1243, R.C.M.
 9 1947."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 10-1203, R.C.M. 1947, is amended to
 13 read as follows:

14 "10-1203. Definitions. For the purposes of the Montana
 15 Youth Court Act, unless otherwise stated:

16 (1) "Adult" means an individual who is eighteen years
 17 of age or older.

18 (2) "Agency" means the department of institutions, the
 19 department of social and rehabilitation services, and any
 20 division or department of either.

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

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

24 (5) "Foster home" means a private residence approved
 25 by the court for placement of a youth.

1 (6) "Guardianship" means the status created and
 2 defined by law between a youth and an adult with the
 3 reciprocal rights, duties and responsibilities.

4 (7) "Judge," when used without further qualification,
 5 means the judge of the youth court.

6 (8) "Legal custody" means the legal status created by
 7 order of a court of competent jurisdiction that gives a
 8 person the right and duty to: have physical custody of the
 9 youth; determine with whom the youth shall live and for what
 10 period; protect, train, and discipline the youth; and
 11 provide the youth with food, shelter, education, and
 12 ordinary medical care. An individual granted legal custody
 13 of a youth shall personally exercise his rights and duties
 14 as guardian unless otherwise authorized by the court
 15 entering the order.

16 (9) "Parent" means the natural or adoptive parent but
 17 does not include a person whose parental rights have been
 18 judicially terminated, nor does it include the putative
 19 father of an illegitimate youth unless his paternity is
 20 established by an adjudication or by other clear and
 21 convincing proofs.

22 (10) "Youth" means an individual who is less than
 23 eighteen years of age without regard to sex or emancipation.

24 (11) "Youth court" means the court established pursuant
 25 to this act to hear all proceedings in which a youth is

1 alleged to be a delinquent youth, a youth in need of
2 supervision or a youth in need of care, and includes the
3 youth court, the judge and probation officers.

4 (12) "Delinquent youth" means a youth:

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

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

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

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

16 (b) habitually disobeys the reasonable and lawful
17 demands of his parents or guardian, or is ungovernable and
18 beyond their control; or

19 (c) being subject to compulsory school attendance is
20 habitually truant from school; or

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

24 (14) "Youth in need of care" means a youth as defined
25 in section 10-1301.

1 (15) "Custodian" means a person other than a parent or
2 guardian, to whom legal custody of the youth has been given,
3 but does not include a person who has only physical
4 custody.

5 (16) "Necessary parties" include the youth, his
6 parents, guardian, custodian or spouse.

7 (17) ~~"Detention facility"~~ "State youth correctional
8 facility" means a residential facility for the ~~detention-and~~
9 rehabilitation of delinquent youth such as Pine Hills School
10 in Miles City, ~~and~~ Mountain View School in Helena, ~~and Swan~~
11 River youth forest camp.

12 (18) "Shelter care" means the temporary care of youth
13 in physically unrestricting facilities.

14 (19) "Detention" means the temporary care of youth in
15 physically restricting facilities."

16 Section 2. Section 10-1209, R.C.M. 1947, is amended to
17 read as follows:

18 "10-1209. Intake procedure. (1) Whenever the court
19 receives information from any agency or person based upon
20 reasonable grounds that a youth is, or appears to be a
21 delinquent youth or a youth in need of supervision; or being
22 subject to a court order or consent order, has violated the
23 terms thereof; the probation officer shall make a
24 preliminary inquiry into the matter.

25 (2) The probation officer may require the presence of

1 any person relevant to the inquiry, and may request
 2 subpoenas from the judge to accomplish this purpose. The
 3 probation officer may require investigation of the matter by
 4 any law enforcement agency or any other appropriate state or
 5 local agency.

6 (3) If the probation officer determines that the facts
 7 indicate a youth in need of care, the matter shall be
 8 immediately referred to the state department of social and
 9 rehabilitation services.

10 (4) The probation officer in the conduct of the
 11 preliminary inquiry shall:

12 (a) advise the youth of the youth's rights under this
 13 act and the Constitutions of the State of Montana and the
 14 United States;

15 (b) determine whether the matter is within the
 16 jurisdiction of the court;

17 (c) determine, if the youth is in detention or ~~custody~~
 18 ~~shelter care~~, whether such detention or ~~custody shelter care~~
 19 should be continued based upon criteria set forth in
 20 10-1212.

