

SENATE BILL NO. 381

INTRODUCED BY STEPHENS, TURNAGE, E. SMITH, KOLSTAD

IN THE SENATE

February 6, 1981	Introduced and referred to Committee on Judiciary.
February 19, 1981	Committee recommend bill do pass as amended. Report adopted.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 41; Noes, 9. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Judiciary.
March 28, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.
March 31, 1981	Second reading, concurred in. On motion rules suspended and bill placed on third reading this day. Third reading, concurred in as amended. Ayes, 80; Noes, 16.

IN THE SENATE

April 1, 1981

Returned from House with amendments.

April 10, 1981

Second reading, amendments concurred in.

April 11, 1981

Third reading, amendments concurred in. Ayes, 39; Noes, 7. Sent to enrolling.

Reported correctly enrolled.

1 *Line* BILL NO. *381* *Holstad*
 2 INTRODUCED BY *STOKES Turnage Smith*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
 5 DISCLOSURE OF YOUTH ARREST RECORDS AND YOUTH COURT
 6 PROCEEDINGS AND FILES IN THOSE CASES INVOLVING OFFENSES THAT
 7 WOULD BE PUNISHABLE AS A FELONY IF THE YOUTH WERE AN ADULT
 8 AND IN CERTAIN CASES OF CRIMINAL MISCHIEF; AMENDING SECTIONS
 9 41-5-521 AND 41-5-601 THROUGH 41-5-604, MCA."

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

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

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

24 (2) An adjudicatory hearing shall be held to determine
 25 whether the contested offenses are supported by proof beyond

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

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

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

15 (5) In a hearing on a petition under this section, the
 16 general public may not be excluded ~~except when the court~~
 17 ~~determines--a--closed hearing to--be--in--the--youth's--best~~
 18 ~~interest is held on a contested offense to which publicity~~
 19 ~~may be given under subsection (2) of 41-5-601.~~

20 (6) If, on the basis of a valid admission by a youth
 21 of the allegations of the petition or after the hearing
 22 required by this section, a youth is found to be a
 23 delinquent youth or a youth in need of supervision, the
 24 court shall schedule a dispositional hearing under this
 25 chapter.

1 (7) When a jury trial is required in a case, it may be
2 held before a jury selected as provided in Title 25, chapter
3 7, part 2, and M.R.Civ.P., Rule 47."

4 Section 2. Section 41-5-601, MCA, is amended to read:

5 "41-5-601. Publicity. (1) No publicity shall be given
6 to the identity of an arrested youth or to any matter or
7 proceeding in the youth court involving a youth proceeded
8 against as, or found to be, a delinquent youth or youth in
9 need of supervision except as provided in ~~41-5-521(5)~~
10 subsection (2)."

11 ~~(2) Publicity may be given to the identity of any
12 youth arrested for, or to any matter or proceeding in the
13 youth court involving a youth proceeded against as or found
14 to be a delinquent youth or youth in need of supervision as
15 a result of, the commission of any offense that would be
16 punishable as a felony if the youth were an adult or for the
17 commission of criminal mischief punishable by more than 6
18 months imprisonment."~~

19 Section 3. Section 41-5-602, MCA, is amended to read:

20 "41-5-602. Law enforcement records. (1) No law
21 enforcement records concerning a youth, except traffic
22 records, may be open to public inspection or their contents
23 disclosed to the public unless the records are directly
24 related to an offense to which publicity may be given under
25 subsection (2) of 41-5-601 or unless so inspection is

1 ordered by the court.

2 (2) Inspection of law enforcement records concerning a
3 youth, which records are not open to public inspection under
4 subsection (1), is permitted prior to the sealing of the
5 records by:

6 (a) a youth court having the youth currently before it
7 in any proceeding;

8 (b) the officers of agencies having legal custody of
9 the youth and those responsible for his supervision after
10 release;

11 (c) any other person, by order of the court, having a
12 legitimate interest in the case or in the work of the law
13 enforcement agency;

14 (d) law enforcement officers of Montana, when
15 necessary for the discharge of their immediate duties;

16 (e) a district court in which the youth is convicted
17 of a criminal offense, for the purpose of a presentence
18 investigation;

19 (f) the county attorney; or

20 (g) the youth, his parent, guardian, or counsel."

