

Senate Bill 477

In The Senate

|                   |   |
|-------------------|---|
| February 13, 1981 | Introduced and referred<br>to Committee on Judiciary.<br><br>Fiscal note requested. |
| February 19, 1981 | Fiscal note returned.   |
| February 20, 1981 | Committee recommend bill<br>do not pass.  |

1 *Senate* BILL NO. *477*  
2 INTRODUCED BY *Van Valkenburg*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH INCENTIVES  
5 FOR JUVENILE CORRECTIONS PROGRAMS."

6  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Short title. [This act] may be cited as the  
9 "Juvenile Corrections Subsidy Act of 1981".

10 Section 2. Policy. It is the policy of this state to  
11 establish and finance a statewide juvenile correction  
12 program on a continuing basis. The intended purpose of this  
13 program is to provide sentencing alternatives and improved  
14 local services for juvenile offenders, with the goal of  
15 reducing the occurrence of repeat criminal offenses.

16 Section 3. Definitions. As used in [this act], unless  
17 the context requires otherwise, the following definitions  
18 apply:

19 (1) "Advisory board" means the juvenile corrections  
20 advisory board created in [section 4].

21 (2) "Department" means the department of institutions.

22 (3) "Corrections plan" means a comprehensive juvenile  
23 corrections plan required for participation in the subsidy  
24 program.

25 (4) "Subsidy program" means the juvenile corrections

1 subsidy program provided for in [section 6].

2 Section 4. Juvenile corrections advisory board --  
3 qualifications -- terms -- compensation. (1) There is a  
4 juvenile corrections advisory board consisting of seven  
5 members appointed by the governor. The members are:

- 6 (a) one probation officer;
- 7 (b) three public members who are not employed in the  
8 field of law enforcement or social work;
- 9 (c) one social worker;
- 10 (d) one peace officer; and
- 11 (e) one youth court judge.

12 (2) Members of the advisory board shall serve for a  
13 term of 4 years. A vacancy shall be filled in the same  
14 manner as the original appointment.

15 (3) Members are entitled to be compensated and  
16 reimbursed as provided for members of advisory councils in  
17 2-15-122(5).

18 Section 5. Duties and powers of advisory board. The  
19 advisory board shall:

20 (1) advise the department on the formulation of  
21 standards and the adoption of rules for the establishment,  
22 operation, and evaluation of community corrections programs;

23 (2) review plans of counties for participation in the  
24 subsidy program and may make recommendations to the  
25 department concerning any necessary modifications of the

1 plans.

2 Section 6. Juvenile corrections subsidy program. The  
3 department shall provide a subsidy to counties to assist in  
4 the implementation and operation of juvenile correction  
5 programs, including but not limited to preventive  
6 correctional programs, probation, and community correction  
7 facilities for the care and treatment of juvenile offenders.

8 Section 7. Juvenile corrections plan. (1) The  
9 department, with the advice of the advisory board, shall  
10 adopt rules prescribing the minimum standards for the  
11 establishment, operation, and evaluation of juvenile  
12 corrections under a corrections plan.

13 (2) A corrections plan shall include but need not be  
14 limited to:

15 (a) proposals for correctional programs that  
16 demonstrate:

- 17 (i) a need for the program;
- 18 (ii) the purpose of the program;
- 19 (iii) the administrative structure of the program;
- 20 (iv) the proposed budget;
- 21 (v) the evaluation process;
- 22 (vi) community involvement; and
- 23 (vii) client participation in the program;

24 (b) the type of facilities available to the county for  
25 use in juvenile correction programs; and

1 (c) juvenile correctional services that may be made  
2 available to persons who are in local juvenile correctional  
3 facilities.

4 (3) The department shall provide consultation and  
5 technical assistance to counties to aid in the development  
6 of a corrections plan.

7 Section 8. Subsidy. (1) (a) The subsidy to the county  
8 may be made for purposes of:

9 (i) reducing the amount required to be appropriated  
10 for probation costs under 41-5-104; and

11 (ii) making enhancement grants from the department for  
12 the purpose of providing community corrections services.

13 (b) For purposes of making such subsidies, the  
14 department, prior to September 1 of each odd-numbered year,  
15 shall determine each county's percentage share of the amount  
16 appropriated for the purposes of [this act]. Such  
17 determination shall be based upon statewide crime and  
18 demographic data and shall be adopted by rule by the  
19 department.

20 (2) After July 1, 1982, each participating county  
21 shall be assessed a charge of \$5,000 for each person  
22 committed to a state juvenile correctional facility, up to  
23 the amount of the county's probation costs or until a  
24 ceiling figure is reached, whichever is less. The ceiling  
25 shall be determined by department rule based on the county's

1 average number of commitments to the state juvenile  
2 facilities for the most recent 2 calendar years. Regardless  
3 of sentence or term, each such reimbursement shall continue  
4 for 1 year. The money reimbursed by the county shall be  
5 credited to the state general fund.