21 Once relevant information is secured, the probation
 22 officer shall:

23 (d) determine whether the interest of the public or
 24 the youth requires that further action be taken;

25 (e) terminate the inquiry upon the determination that

1 no further action be taken;

2 (f) release the youth immediately upon the
 3 determination that the filing of a petition is not
 4 authorized.

5 (5) The probation officer upon determining that
 6 further action is required may:

7 (a) provide counseling; refer the youth and his
 8 parents to another agency providing appropriate services; or
 9 take any other action or make any informal adjustment that
 10 does not involve probation or detention;

11 (b) provide for treatment or adjustment involving
 12 probation or other disposition authorized under section
 13 10-1210; provided, however, that such treatment or
 14 adjustment is voluntarily accepted by the youth's parents,
 15 or guardian, and the youth; and provided further that said
 16 matter is referred immediately to the county attorney for
 17 review and that the probation officer proceed no further
 18 unless authorized by the county attorney;

19 (c) refer the matter to the county attorney for filing
 20 a petition charging the youth to be a delinquent youth or a
 21 youth in need of supervision.

22 (6) A petition charging a youth held in ~~custody or~~
 23 detention must be filed within ~~five (5)~~ working days from
 24 the date the youth was first ~~confined~~ detained or the
 25 petition shall be dismissed and the youth released unless

1 good cause is shown to further detain such youth.

2 (7) If no petition is filed under this section, the
 3 complainant and victim, if any, shall be informed by the
 4 probation officer of the action and the reasons therefor and
 5 shall be advised of the right to submit the matter to the
 6 county attorney for review. The county attorney upon
 7 receiving a request for review, shall consider the facts,
 8 consult with the probation officer, and make the final
 9 decision as to whether a petition shall or shall not be
 10 filed."

11 Section 3. Section 10-1210, R.C.M. 1947, is amended to
 12 read as follows:

13 "10-1210. Consent adjustment without petition.

14 (1) Before a petition is filed, the probation officer may
 15 enter into an informal adjustment, give counsel and advice
 16 to the youth and other interested parties, if it appears:

17 (a) the admitted facts bring the case within the
 18 jurisdiction of the court;

19 (b) counsel and advice without filing a petition would
 20 be in the best interests of the child and the public.

21 (2) Any probation or other disposition imposed under
 22 this section against any youth must conform to the following
 23 procedures:

24 (a) Every consent adjustment shall be reduced to
 25 writing, signed by the youth and his parents or the person

1 having legal custody of the youth.

2 (b) Approval by the youth court judge shall be
 3 required where the complaint alleges commission of a felony
 4 or where the youth has been or will be in any way detained.

5 (3) An incriminating statement relating to any act or
 6 omission constituting delinquency or need of supervision
 7 made by the participant to the person giving counsel or
 8 advice in the discussions or conferences incident thereto
 9 shall not be used against the declarant in any proceeding
 10 under this act, nor shall the incriminating statement be
 11 admissible in any criminal proceeding against the declarant.

12 (4) The following dispositions may be imposed by
 13 informal adjustment:

14 (a) Probation;

15 (b) Placement of the youth in a licensed foster home
 16 or other home approved by the court;

17 (c) Placement of the youth in a private agency
 18 responsible for the care and rehabilitation of such a youth,
 19 including but not limited to, a district youth guidance
 20 home;

21 (d) Transfer of legal custody of the youth to the
 22 department of institutions, provided, however, that such
 23 commitment shall not authorize the department of
 24 institutions to place the youth in a ~~detention facility as~~
 25 ~~defined by this act~~ state youth correctional facility and

1 such commitment shall not exceed a period of six (6) months
 2 without a subsequent order of the court, after notice and
 3 hearing."