21 Section 4. Section 41-5-603, MCA, is amended to read:

22 "41-5-603. Youth court records. (1) Youth Except as
23 provided in subsection (2):

24 (a) youth court records, including social, medical,
25 and psychological records, reports of preliminary inquiries,

1 predispositional studies, and supervision records of
2 probationers, are open to inspection prior to the sealing of
3 the records only to the following:

- 4 ~~(e)(i)~~ the youth court and its professional staff;
5 ~~(e)(iii)~~ representatives of any agency providing
6 supervision and having legal custody of a youth;
7 ~~(e)(iii)~~ any other person, by order of the court,
8 having a legitimate interest in the case or in the work of
9 the court;
10 ~~(e)(iv)~~ any court and its probation and other
11 professional staff or the attorney for a convicted party who
12 had been a party to proceedings in the youth court when
13 considering the sentence to be imposed upon such party;
14 ~~(e)(v)~~ the county attorney;
15 ~~(e)(vi)~~ the youth who is the subject of the report or
16 record, after he has been emancipated or reaches the age of
17 majority.
18 ~~(2)(b)~~ ~~All~~ all or any part of records information
19 secured from records listed in subsection (1)(a) of this
20 section, when presented to and used by the court in a
21 proceeding under this chapter, shall also be made available
22 to the counsel for the parties to the proceedings.
23 ~~(3)(c)~~ ~~All~~ all other court records, including docket,
24 petitions, motions, and other papers filed in a case,
25 transcripts of testimony, findings, verdicts, orders, and

1 decrees, shall be open to inspection by those persons and
2 agencies listed in subsection (1)(a) of this section and the
3 parties to the proceedings and their counsel.

4 ~~(4)(d)~~ ~~All~~ all information obtained in discharge of an
5 official duty by any officer or other employee of the youth
6 court shall be privileged and shall not be disclosed to
7 anyone other than the judge and others entitled under this
8 chapter to receive such information, unless otherwise
9 ordered by the judge.

10 ~~(5)(a)~~ ~~After~~ after youth court records, reports of
11 preliminary inquiries, predispositional studies, and
12 supervision records of probationers are sealed, they are not
13 open to inspection except, upon order of the youth court,
14 for good cause to:

- 15 ~~(a)(i)~~ those persons and agencies listed in subsection
16 (1)(a); and
17 ~~(a)(ii)~~ adult probation professional staff preparing a
18 presentence report on a youth who has reached the age of
19 majority.

20 ~~(2)~~ Any records, records information, information
21 obtained in discharge of an official duty, reports, or
22 studies listed in subsection (1)(a) through (1)(e) are open
23 to inspection by the public and are not privileged if they
24 are directly related to an offense to which publicity may be
25 given under subsection (2) of 41-5-601."

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

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

12 (3) Upon the physical sealing of the records
 13 pertaining to a youth pursuant to this section, any agency
 14 or department that has in its possession copies of the
 15 records so sealed shall also seal or destroy such copies of
 16 records. Anyone violating the provisions of this subsection
 17 shall be subject to contempt of court.

18 (4) Nothing herein contained shall prohibit the
 19 destruction of such records with the consent of the youth
 20 court judge or county attorney after 10 years from the date
 21 of sealing. The records of youths who were 28 years old or
 22 older on July 1, 1974, may be destroyed with the consent of
 23 the youth court judge or county attorney.

24 (5) This section shall not apply to youth traffic
 25 records or to records directly related to an offense to

1 which publicity may be given under subsection (2) of
 2 41-5-601."

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 381

INTRODUCED BY STEPHENS, TURNAGE, E. SMITH, KOLSTAD

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR DISCLOSURE OF YOUTH ARREST RECORDS AND YOUTH COURT PROCEEDINGS AND FILES IN THOSE CASES INVOLVING OFFENSES THAT WOULD BE PUNISHABLE AS A FELONY IF THE YOUTH WERE AN ADULT AND IN CERTAIN CASES OF CRIMINAL MISCHIEF; AMENDING SECTIONS 41-5-521, AND 41-5-601 THROUGH, 41-5-602, AND 41-5-604, 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 be excluded except when the court determines a closed hearing to be in the youth's best interest is held on a contested offense to which publicity may be given under subsection (2) of 41-5-601.

(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 delinquent youth or a youth in need of supervision, the court shall schedule a dispositional hearing under this

1 chapter.

