

HOUSE BILL NO. 165

INTRODUCED BY KVAALEN

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 15, 1979	Introduced and referred to Committee on Judiciary
January 18, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
January 19, 1979	Printed and placed on members' desks.
January 22, 1979	Third Reading Consent Calendar passed. Transmitted to Second House.

IN THE SENATE

January 23, 1979	Introduced and referred to Committee on Judiciary.
January 29, 1979	Committee recommend bill be concurred in. Report adopted.
January 31, 1979	Second Reading, concurred in.
February 2, 1979	Third Reading, concurred in.

IN THE HOUSE

February 3, 1979	Returned from Second House. Concurred in. Sent to enrolling. Reported correctly enrolled.
------------------	--

1 HOUSE BILL NO. 165
 2 INTRODUCED BY Kvaalen
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAW RELATING TO MINORS; AMENDING SECTIONS
 7 41-1-304, 41-5-523, AND 41-5-701, MCA."

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

10 Section 1. Section 41-1-304, MCA, is amended to read:
 11 "41-1-304. When minors may disaffirm. In all cases
 12 other than those specified by ~~41-1-303~~ 41-1-305 and
 13 41-1-306, the contract of a minor may, upon restoring the
 14 consideration to the party from whom it was received, be
 15 disaffirmed by the minor himself, either before his majority
 16 or within a reasonable time afterwards, or in case of his
 17 death within that period, by his heirs or personal
 18 representatives."

19 Section 2. Section 41-5-523, MCA, is amended to read:
 20 "41-5-523. Disposition of delinquent youth and youth
 21 in need of supervision. (1) If a youth is found to be
 22 delinquent or in need of supervision, the court may enter
 23 its judgment making the following disposition:
 24 (a) place the youth on probation;
 25 (b) place in a licensed foster home or a home approved

1 by the court;
 2 (c) place the youth in a private agency responsible
 3 for the care and rehabilitation of such a youth, including,
 4 but not limited to a district youth guidance home;
 5 (d) transfer legal custody to the department of
 6 institutions; provided, however, that in the case of a youth
 7 in need of supervision, such transfer of custody ~~shall~~ does
 8 not authorize the department of institutions to place the
 9 youth in a state youth correctional facility and such
 10 custody ~~shall~~ may not continue for a period of more than 6
 11 months without a subsequent court order after notice and
 12 hearing;
 13 (e) such further care and treatment or evaluation that
 14 the court ~~deems~~ considers beneficial to the youth,
 15 consistent with subsection (d) of this section.
 16 (2) At any time after the youth has been taken into
 17 custody, the court may, with the consent of the youth in the
 18 manner provided in 41-5-303 for consent by a youth to waiver
 19 of his constitutional rights or after the youth has been
 20 adjudicated delinquent or in need of supervision:
 21 (a) order the youth to be evaluated by the department
 22 of institutions for a period not to exceed 45 days of
 23 evaluation at a reception and evaluation center for youths;
 24 or
 25 (b) in the case of a delinquent youth 16 years or

1 older whom the court deems considers a suitable person for
 2 placement at a youth forest camp, notify the director of the
 3 department of institutions of the finding. The director of
 4 the department of institutions shall then designate to the
 5 court the facility to which the youth shall be delivered for
 6 evaluation. The court may then commit the youth to the
 7 department of institutions for a period not to exceed 45
 8 days for the purpose of evaluation as to the youth's
 9 suitability for placement and order the youth delivered for
 10 evaluation to the youth facility designated by the director.
 11 If after the evaluation the department of institutions
 12 reports to the court that such child is suitable for
 13 placement in a youth forest camp and if there is space
 14 available at a camp, the court may then commit such child
 15 directly to the youth forest camp under the terms of
 16 commitment of this chapter. If the department of
 17 institutions reports and states the reasons to the court why
 18 the youth is not suitable for placement, the youth shall be
 19 returned to the court for such further disposition as the
 20 court may deem consider advisable under the provisions of
 21 this chapter. The costs of transporting the youth to the
 22 designated youth facility for evaluation and cost of
 23 returning the youth to the court shall be borne by the
 24 county of residence of the youth.

25 (3) No youth shall may be committed or transferred to

1 a penal institution or other facility used for the execution
 2 of sentence of adult persons convicted of crimes except as
 3 provided by subsection (2)(b).

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

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

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

14 ORDER OF COMMITMENT

15 State of Montana, County of, SS:

16 In the district court for the judicial district.

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

21 It is ordered that be committed to the department
 22 of institutions until

23 The names, addresses, and occupations of the parents
 24 are:

25 Name	Address	Occupation
---------	---------	------------

1
.....

2
.....