4 Section 4. Section 10-1212, R.C.M. 1947, is amended to
 5 read as follows:

6 "10-1212. Detention and shelter care of youth. ~~A youth~~
 7 ~~taken into custody shall not be detained prior to the~~
 8 ~~hearing on the petition except when his detention or care~~
 9 ~~is required to protect the person or property of others or~~
 10 ~~of the youth; he may abscond or be removed from the~~
 11 ~~jurisdiction of the court; he has no parent, guardian, or~~
 12 ~~other person able to provide supervision and care for him~~
 13 ~~and return him to the court when required; or an order for~~
 14 ~~his detention has been made by the court pursuant to this~~
 15 ~~act: (1) A youth taken into custody may not be detained~~
 16 ~~prior to the hearing on the petition except when:~~

17 (a) his detention is required to protect the person or
 18 the property of others or of the youth;

19 (b) he has pending court or administrative action or
 20 is awaiting a transfer to another jurisdiction and may
 21 abscond or be removed from the jurisdiction of the court;

22 (c) there are not adequate assurances that the youth
 23 will appear for court when required; or

24 (d) an order for his detention has been made by the
 25 court.

1 ~~(2) A youth taken into custody may not be sheltered~~
 2 ~~prior to the hearing on the petition except when:~~

3 ~~(a) the youth and his family needs shelter care to~~
 4 ~~address their problematic situation when it is not possible~~
 5 ~~for the youth to remain at home;~~

6 ~~(b) the youth needs to be protected from physical or~~
 7 ~~emotional harm;~~

8 ~~(c) the youth needs to be deterred or prevented from~~
 9 ~~immediate repetition of his troubling behavior;~~

10 ~~(d) shelter care is necessary to assess the youth and~~
 11 ~~his environment;~~

12 ~~(e) shelter care is necessary to provide adequate time~~
 13 ~~for case planning and disposition; or~~

14 ~~(f) shelter care is necessary to intervene in a crisis~~
 15 ~~situation and provide intensive services or attention that~~
 16 ~~might alleviate the problem and reunite the family."~~

17 Section 5. Section 10-1213, R.C.M. 1947, is amended to
 18 read as follows:

19 "10-1213. Release or delivery from custody. (1)
 20 Whenever a peace officer believes, on reasonable grounds,
 21 that a youth can be released to a person who has custody of
 22 the youth, then the peace officer may release the youth to
 23 that person upon receiving a written promise from the person
 24 to bring the youth before the probation officer at a time
 25 and place specified in the written promise; or a peace

1 officer may release the youth under any other reasonable
2 circumstances.

3 ~~(2) Whenever the peace officer believes, on reasonable~~
4 ~~grounds, that the youth must be held in custody, then the~~
5 ~~peace officer must notify the probation officer without~~
6 ~~undue delay and shall, as soon as practicable, provide the~~
7 ~~probation officer with a written report of his reasons for~~
8 ~~holding that youth in custody. If it is necessary to hold~~
9 ~~the youth pending appearance before the youth court, then~~
10 ~~the youth must be held in some place that has been approved~~
11 ~~by the youth court and completely separated from adult~~
12 ~~offenders. Whenever the peace officer believes, on~~
13 ~~reasonable grounds, that the youth must be detained, the~~
14 ~~peace officer must notify the probation officer immediately~~
15 ~~and the probation officer's approval for detention is~~
16 ~~required prior to detaining the youth. WHENEVER THE PEACE~~
17 ~~OFFICER BELIEVES, ON REASONABLE GROUNDS, THAT THE YOUTH MUST~~
18 ~~BE HELD IN CUSTODY, THEN THE PEACE OFFICER MUST NOTIFY THE~~
19 ~~PROBATION OFFICER WITHOUT UNDUE DELAY, AND SHALL, AS SOON AS~~
20 ~~PRACTICABLE, PROVIDE THE PROBATION OFFICER WITH A WRITTEN~~
21 ~~REPORT OF HIS REASONS FOR HOLDING THAT YOUTH IN CUSTODY. IF~~
22 ~~IT IS NECESSARY TO HOLD THE YOUTH PENDING APPEARANCE BEFORE~~
23 ~~THE YOUTH COURT, THEN THE YOUTH MUST BE HELD IN SOME PLACE~~
24 ~~THAT HAS BEEN APPROVED BY THE YOUTH COURT AND IS COMPLETELY~~
25 ~~SEPARATED FROM ADULT OFFENDERS. WHENEVER THE PEACE OFFICER~~