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

5 Section 2. Section 41-5-601, MCA, is amended to read:

6 "41-5-601. Publicity. (1) No publicity shall be given
7 to the identity of an arrested youth or to any matter or
8 proceeding in the youth court involving a youth proceeded
9 against as, or found to be, a delinquent youth or youth in
10 need of supervision except as provided in 41-5-521(5)
11 subsection (2).

12 (2) Publicity IN A PETITION UNDER THIS SECTION
13 PUBLICITY may be given to the identity of any youth arrested
14 for or to any matter or proceeding in the youth court
15 involving a youth FORMALLY CHARGED WITH OR proceeded against
16 as or found to be a delinquent youth or youth in need of
17 supervision as a result of, the commission of any offense
18 that would be punishable as a felony if the youth were an
19 adult or for the commission of criminal mischief punishable
20 by more than 6 months imprisonment."

21 Section 3. Section 41-5-602, MCA, is amended to read:

22 "41-5-602. Law enforcement records. (1) No law
23 enforcement records concerning a youth, except traffic
24 records, may be open to public inspection or their contents
25 disclosed to the public unless the records are directly

1 related to an offense to which publicity may be given under
2 subsection (2) of 41-5-601 or unless an inspection is
3 ordered by the court.

4 (2) Inspection of law enforcement records concerning a
5 youth, which records are not open to public inspection under
6 subsection (1), is permitted prior to the sealing of the
7 records by:

8 (a) a youth court having the youth currently before it
9 in any proceeding;

10 (b) the officers of agencies having legal custody of
11 the youth and those responsible for his supervision after
12 release;

13 (c) any other person, by order of the court, having a
14 legitimate interest in the case or in the work of the law
15 enforcement agency;

16 (d) law enforcement officers of Montana, when
17 necessary for the discharge of their immediate duties;

18 (e) a district court in which the youth is convicted
19 of a criminal offense, for the purpose of a presentence
20 investigation;

21 (f) the county attorney; or

22 (g) the youth, his parent, guardian, or counsel."

23 ~~Section 4. Section 41-5-603, MCA, is amended to read:~~

24 ~~"41-5-603. Youth court records. (1) Youth except as~~
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2 and psychological records, reports of preliminary inquiries,
3 predispositional studies, and supervision records of
4 probationers, are open to inspection prior to the sealing of
5 the records only to the following:

6 ~~(a)~~ ~~(i)~~ the youth court and its professional staff;

7 ~~(b)~~ ~~(ii)~~ representatives of any agency providing
8 supervision and having legal custody of a youth;

9 ~~(c)~~ ~~(iii)~~ any other person, by order of the court,
10 having a legitimate interest in the case or in the work of
11 the court;

12 ~~(d)~~ ~~(iv)~~ any court and its probation and other
13 professional staff or the attorney for a convicted party who
14 had been a party to proceedings in the youth court when
15 considering the sentence to be imposed upon such party;

16 ~~(e)~~ ~~(v)~~ the county attorney;

17 ~~(f)~~ ~~(vi)~~ the youth who is the subject of the report or
18 record, after he has been emancipated or reaches the age of
19 majority;

20 ~~(2)~~ ~~(b)~~ All ~~(a)~~ or any part of records information
21 secured from records listed in subsection ~~(1)~~ ~~(a)~~ of this
22 section, when presented to and used by the court in a
23 proceeding under this chapter, shall also be made available
24 to the counsel for the parties to the proceedings;

25 ~~(3)~~ ~~(c)~~ All ~~(a)~~ other court records, including docket,

1 petitions, motions, and other papers filed in a case,
2 transcripts of testimony, findings, verdicts, orders, and
3 decrees, shall be open to inspection by those persons and
4 agencies listed in subsection ~~(1)~~ ~~(a)~~ of this section and the
5 parties to the proceedings and their counsel;

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7 official duty by any officer or other employee of the youth
8 court shall be privileged and shall not be disclosed to
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10 chapter to receive such information, unless otherwise
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17 ~~(a)~~ ~~(i)~~ those persons and agencies listed in subsection
18 ~~(1)~~ ~~(a)~~ and

19 ~~(b)~~ ~~(ii)~~ adult probation professional staff preparing a
20 presentence report on a youth who has reached the age of
21 majority;

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 11 or any agency is extended beyond the youth's 18th birthday,
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 22 court judge or county attorney after 10 years from the date
 23 of sealing. The records of youths who were 28 years old or
 24 older on July 1, 1974, may be destroyed with the consent of
 25 the youth court judge or county attorney.

