

**HOUSE BILL NO. 24**

**INTRODUCED BY KEYSER, MENAHAN,  
NORMAN, HEMSTAD, MAZUREK, HAGER**

**BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE  
ON HUMAN SERVICES**

**IN THE HOUSE**

January 3, 1983	Introduced and referred to Committee on Human Services.
January 13, 1983	On motion by chief sponsor, Representative Menahan, Senator Norman, et al., were added as authors to the prefiled bill.
February 1, 1983	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 2, 1983	Bill printed and placed on members' desks.
February 3, 1983	Second reading, do pass.
February 4, 1983	Considered correctly engrossed.
February 5, 1983	Third reading, passed. Transmitted to Senate.

**IN THE SENATE**

February 7, 1983	Introduced and referred to Committee on Judiciary.
March 23, 1983	Committee recommend bill and Statement of Intent be concurred in as amended. Report adopted.

March 24, 1983

Second reading, concurred in.

March 28, 1983

Third reading, concurred in.  
Ayes, 46; Noes, 0.

#### IN THE HOUSE

March 29, 1983

Returned to House with  
amendments and Statement of  
Intent amendments.

April 1, 1983

Second reading, amendments and  
Statement of Intent amendments  
concurred in.

April 4, 1983

Third reading, amendments and  
Statement of Intent amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 24

INTRODUCED BY KEYSER

BY REQUEST OF THE JOINT SUBCOMMITTEE ON HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR COMMUNITY-BASED SERVICES FOR YOUTH UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 76-2-314, MCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

(a) administer or supervise all forms of public assistance, child protection, and child welfare, including the provision of medical care payments in behalf of recipients of public assistance;

(b) administer or supervise all child welfare activities, including:

(i) importation and exportation of children;

(ii) licensing of all children's foster family homes, group homes, child-care agencies and child-placing agencies;

(iii) the care of dependent and neglected children in substitute care placement and children who are free for adoption; and

(iv) the maintenance of supplemental day care for children;

~~(v) the care of youth in need of supervision placed by the youth court under the supervision of the department; and~~

~~(vi) all state and federal funds allocated to the department for youth foster homes, youth group homes, child-care agencies, and state programs for youth in need of care, youth in need of supervision, and delinquent youth;~~

(c) give consultant service to private institutions providing care for the needy, indigent, handicapped, or dependent adults;

(d) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(e) provide services in respect to organization and supervise county departments of public welfare and county boards of public welfare in the administration of public assistance functions and for efficiency and economy;

1 (f) assist and cooperate with other state and federal  
2 departments, bureaus, agencies, and institutions, when so  
3 requested, by performing services in conformity with public  
4 assistance purposes;

5 (g) administer all state and federal funds allocated  
6 to the department for public assistance and do all things  
7 necessary, in conformity with federal and state law, for the  
8 proper fulfillment of public assistance purposes; and

9 (h) make rules governing payment for services and  
10 supplies provided to recipients of public assistance.

11 (2) The department may:

12 (a) purchase, exchange, condemn, or receive by gift  
13 either real or personal property which is necessary to carry  
14 out its public assistance functions. Title to property  
15 obtained under this subsection shall be taken in the name of  
16 the state of Montana for the use and benefit of the  
17 department.

18 (b) contract with the federal government to carry out  
19 its public assistance functions. The department may do all  
20 things necessary in order to avail itself of federal aid and  
21 assistance.

22 (c) make rules, consistent with state and federal law,  
23 establishing the amount, scope, and duration of services to  
24 be provided to recipients of public assistance."

25 Section 2. Section 41-5-103, MCA, is amended to read:

1 "41-5-103. Definitions. For the purposes of the  
2 Montana Youth Court Act, unless otherwise stated the  
3 following definitions apply:

4 (1) "Adult" means an individual who is 18 years of age  
5 or older.

6 (2) "Agency" means ~~the department of institutions, the~~  
7 ~~department of social and rehabilitation services, and any~~  
8 ~~division or department of either~~ any entity of state or  
9 local government authorized by law to be responsible for the  
10 care or rehabilitation of youth.

11 (3) "Commit" means to transfer to legal custody.

12 (4) "Court", when used without further qualification,  
13 means the youth court of the district court.

14 ~~(5) "Foster home" means a private residence approved~~  
15 ~~by the court for placement of a youth.~~

16 ~~(6)~~(5) "Guardianship" means the status created and  
17 defined by law between a youth and an adult with the  
18 reciprocal rights, duties, and responsibilities.