6 (3) Money received by a county pursuant to this  
7 section may not be used to replace money, other than federal  
8 or state funds, currently being used by the county for  
9 juvenile correction programs.

10 Section 9. Application for subsidy. (1) A county may  
11 apply to the department for participation in the subsidy  
12 program.

13 (2) The county must notify the department 90 days  
14 prior to the proposed beginning date of participation. Such  
15 notification shall be by resolution of the county  
16 commissioners.

17 (3) Prior to participation in the program, the county  
18 must have a corrections plan approved by the department.

19 Section 10. Program performance -- review by  
20 department. (1) The department shall periodically review the  
21 performance of counties participating in the subsidy  
22 program.

23 (2) A county must substantially comply with the  
24 provisions of its corrections plan and the operating  
25 standards established by the department.

1 (3) If the department determines that there are  
2 reasonable grounds to believe that a county is not in  
3 substantial compliance with the plan or operating standards,  
4 the department shall, after giving the county not less than  
5 30 days' notice, conduct a hearing to determine whether  
6 there is substantial compliance or satisfactory progress  
7 being made toward compliance.

8 (4) If the department finds that the county is not in  
9 compliance and that such progress is not being made, the  
10 department may suspend all or part of the subsidy payment  
11 until the county comes into compliance.

12 Section 11. Termination of participation in the  
13 subsidy program. Any county that receives a subsidy may  
14 terminate its participation at the end of any month by  
15 delivering a resolution of the board of commissioners to the  
16 department not less than 180 days before the termination  
17 date.

18 Section 12. Local juvenile corrections advisory  
19 committee. (1) The board of county commissioners of a county  
20 applying for participation in or participating in the  
21 subsidy program shall appoint a local juvenile corrections  
22 advisory committee, which shall include:

- 23 (a) a peace officer;  
24 (b) a probation officer;  
25 (c) a social worker; and

1 (d) four public members who are not employed in the  
2 field of law enforcement or social work.

3 (2) The committee shall:

4 (a) participate in the design of the county's  
5 correction plan;

6 (b) participate in the application for a subsidy;

7 (c) review the operation of county juvenile correction  
8 programs; and

9 (d) make an annual report and develop appropriate  
10 recommendations for improvement or modifications in the  
11 programs to the county commissioners.

-End-

## STATE OF MONTANA

REQUEST NO. 380-81

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 1981, there is hereby submitted a Fiscal Note for SB 477 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation: "An act to establish incentives for juvenile corrections programs."

Assumptions:

- 1) The fiscal impact of this legislation is contingent upon appropriation; no funds will be expended pursuant to this act unless appropriated by the Legislature.
- 2) This legislation results in increased costs in three areas: (a) subsidies to the counties; (b) the juvenile corrections advisory board; and (c) the administration of the act.
- 3) The amounts of the subsidies to the counties will be based solely on amounts appropriated, but are estimated according to the bill sponsor's statement that the subsidies are intended to pay the equivalent of .25 FTE probation officers for one-half of the counties (experienced in Oregon).
- 4) The "enhancement grants" mentioned in section 8(1)(a)(ii) will be paid only from 'left over' subsidy funds, but are estimated based on the bill sponsor's statement that these grants are intended to provide incentive to counties for alternative placements, at the group home average cost per diem for thirty youth.
- 5) These incentives will result in a twenty percent reduction in juvenile institution populations, or about thirty youth, with a relatively small reduction in the institutions' operating costs.
- 6) This act will require counties to pay the state \$5,000 for each commitment to a juvenile facility, up to a ceiling based on the average commitments for the last two years. This ceiling would currently be about 113 commitments per year.
- 7) The Department of Institutions will require an additional 1.5 FTE to administer this act.

Fiscal Impact:

|                                      | <u>1982</u>        | <u>1983</u>      |
|--------------------------------------|--------------------|------------------|
| General Fund Revenues (Increase)     | -0-                | \$415,000        |
| General Fund Expenditures (Increase) | <u>\$398,605</u>   | <u>396,255</u>   |
| Net Effect                           | <u>(\$398,605)</u> | <u>\$ 18,745</u> |

CONTINUED ON ATTACHED PAGE

*David M Lewis*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-81

Local Impact:

The \$415,000 projected increase in State general fund revenue is the direct result of charges to Montana counties. Any offsetting reduction in county expenditures for probation costs is not clear from the language of the bill. (See Technical Note).

Technical or Mechanical Defects:

There are two areas in which the language of this legislation is confusing:

- 1) Section 8(1)(a)(i) provides that the county subsidies are to reduce "the amount required to be appropriated for probation costs under 41-5-104" by the counties. This is directly contradicted by Section 8(3) which prohibits replacement of county support with these funds.
- 2) Section 8(1)(a)(ii) provides for "enhancement grants" to counties. Section 8(1)(b) provides for distribution "of the amount appropriated for the purposes of this act . . . based upon statewide crime and demographic data" as subsidies. It appears that, if section 8(1)(b) is implemented, there would be no funds remaining for the grants provided in Section 8(1)(a).