1 (5) This section shall not apply to youth traffic
 2 records or to records directly related to an offense to
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 4 ~~probationers, are open to inspection prior to the seating of~~
 5 ~~the records only to the following:~~

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 18 ~~record, after he has been emancipated or reaches the age of~~
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20 ~~(2)(b) All all or any part of records information~~
 21 ~~secured from records listed in subsection (1)(a) of this~~
 22 ~~section, when presented to and used by the court in a~~
 23 ~~proceeding under this chapter, shall also be made available~~
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25 ~~(3)(c) All all other court records, including docket,~~

1 ~~petitions, motions, and other papers filed in a case,~~
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 7 ~~official duty by any officer or other employee of the youth~~
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 10 ~~chapter to receive such information, unless otherwise~~
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(2) In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the above records and files shall be physically sealed upon termination of the extended jurisdiction.

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

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

(5) This section shall not apply to youth traffic records or to records directly related to an offense to which publicity may be given under subsection (2) of 41-5-601."

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SENATE BILL NO. 381

INTRODUCED BY STEPHENS, TURNAGE, E. SMITH, KOLSTAD

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR DISCLOSURE OF YOUTH ARREST RECORDS AND YOUTH COURT PROCEEDINGS AND FILES IN THOSE CASES INVOLVING OFFENSES THAT WOULD BE PUNISHABLE AS A FELONY IF THE YOUTH WERE AN ADULT ~~AND IN CERTAIN CASES OF CRIMINAL MISCHIEF~~; AMENDING SECTIONS 41-5-521, AND 41-5-601 THROUGH, 41-5-602, AND 41-5-604, 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 be excluded ~~except~~ when the court ~~determines a closed hearing to be in the youth's best interest~~ is held on a contested offense to which publicity may MUST be given ALLOWED under subsection (2) of 41-5-601.

(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 delinquent youth or a youth in need of supervision, the court shall schedule a dispositional hearing under this

1 chapter.

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

5 Section 2. Section 41-5-601, MCA, is amended to read:

6 "41-5-601. Publicity. (1) No publicity shall be given
7 to the identity of an arrested youth or to any matter or
8 proceeding in the youth court involving a youth proceeded
9 against as, or found to be, a delinquent youth or youth in
10 need of supervision except as provided in ~~41-5-521(5)~~
11 subsection (2).

12 (2) Publicity IN WHEN A PETITION IS FILED UNDER THIS
13 SECTION PUBLICITY may be--given NOT BE WITHHELD AS to the
14 identity of any youth arrested-for--or--to--any--matter--or
15 proceeding--in--the--youth--court--involving--a--youth FORMALLY
16 CHARGED WITH OR proceeded against as or found to be a
17 delinquent youth or--youth--in--need--of--supervision as a result
18 of, the commission of any offense that would be punishable
19 as a felony if the youth were an adult or--for--the--commission
20 of--criminal--mischief--punishable--by--more--than--6--months
21 imprisonment."

22 Section 3. Section 41-5-602, MCA, is amended to read:

23 "41-5-602. Law enforcement records. (1) No law
24 enforcement records concerning a youth, except traffic
25 records, may be open to public inspection or their contents

1 disclosed to the public unless the records are directly
2 related to an offense to which publicity may MUST be given
3 ALLOWED under subsection (2) of 41-5-601 or unless so
4 inspection is ordered by the court.

5 (2) Inspection of law enforcement records concerning a
6 youth, which records are not open to public inspection under
7 subsection (1), is permitted prior to the sealing of the
8 records by:

9 (a) a youth court having the youth currently before it
10 in any proceeding;

11 (b) the officers of agencies having legal custody of
12 the youth and those responsible for his supervision after
13 release;

14 (c) any other person, by order of the court, having a
15 legitimate interest in the case or in the work of the law
16 enforcement agency;

17 (d) law enforcement officers of Montana, when
18 necessary for the discharge of their immediate duties;

19 (e) a district court in which the youth is convicted
20 of a criminal offense, for the purpose of a presentence
21 investigation;

22 (f) the county attorney; or
23 (g) the youth, his parent, guardian, or counsel."