1 BELIEVES, ON REASONABLE GROUNDS, THAT THE YOUTH MUST BE
2 DETAINED, THE PEACE OFFICER MUST NOTIFY THE PROBATION
3 OFFICER IMMEDIATELY AND THE PROBATION OFFICER'S APPROVAL FOR
4 RETENTION IS REQUIRED PRIOR TO DETAINING THE YOUTH AND
5 SHALL, AS SOON AS PRACTICABLE, PROVIDE THE PROBATION OFFICER
6 WITH A WRITTEN REPORT OF HIS REASONS FOR HOLDING THAT YOUTH
7 IN CUSTODY. IF IT IS NECESSARY TO HOLD THE YOUTH PENDING
8 APPEARANCE BEFORE THE YOUTH COURT, THEN THE YOUTH MUST BE
9 HELD IN SOME PLACE THAT HAS BEEN APPROVED BY THE YOUTH COURT
10 AND IS COMPLETELY SEPARATED FROM ADULT OFFENDERS. If the
11 peace officer believes that the youth must be sheltered, the
12 peace officer shall notify the probation officer immediately
13 and shall provide a written report of his reasons for
14 placing the youth in shelter care. If the youth is then
15 held, the youth must be sheltered in a place approved by the
16 youth court."

17 Section 6. Section 10-1214, R.C.M. 1947, is amended to
18 read as follows:

19 "10-1214. Place of shelter care or detention. (1) A
20 youth alleged to be a delinquent youth or youth in need of
21 supervision may be ~~detained~~ sheltered only in:

22 (a) a licensed foster home or a home approved by the
23 court for the provision of shelter care of youth;

24 (b) a facility operated by a licensed child welfare
25 agency;

1 (c) ~~a district youth guidance home or other youth~~
 2 ~~facility or center which is under the direction or~~
 3 ~~supervision of the court, other public authority or of a~~
 4 ~~private agency approved by the court, or a licensed~~
 5 attention home or shelter facility which is operated by a
 6 nonprofit corporation or the youth court for the provision
 7 of shelter care of youth;

8 ~~(d) a detention facility;~~
 9 ~~(e)(d)~~ any other suitable place or facility,
 10 designated or operated by the court for the supervision of
 11 youth in shelter care.

12 (2) The youth may be detained in a jail or other
 13 facility for the detention of adults only if: the facilities
 14 in subsection ~~(e) or (d)(1)~~ is are not available or do not
 15 provide adequate security; the detention is in an area
 16 physically and visually separate and removed from those of
 17 adults; it appears to the satisfaction of the court that
 18 public safety and protection reasonably require detention;
 19 ~~the facilities specified in subsection (a) or (b) are not~~
 20 ~~sufficient;~~ and the court so orders.

21 ~~(2)(3)~~ The official in charge of a jail or other
 22 facility for the detention of adult offenders or persons
 23 charged with crime shall inform the court immediately if a
 24 person who is or appears to be under the age of eighteen
 25 (18) years is received at the facility. Such official shall

1 bring the person before the court upon request or deliver
 2 him to a detention facility designated by the court.

3 ~~(3)(4)~~ A youth alleged to be in need of care shall be
 4 placed only in the facilities stated in ~~subsections (a) and~~
 5 ~~(b) of subsection (1) of this section and shall not be~~
 6 detained in a jail or other facility intended or used for
 7 the detention of adults charged with criminal offenses ~~or of~~
 8 ~~youths alleged to be delinquents or in need of supervision~~
 9 ~~by virtue of violations of the law."~~

10 Section 7. Section 10-1215, R.C.M. 1947, is amended to
 11 read as follows:

12 "10-1215. Petition -- form and content. A petition
 13 initiating proceedings under this act shall be signed by the
 14 county attorney and shall be entitled, "In the Matter of
 15, a youth," and shall set forth with specificity:

