

House Bill 273

In The House

January 16, 1981	Introduced and referred to Committee on Judiciary.
January 29, 1981	Committee recommend bill do pass as amended.
January 30, 1981	Bill printed and placed on members' desks.
January 31, 1981	Second reading do pass.
February 2, 1981	Correctly engrossed.
February 3, 1981	Motion to return to second reading.
February 5, 1981	Second reading do pass.
February 6, 1981	Third reading passed.

In The Senate

February 7, 1981	Introduced and referred to Committee on Judiciary.
March 25, 1981	Committee recommend bill not concurred.

In The House

March 26, 1981	Returned from Senate not concurred.
----------------	-------------------------------------

HOUSE BILL NO. 273

INTRODUCED BY

*Metcalfe, Patricia, Richard Manning, Spilker, Mark*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT PUBLICATION OF THE NAMES OF JUVENILE OFFENDERS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 41-5-521, MCA."

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

Section 1. Section 41-5-521, MCA, is amended to read:

"41-5-521. Adjudicatory hearing. (1) Prior to any adjudicatory hearing, the court shall determine whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses alleged in the petition, the youth, his parent, guardian, or attorney may demand a jury trial on such contested offenses. In the absence of such demand, a jury trial is waived. If the youth denies some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth court judge. The adjudicatory hearing shall be set immediately and accorded a preferential priority.

(2) An adjudicatory hearing shall be held to determine whether the contested offenses are supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in need of supervision. If the hearing is before a jury, the jury's function shall be to determine

whether the youth committed the contested offenses. If the hearing is before the youth court judge without a jury, the judge shall make and record his findings on all issues. If the allegations of the petitions are not established at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

(3) An adjudicatory hearing shall be recorded verbatim by whatever means the court considers appropriate.

(4) The youth charged in a petition must be present at the hearing and, if brought from detention to the hearing, may not appear clothed in institutional clothing.

(5) In a hearing on a petition under this section, the general public ~~may--not shall~~ be excluded except ~~when the court determines a closed hearing to be in the youth's best interest, that the hearing shall be open in cases where the youth:~~

(a) has been adjudicated to be delinquent or in need of supervision on two or more prior occasions; or

(b) is accused of an offense involving a pecuniary loss in excess of \$500 and for which the maximum statutory penalty, if the offense had been committed by an adult, exceeds 1 year in the state prison.

(6) If, on the basis of a valid admission by a youth of the allegations of the petition or after the hearing required by this section, a youth is found to be a

1 delinquent youth or a youth in need of supervision, the  
2 court shall schedule a dispositional hearing under this  
3 chapter.

4 (7) When a jury trial is required in a case, it may be  
5 held before a jury selected as provided in Title 25, chapter  
6 7, part 2, and M.R.Civ.P., Rule 47."

-End-

Approved by Committee  
on Judiciary

1 HOUSE BILL NO. 273

2 INTRODUCED BY METCALF, PISTORIA, R. MANNING,

3 DONALDSON, HARPER, ROUSH, SPILKER, MARKS

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT PUBLICATION  
6 OF THE NAMES OF JUVENILE OFFENDERS UNDER CERTAIN  
7 CIRCUMSTANCES; AMENDING SECTION 41-5-521, MCA."

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

10 Section 1. Section 41-5-521, MCA, is amended to read:

11 "41-5-521. Adjudicatory hearing. (1) Prior to any  
12 adjudicatory hearing, the court shall determine whether the  
13 youth admits or denies the offenses alleged in the petition.  
14 If the youth denies all offenses alleged in the petition,  
15 the youth, his parent, guardian, or attorney may demand a  
16 jury trial on such contested offenses. In the absence of  
17 such demand, a jury trial is waived. If the youth denies  
18 some offenses and admits others, the contested offenses may  
19 be dismissed in the discretion of the youth court judge. The  
20 adjudicatory hearing shall be set immediately and accorded a  
21 preferential priority.

22 (2) An adjudicatory hearing shall be held to determine  
23 whether the contested offenses are supported by proof beyond  
24 a reasonable doubt in cases involving a youth alleged to be  
25 delinquent or in need of supervision. If the hearing is

1 before a jury, the jury's function shall be to determine  
2 whether the youth committed the contested offenses. If the  
3 hearing is before the youth court judge without a jury, the  
4 judge shall make and record his findings on all issues. If  
5 the allegations of the petitions are not established at the  
6 hearing, the youth court shall dismiss the petition and  
7 discharge the youth from custody.

