

CHAPTER NO. 501

HOUSE BILL NO. 797

INTRODUCED BY UHDE

IN THE HOUSE

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| February 14, 1979 | Introduced and referred to Committee on Judiciary. |
| February 20, 1979 | Committee recommend bill do pass. Report adopted. |
| February 21, 1979 | Second reading, do pass. |
| February 22, 1979 | Considered correctly engrossed. Third reading, passed. Transmitted to second house. |

IN THE SENATE

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| February 23, 1979 | Introduced and referred to Committee on Judiciary. |
| March 14, 1979 | Committee recommend bill be concurred in as amended. Report adopted. |
| March 16, 1979 | Second reading, concurred in. |
| March 19, 1979 | Third reading, concurred in as amended. |

IN THE HOUSE

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| March 20, 1979 | Returned from second house. Concurred in as amended. |
| March 21, 1979 | On motion consideration passed until the 71st Legislative Day. |
| March 30, 1979 | Second reading, amendments adopted. |
| March 31, 1979 | Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled. |

1 House BILL NO. 797
2 INTRODUCED BY Mike Ly Request

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY WHO IS
5 PERMITTED ACCESS TO YOUTH COURT RECORDS AND RELATED
6 DOCUMENTS; AMENDING SECTIONS 41-5-603 AND 41-5-604, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 41-5-603, MCA, is amended to read:

10 "41-5-603. Youth court records. (1) Youth court
11 records, including social, medical, and psychological
12 records, reports of preliminary inquiries, predispositional
13 studies, and supervision records of probationers, are open
14 to inspection prior to the sealing of the records only to
15 the following:

- 16 (a) the youth court and its professional staff;
- 17 (b) representatives of any agency providing
18 supervision and having legal custody of a youth;
- 19 (c) any other person, by order of the court, having a
20 legitimate interest in the case or in the work of the court;
- 21 (d) any court and its probation and other professional
22 staff or the attorney for a convicted party who had been a
23 party to proceedings in the youth court when considering the
24 sentence to be imposed upon such party;
- 25 (e) the county attorney;

1 (f) the youth who is the subject of the report or
2 records, after he has been emancipated or reaches the age of
3 majority.

4 (2) All or any part of records information secured
5 from records listed in subsection (1) of this section, when
6 presented to and used by the court in a proceeding under
7 this chapter, shall also be made available to the counsel
8 for the parties to the proceedings.

9 (3) All other court records, including docket,
10 petitions, motions, and other papers filed in a case,
11 transcripts of testimony, findings, verdicts, orders, and
12 decrees, shall be open to inspection by those persons and
13 agencies listed in subsection (1) of this section and the
14 parties to the proceedings and their counsel.

15 (4) All information obtained in discharge of an
16 official duty by any officer or other employee of the youth
17 court shall be privileged and shall not be disclosed to
18 anyone other than the judge and others entitled under this
19 chapter to receive such information, unless otherwise
20 ordered by the judge.

21 ~~(5) After youth court records, reports of preliminary~~
22 ~~inquiries, predispositional studies, and supervision records~~
23 ~~of probationers are sealed, they are not open to inspection~~
24 ~~except, upon order of the youth court, to:~~

25 ~~(a) those persons and agencies listed in subsection~~

1 ~~(li and~~
 2 ~~(bl) adult probation professional staff preparing a~~
 3 ~~presentence report on a youth who has reached the age of~~
 4 ~~majority."~~

5 Section 2. Section 41-5-604, MCA, is amended to read:
 6 "41-5-604. Disposition of records. (1) All court
 7 findings, orders, judgments, and the legal and social files
 8 and records of the court, probation services, and law
 9 enforcement agencies pertaining to a youth coming under this
 10 chapter shall be physically sealed when the youth reaches
 11 the age of 18 years.

12 (2) In those cases in which jurisdiction of the court
 13 or any agency is extended beyond the youth's 18th birthday,
 14 the above records and files shall be physically sealed upon
 15 termination of the extended jurisdiction.

16 ~~(3) Youth court records, probation officer's records,~~
 17 ~~and all other reports of social and clinical studies shall~~
 18 ~~not be opened to inspection except by consent of the court~~
 19 ~~or the youth upon petition to the youth court.~~

20 ~~(4)(3)~~ Upon the physical sealing of the records
 21 pertaining to a youth pursuant to this section, any agency
 22 or department that has in its possession copies of the
 23 records so sealed shall also seal or destroy such copies of
 24 records. Anyone violating the provisions of this subsection
 25 shall be subject to contempt of court.