16 (1) the facts necessary to invoke the jurisdiction of
 17 the court together with a statement alleging the youth to be
 18 a delinquent or in need of supervision;

19 (2) the charge of an offense which shall:

20 (a) state the name of the offense;
 21 (b) cite in customary form the statute, rule,
 22 regulation or other provisions of law which the youth is
 23 alleged to have violated;

24 (c) state the facts constituting the offense in
 25 ordinary and concise language and in such manner as to

1 enable a person of common understanding to know what is
2 intended; and

3 (d) state the time and place of the offense as
4 definitely as can be done;

5 (3) the name, birth date and residence address of the
6 youth;

7 (4) the names and residence addresses of parents,
8 guardian, and spouse, of the youth; and if none of the
9 parents, guardian, or spouse, resides or can be found within
10 the state, or if there is none, the adult relative residing
11 nearest to the court;

12 (5) whether the youth is in custody detention or
13 shelter care, and if so, the place of detention or shelter
14 care and the time he was ~~taken into custody~~ detained or
15 sheltered;

16 (6) if any of the matters required to be set forth by
17 this section are not known, a statement of those matters and
18 the fact that they are not known; and

19 (7) a list of witnesses to be used in proving the
20 commission of the offense or offenses charged in the
21 petition, together with their residence addresses. The names
22 and addresses of any witnesses discovered after the filing
23 of the petition shall be furnished to the youth upon
24 request."

25 Section 8. Section 10-1216, R.C.M. 1947, is amended to

1 read as follows:

2 *10-1216. Summons. (1) After a petition has been
3 filed, summons shall be served directly to the youth; to his
4 parent or parents having actual custody of the youth, or to
5 his guardian or custodian, as the case may be; and to such
6 other persons as the court may direct.

7 (2) The summons shall require the parties to whom
8 directed to appear personally before the court at the time
9 fixed by the summons to answer the allegations of the
10 petition. The summons shall advise the parties of their
11 right to counsel under the Montana Youth Court Act and shall
12 have attached to it a copy of the petition.

13 (3) The court may endorse upon the summons an order
14 directing the person or persons having the physical custody
15 or control of the youth to bring the youth to the hearing.

16 (4) If it appears from any sworn statement presented
17 to the court that the youth needs to be placed in detention
18 or shelter care, the judge may endorse on the summons an
19 order directing the officer serving the summons to at once
20 take the youth into custody and to take him to the place of
21 detention or shelter care designated by the court, subject
22 to the rights of the youth and parent or person having
23 custody of the youth as set forth in the provisions of the
24 Montana Youth Court Act relating to detention and shelter
25 care criteria and post-detention proceedings.

1 (5) If any youth is in custody shelter care or
 2 detained under any provision of this act pending an
 3 adjudication, the court, upon petition of the youth, his
 4 parents or guardian or his counsel shall, as soon as
 5 practicable, conduct a hearing in order to determine whether
 6 the circumstances of the case require such custody detention
 7 or shelter care and the form the custody detention or
 8 shelter care should take. All mentioned parties shall be
 9 notified of such petition process at the time of initial
 10 detention or shelter care."

11 Section 9. Section 10-1218, R.C.M. 1947, is amended to
 12 read as follows:

13 "10-1218. Basic legal rights. (1) When a youth alleged
 14 to be a delinquent youth or a youth in need of supervision
 15 is taken into custody, the following requirements must be
 16 met:

17 (a) the youth shall be immediately and effectively
 18 advised of his constitutional rights and his rights under
 19 this act;

20 (b) the youth may waive such rights under the
 21 following situations:

22 (i) when the youth is under the age of ~~twelve--(12)~~
 23 years, the parents of the youth may make an effective
 24 waiver;

25 (ii) when the youth is over the age of ~~twelve--(12)~~

1 years, and the youth and his parent agree, they may make an
 2 effective waiver; and

3 (iii) when the youth is over the age of ~~twelve--(12)~~
 4 years and the youth and his parents do not agree, the youth
 5 may make an effective waiver only with advice of counsel.