24 ~~Section 4. Section 41-5-603, MCA, is amended to read:~~
25 ~~"41-5-603. Youth court records. (1) Youth Except as~~

1 provided in subsection (2):

2 (a) youth court records, including social, medical,
3 and psychological records, reports of preliminary inquiries,
4 predispositional studies, and supervision records of
5 probationers, are open to inspection prior to the sealing of
6 the records only to the following:

7 (1) the youth court and its professional staff;

8 (b) representatives of any agency providing
9 supervision and having legal custody of a youth;

10 (c) any other person, by order of the court,
11 having a legitimate interest in the case or in the work of
12 the court;

13 (d) any court and its probation and other
14 professional staff or the attorney for a convicted party who
15 had been a party to proceedings in the youth court when
16 considering the sentence to be imposed upon such party;

17 (e) the county attorney;

18 (f) the youth who is the subject of the report or
19 records after he has been emancipated or reaches the age of
20 majority.

21 (2) All all or any part of records information
22 secured from records listed in subsection (1)(a) of this
23 section, when presented to and used by the court in a
24 proceeding under this chapter, shall also be made available
25 to the counsel for the parties to the proceedings.

1 (3)(e) All all other court records, including docket,
2 petitions, motions, and other papers filed in a case,
3 transcripts of testimony, findings, verdicts, orders, and
4 decrees, shall be open to inspection by those persons and
5 agencies listed in subsection (1)(e) of this section and the
6 parties to the proceedings and their counsel.

7 (4)(d) All all information obtained in discharge of an
8 official duty by any officer or other employee of the youth
9 court shall be privileged and shall not be disclosed to
10 anyone other than the judge and others entitled under this
11 chapter to receive such information, unless otherwise
12 ordered by the judge.

13 (5)(e) After after youth court records, reports of
14 preliminary inquiries, predispositional studies, and
15 supervision records of probationers are sealed, they are not
16 open to inspection except upon order of the youth court
17 for good cause to:

18 (a) those persons and agencies listed in subsection
19 (1)(a); and

20 (b) adult probation professional staff preparing a
21 presentence report on a youth who has reached the age of
22 majority.

23 (2) Any records, records information, information
24 obtained in discharge of an official duty, reports, or
25 studies listed in subsection (1)(a) through (1)(e) are open

1 ~~to inspection by the public and are not privileged if they~~
 2 ~~are directly related to an offense to which publicity may be~~
 3 ~~given under subsection (2) of 41-5-601."~~

4 Section 4. Section 41-5-604, MCA, is amended to read:
 5 "41-5-604. Disposition of records. (1) All court
 6 findings, orders, judgments, and the legal and social files
 7 and records of the court, probation services, and law
 8 enforcement agencies pertaining to a youth coming under this
 9 chapter shall be physically sealed when the youth reaches
 10 the age of 18 years.

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

15 (3) Upon the physical sealing of the records
 16 pertaining to a youth pursuant to this section, any agency
 17 or department that has in its possession copies of the
 18 records so sealed shall also seal or destroy such copies of
 19 records. Anyone violating the provisions of this subsection
 20 shall be subject to contempt of court.

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

1 the youth court judge or county attorney.

2 (5) This section shall not apply to youth traffic
 3 records or to records directly related to an offense to
 4 which publicity may MUST be given ALLOWED under subsection
 5 (2) of 41-5-601."

-End-

Respectfully report as follows: That.....SENATE.....Bill No. 381

BE AMENDED AS FOLLOWS:

1. Title, line 8.

Following: line 7

Strike: "AND IN CERTAIN CASES OF CRIMINAL MISCHIEF"

2. Page 2, line 20.

Following: line 19

Strike: "may"

Insert: "must"

Following: "be"

Strike: "given"

Insert: "allowed"

3. Page 3, line 12.

Following: "Publicity"

Strike: "IN"

Insert: "WHEN"

Following: "PETITION"

Insert: "is filed"

4. Page 3, line 13.

Following: "may"

Strike: "be given"

Insert: "not be withheld as"

5. Page 3, lines 19 and 20.

Following: "adult" on line 19

Strike: remainder of line 19 through "imprisonment" on line 20

6. Page 4, line 1.

Following: "publicity"

Strike: "may"

Insert: "must"

Following: "be"

Strike: "given"

Insert: "allowed"

7. Page 8, line 3.

Following: "publicity"

Strike: "may"

Insert: "must"

Following: "be"

Strike: "given"

Insert: "allowed"