8 (3) An adjudicatory hearing shall be recorded verbatim  
9 by whatever means the court considers appropriate.

10 (4) The youth charged in a petition must be present at  
11 the hearing and, if brought from detention to the hearing,  
12 may not appear clothed in institutional clothing.

13 (5) In a hearing on a petition under this section, the  
14 general public ~~may--not~~ shall be excluded except ~~when the~~  
15 ~~court determines a closed hearing to be in the youth's best~~  
16 ~~interest~~ that the hearing shall be open in cases where the  
17 youth:

18 (a) has been adjudicated to be delinquent or--in--need  
19 of supervision on two or more prior occasions; or

20 (b) IS ACCUSED OF CAUSING BODILY INJURY AS DEFINED IN  
21 45-2-101; OR

22 (c) is accused of an offense involving a--pecuniary  
23 loss--in--excess-of-\$500--and for which the maximum statutory  
24 penalty, if the offense had been committed by an adult,  
25 exceeds 1 year in the state prison, AS LONG AS ANY PECUNIARY

1 LOSS ALLEGEDLY CAUSED BY THE YOUTH EXCEEDS \$1,500.

2 (6) If, on the basis of a valid admission by a youth  
3 of the allegations of the petition or after the hearing  
4 required by this section, a youth is found to be a  
5 delinquent youth or a youth in need of supervision, the  
6 court shall schedule a dispositional hearing under this  
7 chapter.

8 (7) When a jury trial is required in a case, it may be  
9 held before a jury selected as provided in Title 25, chapter  
10 7, part 2, and M.R.Civ.P., Rule 47."

-End-

HOUSE BILL NO. 273

INTRODUCED BY METCALF, PISTORIA, R. MANNING,

DDNALDSON, HARPER, ROUSH, SPILKER, MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT PUBLICATION OF THE NAMES OF JUVENILE OFFENDERS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 41-5-521, MCA."

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

Section 1. Section 41-5-521, MCA, is amended to read:

"41-5-521. Adjudicatory hearing. (1) Prior to any adjudicatory hearing, the court shall determine whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses alleged in the petition, the youth, his parent, guardian, or attorney may demand a jury trial on such contested offenses. In the absence of such demand, a jury trial is waived. If the youth denies some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth court judge. The adjudicatory hearing shall be set immediately and accorded a preferential priority.

(2) An adjudicatory hearing shall be held to determine whether the contested offenses are supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in need of supervision. If the hearing is

before a jury, the jury's function shall be to determine whether the youth committed the contested offenses. If the hearing is before the youth court judge without a jury, the judge shall make and record his findings on all issues. If the allegations of the petitions are not established at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

(3) An adjudicatory hearing shall be recorded verbatim by whatever means the court considers appropriate.

(4) The youth charged in a petition must be present at the hearing and, if brought from detention to the hearing, may not appear clothed in institutional clothing.

(5) In a hearing on a petition under this section, the general public ~~may--not~~ shall be excluded except ~~when the court determines a closed hearing to be in the youth's best interest,~~ that the hearing shall be open in cases where the youth:

(a) has been adjudicated to be delinquent or--in--need of supervision on two or more prior occasions; or

(b) IS ACCUSED OF CAUSING BODILY INJURY AS DEFINED IN 45-2-101; OR

(c) is accused of an offense involving a--pecuniary loss--in--excess-of-\$500--and for which the maximum statutory penalty, if the offense had been committed by an adult, exceeds 1 year in the state prison, AS LONG AS ANY PECUNIARY

1 LOSS ALLEGEDLY CAUSED BY THE YOUTH EXCEEDS \$1,500.

2 (6) If, on the basis of a valid admission by a youth  
3 of the allegations of the petition or after the hearing  
4 required by this section, a youth is found to be a  
5 delinquent youth or a youth in need of supervision, the  
6 court shall schedule a dispositional hearing under this  
7 chapter.

8 (7) When a jury trial is required in a case, it may be  
9 held before a jury selected as provided in Title 25, chapter  
10 7, part 2, and M.R.Civ.P., Rule 47."

-End-