1 ~~(5)(4)~~ Nothing herein contained shall prohibit the
 2 destruction of such records with the consent of the youth
 3 court judge or county attorney after 10 years from the date
 4 of sealing. The records of youths who were 28 years old or
 5 older on July 1, 1974, may be destroyed with the consent of
 6 the youth court judge or county attorney.

7 ~~(6)(5)~~ This section shall not apply to youth traffic
 8 records."

-End-

1 *House* BILL NO. *797*
 2 INTRODUCED BY *White by Request*

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 15 the following:

- 16 (a) the youth court and its professional staff;
- 17 (b) representatives of any agency providing
- 18 supervision and having legal custody of a youth;
- 19 (c) any other person, by order of the court, having a
- 20 legitimate interest in the case or in the work of the court;
- 21 (d) any court and its probation and other professional
- 22 staff or the attorney for a convicted party who had been a
- 23 party to proceedings in the youth court when considering the
- 24 sentence to be imposed upon such party;
- 25 (e) the county attorney;

1 (f) the youth who is the subject of the report or
 2 record, after he has been emancipated or reaches the age of
 3 majority.

4 (2) All or any part of records information secured
 5 from records listed in subsection (1) of this section, when
 6 presented to and used by the court in a proceeding under
 7 this chapter, shall also be made available to the counsel
 8 for the parties to the proceedings.

9 (3) All other court records, including docket,
 10 petitions, motions, and other papers filed in a case,
 11 transcripts of testimony, findings, verdicts, orders, and
 12 decrees, shall be open to inspection by those persons and
 13 agencies listed in subsection (1) of this section and the
 14 parties to the proceedings and their counsel.

15 (4) All information obtained in discharge of an
 16 official duty by any officer or other employee of the youth
 17 court shall be privileged and shall not be disclosed to
 18 anyone other than the judge and others entitled under this
 19 chapter to receive such information, unless otherwise
 20 ordered by the judge.

21 ~~(5) After youth court records, reports of preliminary~~
 22 ~~inquiries, predispositional studies, and supervision records~~
 23 ~~of probationers are sealed, they are not open to inspection~~
 24 ~~except, upon order of the youth court, to:~~

25 ~~(a) those persons and agencies listed in subsection~~

1 ~~(1); and~~
 2 ~~(b) adult probation professional staff preparing a~~
 3 ~~presentence report on a youth who has reached the age of~~
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 7 findings, orders, judgments, and the legal and social files
 8 and records of the court, probation services, and law
 9 enforcement agencies pertaining to a youth coming under this
 10 chapter shall be physically sealed when the youth reaches
 11 the age of 18 years.

12 (2) In those cases in which jurisdiction of the court
 13 or any agency is extended beyond the youth's 18th birthday,
 14 the above records and files shall be physically sealed upon
 15 termination of the extended jurisdiction.

16 ~~{3}--Youth-court-records,probation-officer's--records,~~
 17 ~~and--all--other-reports-of-social-and-clinical-studies-shall~~
 18 ~~not-be-opened-to-inspection-except-by-consent-of--the--court~~
 19 ~~or-the-youth,upon-petition-to-the-youth-court.~~

20 ~~{4}{3}~~ Upon the physical sealing of the records
 21 pertaining to a youth pursuant to this section, any agency
 22 or department that has in its possession copies of the
 23 records so sealed shall also seal or destroy such copies of
 24 records. Anyone violating the provisions of this subsection
 25 shall be subject to contempt of court.

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 2 destruction of such records with the consent of the youth
 3 court judge or county attorney after 10 years from the date
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 5 older on July 1, 1974, may be destroyed with the consent of
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- 20 legitimate interest in the case or in the work of the court;
- 21 (d) any court and its probation and other professional
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- 23 party to proceedings in the youth court when considering the
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 16 official duty by any officer or other employee of the youth
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 18 anyone other than the judge and others entitled under this
 19 chapter to receive such information, unless otherwise
 20 ordered by the judge.

21 ~~(5) After youth court records, reports of preliminary~~
 22 ~~inquiries, predispositional studies, and supervision records~~
 23 ~~of probationers are sealed, they are not open to inspection~~
 24 ~~except upon order of the youth court, FOR GOOD CAUSE to:~~
 25 ~~(a) those persons and agencies listed in subsection~~

1 ~~(1) and~~
 2 ~~(b) adult probation professional staff preparing a~~
 3 ~~presentence report on a youth who has reached the age of~~
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16 ~~{3}--Youth-court-records-probation-officer's--records--~~
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-End-

March 14, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 797 be amended as follows:

1. Page 2, line 24.

Following: "court"

Insert: "for good cause"