6 (c) In a proceeding alleging a youth to be a
 7 delinquent youth:

8 (i) An extra-judicial statement that would be
 9 constitutionally inadmissible in a criminal matter shall not
 10 be received in evidence;

11 (ii) Evidence illegally seized or obtained shall not be
 12 received in evidence to establish the allegations of a
 13 petition against a youth; and

14 (iii) An extra-judicial admission or confession made by
 15 the youth out of court is insufficient to support a finding
 16 that the youth committed the acts alleged in the petition
 17 unless it is corroborated by other evidence.

18 (2) Title 95, R.C.M. 1947, shall apply to all law
 19 enforcement investigations relating to a complaint alleging
 20 a delinquent youth or youth in need of supervision, except
 21 that:

22 (a) No youth shall be fingerprinted or photographed
 23 for criminal identification purposes except by order of the
 24 youth court judge.

25 (b) No fingerprint records or photographs shall be

1 filed with the federal bureau of investigation, state of
 2 Montana identification bureau, or any other than the
 3 originating agency, except for sending the fingerprints or
 4 photographs to any law enforcement agency for comparison
 5 purposes in the original investigation.

6 (c) At such time as the proceedings in the matter
 7 including appeals, are complete, the fingerprint records and
 8 photographs shall be destroyed; except that such fingerprint
 9 records and photographs may be retained by the originating
 10 agency for a specific period when ordered by the court for
 11 good cause shown.

12 (3) In all proceedings on a petition alleging a
 13 delinquent youth or youth in need of supervision as set
 14 forth in subsection (1) of this section, the youth, parents
 15 and guardian of the youth shall be advised by the court or,
 16 in the absence of the court, by its representative that the
 17 youth may be represented by counsel at all stages of the
 18 proceedings. If counsel is not retained, or if it appears
 19 that counsel will not be retained, counsel shall be
 20 appointed for the youth, unless the right to appointed
 21 counsel is waived by the youth and the parents or guardian.
 22 Neither the youth nor his parent or guardian may waive
 23 counsel if commitment to a ~~detention facility or a youth~~
 24 ~~forest camp~~ state correctional facility or to the Department
 25 of institutions for a period of more than six (6) months may

1 result from adjudication.

2 (4) The court, at any stage of a proceeding on a
 3 petition under this act, may appoint a guardian ad litem for
 4 a youth if the youth has no parent or guardian appearing in
 5 his behalf, or if their interests conflict with those of the
 6 youth. A party to the proceeding or an employee or
 7 representative of a party shall not be appointed as guardian
 8 ad litem.

9 (5) In a proceeding on a petition, a party is entitled
 10 to: the opportunity to introduce evidence and otherwise be
 11 heard on the party's own behalf; confront and cross-examine
 12 witnesses testifying against the party; and admit or deny
 13 the allegations against the party in the petition.

14 (6) Persons afforded rights under this act shall be
 15 advised of those rights and any other rights existing under
 16 law at the time of their first appearance in a proceeding on
 17 a petition under the Montana Youth Court Act and at any
 18 other time specified in the Youth Court Act or other law.

19 (7) All post trial motions and other remedies
 20 available to an adult in a criminal proceeding under the
 21 Montana Code of Criminal Procedure shall be available to a
 22 youth proceeded against under this act."

23 Section 10. Section 10-1222, R.C.M. 1947, is amended
 24 to read as follows:

25 "10-1222. Disposition of delinquent youth and youth in

1 need of supervision. (1) If a youth is found to be
2 delinquent or in need of supervision the court may enter its
3 judgment making the following disposition:

4 (a) place the youth on probation;

5 (b) place in a licensed foster home or a home approved
6 by the court;

7 (c) place the youth in a private agency responsible
8 for the care and rehabilitation of such a youth, including,
9 but not limited to, a district youth guidance home;

10 (d) transfer legal custody to the department of
11 institutions; provided, however, that in the case of a youth
12 in need of supervision, such transfer of custody shall not
13 authorize the department of institutions to place the youth
14 in a ~~detention-facility~~ state youth correctional facility
15 and such custody shall not continue for a period of more
16 than six (6) months without a subsequent court order after
17 notice and hearing;

18 (e) such further care and treatment or evaluation that
19 the court deems beneficial to the youth, consistent with
20 subsection (d) of this section.