3 The names and addresses of their nearest relatives are:

4
.....

5
.....

6 Witness my hand this day of, A.D. 19...

7
.....

8 Judge "

9 Section 3. Section 41-5-701, MCA, is amended to read:

10 "41-5-701. Appointment of probation officers. The

11 youth ~~division court~~ judge of each judicial district shall

12 appoint such necessary probation officers as are required to

13 carry out the purpose and intent of this chapter. He shall

14 appoint such part-time probation officers as shall be

15 required. The qualifications for part-time probation

16 officers ~~shall~~ **must** approximate those required for probation

17 officers insofar as possible. A chief probation officer

18 ~~shall~~ **must** be appointed by the judge to supervise the youth

19 division offices in the judicial district. The judge shall

20 also insure that the youth division offices are staffed with

21 necessary office personnel and that the offices are properly

22 equipped to effectively carry out the purpose and intent of

23 this chapter. No person while serving as a law enforcement

24 officer ~~shall~~ **may** be appointed or perform the duties of a

25 full-time or part-time probation officer."

HB 165

Approved by Committee on Judiciary

HOUSE BILL NO. 165

INTRODUCED BY Kvaalen

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO MINORS; AMENDING SECTIONS 41-1-304, 41-5-523, AND 41-5-701, MCA."

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

Section 1. Section 41-1-304, MCA, is amended to read:

"41-1-304. When minors may disaffirm. In all cases other than those specified by ~~41-1-303~~, 41-1-305, and 41-1-306, the contract of a minor may, upon restoring the consideration to the party from whom it was received, be disaffirmed by the minor himself, either before his majority or within a reasonable time afterwards, or in case of his death within that period, by his heirs or personal representatives."

Section 2. Section 41-5-523, MCA, is amended to read:

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

- (a) place the youth on probation;
- (b) place in a licensed foster home or a home approved

by the court;

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

(d) transfer legal custody to the department of institutions; provided, however, that in the case of a youth in need of supervision, such transfer of custody ~~shall~~ does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody ~~shall~~ may not continue for a period of more than 6 months without a subsequent court order after notice and hearing;

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

(2) At any time after the youth has been taken into custody, the court may, with the consent of the youth in the manner provided in 41-5-303 for consent by a youth to waiver of his constitutional rights or after the youth has been adjudicated delinquent or in need of supervision:

(a) order the youth to be evaluated by the department of institutions for a period not to exceed 45 days of evaluation at a reception and evaluation center for youths;

or

(b) in the case of a delinquent youth 16 years or

1 older whom the court ~~deems~~ considers a suitable person for
 2 placement at a youth forest camp, notify the director of the
 3 department of institutions of the finding. The director of
 4 the department of institutions shall then designate to the
 5 court the facility to which the youth shall be delivered for
 6 evaluation. The court may then commit the youth to the
 7 department of institutions for a period not to exceed 45
 8 days for the purpose of evaluation as to the youth's
 9 suitability for placement and order the youth delivered for
 10 evaluation to the youth facility designated by the director.
 11 If after the evaluation the department of institutions
 12 reports to the court that such child is suitable for
 13 placement in a youth forest camp and if there is space
 14 available at a camp, the court may then commit such child
 15 directly to the youth forest camp under the terms of
 16 commitment of this chapter. If the department of
 17 institutions reports and states the reasons to the court why
 18 the youth is not suitable for placement, the youth shall be
 19 returned to the court for such further disposition as the
 20 court may deem consider advisable under the provisions of
 21 this chapter. The costs of transporting the youth to the
 22 designated youth facility for evaluation and cost of
 23 returning the youth to the court shall be borne by the
 24 county of residence of the youth.

25 (3) No youth shall ~~may~~ be committed or transferred to

1 a penal institution or other facility used for the execution
 2 of sentence of adult persons convicted of crimes except as
 3 provided by subsection (2)(b).

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

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

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

14 ORDER OF COMMITMENT

15 State of Montana, County of, ss:

16 In the district court for the judicial district.

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

21 It is ordered that be committed to the department
 22 of institutions until

23 The names, addresses, and occupations of the parents
 24 are:

25 Name Address Occupation

1
2

3 The names and addresses of their nearest relatives are:

4
5

6 Witness my hand this day of, A.D. 19...

7
8 Judge "

9 Section 3. Section 41-5-701, MCA, is amended to read:

10 "41-5-701. Appointment of probation officers. The
11 youth ~~division court~~ judge of each judicial district shall
12 appoint such necessary probation officers as are required to
13 carry out the purpose and intent of this chapter. He shall
14 appoint such part-time probation officers as shall be
15 required. The qualifications for part-time probation
16 officers ~~shall~~ **must** approximate those required for probation
17 officers insofar as possible. A chief probation officer
18 ~~shall~~ **must** be appointed by the judge to supervise the youth
19 division offices in the judicial district. The judge shall
20 also insure that the youth division offices are staffed with
21 necessary office personnel and that the offices are properly
22 equipped to effectively carry out the purpose and intent of
23 this chapter. No person while serving as a law enforcement
24 officer ~~shall~~ **may** be appointed or perform the duties of a
25 full-time or part-time probation officer."