21 (2) At any time after the youth has been taken into
22 custody the court may, with the consent of the youth in the
23 manner provided in section 10-1218(1), R.C.M. 1947, for
24 consent by a youth to waiver of his constitutional rights,
25 or after the youth has been adjudicated delinquent or in

1 need of supervision:

2 (a) order the youth to be evaluated for a period not
3 to exceed forty-five (45) days of evaluation at a reception
4 and evaluation center for youths; or

5 (b) in the case of a delinquent youth sixteen (16)
6 years or older who the court deems a suitable person for
7 placement at a youth forest camp, notify the director of the
8 department of institutions of the finding. The director of
9 the department of institutions shall then designate to the
10 court the ~~youth-detention-facility~~ state youth correctional
11 facility to which the youth shall be delivered for
12 evaluation. The court may then commit the youth to the
13 department of institutions for a period not to exceed
14 ~~forty-five (45)~~ days for the purpose of evaluation as to the
15 youth's suitability for placement, and order the youth
16 delivered for evaluation to the ~~youth-facility~~ state youth
17 correctional YOUTH facility designated by the director. If
18 after the evaluation, the department of institutions reports
19 to the court that such child is suitable for placement in a
20 youth forest camp, and if there is space available at a
21 camp, the court may then commit such child directly to the
22 youth forest camp under the terms of commitment of this act.
23 If the department of institutions reports and states the
24 reasons to the court why the youth is not suitable for
25 placement, the youth shall be returned to the court for such

1 further disposition as the court may deem advisable under
2 the provisions of this act. The costs of transporting the
3 youth to the designated youth facility for evaluation and
4 cost of returning the youth to the court shall be borne by
5 the county of residence of the youth.

6 (3) No youth shall be committed or transferred to a
7 penal institution or other facility used for the execution
8 of sentence of adult persons convicted of crimes except as
9 provided by subsection (2) (b) above.

10 (4) Any order of the court may be modified at any
11 time.

12 (5) Whenever the court vests legal custody in an
13 agency, institution or department, it must transmit with the
14 dispositional judgment copies of a medical report, and such
15 other clinical, predisposition or other reports and
16 information pertinent to the care and treatment of the
17 youth.

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

20 ORDER OF COMMITMENT

21 State of Montana, County of, ss:

22 In the district court for the Judicial District.

23 On the day of, 19.....,, a minor
24 of this county, years of age, was brought before me
25 charged with Upon due proof I find that

1 is a suitable person to be committed to the department
2 of institutions.

3 It is ordered that be committed to the
4 department of institutions until

5 The names, addresses and occupations of the parents
6 are:

7 Name	8 Address	9 Occupation
.....
.....

10 The names and addresses of their nearest relatives are:
11
12

13 Witness my hand this day of A.D. 19...
14
15 Judge*

16 Section 11. Section 10-1235, R.C.M. 1947, is amended
17 to read as follows:

18 "10-1235. Order of adjudication -- non-criminal. No
19 commitment of any youth to any institution state youth
20 correctional facility under this act shall be deemed
21 commitment to a penal institution. No adjudication upon the
22 status of any youth in the jurisdiction of the court shall
23 operate to impose any of the civil disability imposed on a
24 person by reason of conviction of a criminal offense, nor
25 shall such adjudication be deemed a criminal conviction, nor

1 shall any youth be charged with or convicted of any crime in
 2 any court except as provided in this act. Neither the
 3 disposition of a youth under this act, nor evidence given in
 4 youth court proceedings under this act, shall be admissible
 5 in evidence except as otherwise provided in this act."

6 Section 12. Section 10-1236, R.C.M. 1947, is amended
 7 to read as follows:

8 "10-1236. Foster shelter care and foster homes. (1)
 9 The youth court may establish procedures for finding,
 10 maintaining and administering ~~temporary and permanent~~
 11 licensed shelter care and foster homes or other homes
 12 approved by the court for youth within the provisions of
 13 this act.

14 (2) The licensed shelter care and foster homes
 15 established under this section shall be funded at a rate
 16 consistent with other shelter care and foster homes
 17 established for other purposes under law. Shelter care as
 18 defined by this act may be funded through state
 19 appropriation to the youth courts and the departments of
 20 institutions and social and rehabilitation services.

21 ~~(3) All foster homes licensed by the social and~~
 22 ~~rehabilitation services established shall be financed by~~
 23 ~~the department of social and rehabilitation services as set~~
 24 ~~forth in section 71-210 (b), R.C.M. 1947. ALL FOSTER HOMES~~
 25 LICENSED BY THE SOCIAL AND REHABILITATION SERVICES.

1 ~~ESTABLISHED SHALL BE FINANCED BY THE "DEPARTMENT" OF SOCIAL~~
 2 ~~AND REHABILITATION SERVICES AS SET FORTH IN SECTION 71-210~~
 3 ~~(B), R.C.M. 1947. The licensed foster homes established~~
 4 ~~under this section shall be funded at a rate consistent with~~
 5 ~~other foster homes established for other purposes under~~
 6 ~~law."~~

7 Section 13. Section 10-1237, R.C.M. 1947, is amended
 8 to read as follows:

9 "10-1237. Shelter care and youth detention home
 10 facilities. (1) In all counties the county commissioners may
 11 provide by purchase, lease, or otherwise, a place to be
 12 known as the youth detention home facility, which shall not
 13 be used for the confinement of adult persons charged with
 14 criminal offenses, where delinquent youths, and youth in
 15 need of supervision may be detained until final disposition,
 16 which place shall be maintained by the county as in other
 17 like cases. The judge having jurisdiction may appoint such
 18 personnel as required, who shall have charge of said home
 19 facility and of the youths detained therein.

20 ~~Such home shall be furnished in a comfortable manner~~
 21 ~~as nearly as may be as a family home. The compensation of~~
 22 such personnel shall be fixed by the court, and such
 23 compensation and the maintaining of such home facility shall
 24 be paid out of the county treasury which may be supplemented
 25 by state appropriation and federal funds.

1 ~~(2) Youth courts and nonprofit corporations may~~
 2 ~~provide by purchase, lease, or otherwise, a place to be~~
 3 ~~known as a shelter care facility. Such facility shall be~~
 4 ~~physically unrestricting and may be used to provide shelter~~
 5 ~~care for youth alleged or adjudicated delinquent, in need of~~
 6 ~~supervision, or in need of care. Such facility shall be~~
 7 ~~separate and apart from any facility housing adults charged~~
 8 ~~with criminal offenses. State appropriations and federal~~
 9 ~~funds may be received by the youth court or private~~
 10 ~~nonprofit corporations for establishment, maintenance, or~~
 11 ~~operation of such facility. Such facility shall be furnished~~
 12 ~~in a comfortable manner and be as nearly as possible like a~~
 13 ~~family home."~~

14 Section 14. Section 10-1242, R.C.M. 1947, is amended
 15 to read as follows:

16 "10-1242. Establishment of district youth guidance
 17 home program. The legislative assembly, in recognition of
 18 the wide and varied needs of delinquent youths and youths in
 19 need of supervision of this state and of the desirability of
 20 meeting these needs on a community level to the fullest
 21 extent possible, and in order to reduce the need for
 22 custodial care in existing ~~state institutions state youth~~
 23 ~~correctional facilities,~~ establishes by this act a "District
 24 youth guidance home program to provide facilities and
 25 services for the rehabilitation of delinquent youths and

1 youths in need of supervision and establishes a program to
 2 provide such facilities and services through local nonprofit
 3 corporations and the department of institutions."

4 Section 15. Section 10-1243, R.C.M. 1947, is amended
 5 to read as follows:

6 "10-1243. Definitions. For purposes of this act:

7 ~~(1)~~ Delinquent youth. A youth as defined in section
 8 10-1203(12).

9 ~~(2)~~ A youth in need of supervision. A youth as
 10 defined in section 10-1203(13).

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

-End-