HOUSE BILL NO. 165

INTRODUCED BY KVAALEN

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO MINORS; AMENDING SECTIONS 41-1-304, 41-5-523, AND 41-5-701, MCA."

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

Section 1. Section 41-1-304, MCA, is amended to read:

"41-1-304. When minors may disaffirm. In all cases other than those specified by ~~41-1-303~~, 41-1-305, and 41-1-306, the contract of a minor may, upon restoring the consideration to the party from whom it was received, be disaffirmed by the minor himself, either before his majority or within a reasonable time afterwards, or in case of his death within that period, by his heirs or personal representatives."

Section 2. Section 41-5-523, MCA, is amended to read:

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

(a) place the youth on probation;

(b) place in a licensed foster home or a home approved

by the court;

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

(d) transfer legal custody to the department of institutions; provided, however, that in the case of a youth in need of supervision, such transfer of custody ~~shall~~ does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody ~~shall~~ may not continue for a period of more than 6 months without a subsequent court order after notice and hearing;

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

(2) At any time after the youth has been taken into custody, the court may, with the consent of the youth in the manner provided in 41-5-303 for consent by a youth to waiver of his constitutional rights or after the youth has been adjudicated delinquent or in need of supervision:

(a) order the youth to be evaluated by the department of institutions for a period not to exceed 45 days of evaluation at a reception and evaluation center for youths; or

(b) in the case of a delinquent youth 16 years or

1 older whom the court deems ~~considers~~ a suitable person for
 2 placement at a youth forest camp, notify the director of the
 3 department of institutions of the finding. The director of
 4 the department of institutions shall then designate to the
 5 court the facility to which the youth shall be delivered for
 6 evaluation. The court may then commit the youth to the
 7 department of institutions for a period not to exceed 45
 8 days for the purpose of evaluation as to the youth's
 9 suitability for placement and order the youth delivered for
 10 evaluation to the youth facility designated by the director.
 11 If after the evaluation the department of institutions
 12 reports to the court that such child is suitable for
 13 placement in a youth forest camp and if there is space
 14 available at a camp, the court may then commit such child
 15 directly to the youth forest camp under the terms of
 16 commitment of this chapter. If the department of
 17 institutions reports and states the reasons to the court why
 18 the youth is not suitable for placement, the youth shall be
 19 returned to the court for such further disposition as the
 20 court may deem ~~consider~~ advisable under the provisions of
 21 this chapter. The costs of transporting the youth to the
 22 designated youth facility for evaluation and cost of
 23 returning the youth to the court shall be borne by the
 24 county of residence of the youth.

25 (3) No youth shall ~~may~~ be committed or transferred to

1 a penal institution or other facility used for the execution
 2 of sentence of adult persons convicted of crimes except as
 3 provided by subsection (2)(b).

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

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

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

14 ORDER OF COMMITMENT

15 State of Montana, County of, ss:

16 In the district court for the judicial district.

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

21 It is ordered that be committed to the department
 22 of institutions until

23 The names, addresses, and occupations of the parents
 24 are:

25 Name	Address	Occupation
---------	---------	------------

1
.....

-End-

2
.....

3 The names and addresses of their nearest relatives are:

4
.....

5
.....

6 Witness my hand this day of, A.D. 19...

7
.....

8 Judge "

9 Section 3. Section 41-5-701, MCA, is amended to read:

10 "41-5-701. Appointment of probation officers. The

11 youth division ~~court~~ judge of each judicial district shall

12 appoint such necessary probation officers as are required to

13 carry out the purpose and intent of this chapter. He shall

14 appoint such part-time probation officers as shall be

15 required. The qualifications for part-time probation

16 officers shall ~~may~~ must approximate those required for probation

17 officers insofar as possible. A chief probation officer

18 shall ~~may~~ must be appointed by the judge to supervise the youth

19 division offices in the judicial district. The judge shall

20 also insure that the youth division offices are staffed with

21 necessary office personnel and that the offices are properly

22 equipped to effectively carry out the purpose and intent of

23 this chapter. No person while serving as a law enforcement

24 officer shall ~~may~~ may be appointed or perform the duties of a

25 full-time or part-time probation officer."