19 ~~(7)~~(6) "Judge", when used without further  
20 qualification, means the judge of the youth court.

21 ~~(8)~~(7) (a) "Legal custody" means the legal status  
22 created by order of a court of competent jurisdiction that  
23 gives a person the right and duty to:

24 (i) have physical custody of the youth;

25 (ii) determine with whom the youth shall live and for

1 what period;

2 (iii) protect, train, and discipline the youth; and

3 (iv) provide the youth with food, shelter, education,  
4 and ordinary medical care.

5 (b) An individual granted legal custody of a youth  
6 shall personally exercise his rights and duties as guardian  
7 unless otherwise authorized by the court entering the order.

8 ~~(9)~~(8) "Parent" means the natural or adoptive parent  
9 but does not include a person whose parental rights have  
10 been judicially terminated, nor does it include the putative  
11 father of an illegitimate youth unless his paternity is  
12 established by an adjudication or by other clear and  
13 convincing proof.

14 ~~(10)~~(9) "Youth" means an individual who is less than  
15 18 years of age without regard to sex or emancipation.

16 ~~(11)~~(10) "Youth court" means the court established  
17 pursuant to this chapter to hear all proceedings in which a  
18 youth is alleged to be a delinquent youth, a youth in need  
19 of supervision, or a youth in need of care and includes the  
20 youth court, the judge, and probation officers.

21 ~~(12)~~(11) "Delinquent youth" means a youth:

22 (a) who has committed an offense which, if committed  
23 by an adult, would constitute a criminal offense;

24 (b) who, having been placed on probation as a  
25 delinquent youth or a youth in need of supervision, violates

1 any condition of his probation.

2 ~~(13)~~(12) "Youth in need of supervision" means a youth  
3 who commits an offense prohibited by law which, if committed  
4 by an adult, would not constitute a criminal offense,  
5 including but not limited to a youth who:

6 (a) violates any Montana municipal or state law  
7 regarding use of alcoholic beverages by minors;

8 (b) habitually disobeys the reasonable and lawful  
9 demands of his parents or guardian or is ungovernable and  
10 beyond their control;

11 (c) being subject to compulsory school attendance, is  
12 habitually truant from school; or

13 (d) has committed any of the acts of a delinquent  
14 youth but whom the youth court in its discretion chooses to  
15 regard as a youth in need of supervision.

16 ~~(14)~~(13) "Youth in need of care" means a youth as  
17 defined in 41-3-102.

18 ~~(15)~~(14) "Custodian" means a person other than a parent  
19 or guardian to whom legal custody of the youth has been  
20 given but does not include a person who has only physical  
21 custody.

22 ~~(16)~~(15) "Necessary parties" include the youth, his  
23 parents, guardian, custodian, or spouse.

24 ~~(17)~~(16) "State youth correctional facility" means a  
25 residential facility for the rehabilitation of delinquent

1 youth such as Pine Hills school in Miles City, and Mountain  
2 View school in Helena, and Swan River youth forest camp.

3 ~~{18}{17}~~ "Shelter care" means the temporary substitute  
4 care of youth in physically unrestricting facilities.

5 ~~{19}{18}~~ "Detention" means the temporary substitute  
6 care of youth in physically restricting facilities.

7 ~~{20} "District youth guidance home" means a~~  
8 ~~family-oriented residence established in a judicial district~~  
9 ~~of the state of Montana as an alternative to existing state~~  
10 ~~youth correctional facilities, the function of which is to~~  
11 ~~provide a home and guidance through adult supervision for~~  
12 ~~delinquent youths and youths in need of supervision.~~

13 ~~{21}{19}~~ "Restitution" means payments in cash to the  
14 victim or with services to the victim or the general  
15 community when these payments are made under the  
16 jurisdiction of a youth court proceeding.

17 {20} "Substitute care" means full-time care of youth in  
18 a residential setting for the purpose of providing food,  
19 shelter, security and safety, guidance, direction, and if  
20 necessary, treatment to youth who are removed from or  
21 without the care and supervision of their parents or  
22 guardian."

23 Section 3. Section 41-5-306, MCA, is amended to read:

24 "41-5-306. Place of shelter care or detention. (1) A  
25 youth alleged to be a delinquent youth or youth in need of

1 supervision may be sheltered only in:

2 (a) a licensed youth foster home ~~or a home approved by~~  
3 ~~the court for the provision of shelter care of youth as~~  
4 ~~defined in [section 7];~~

5 (b) a facility operated by a licensed child welfare  
6 agency; ~~or~~

7 (c) a licensed ~~attention~~ youth group home or shelter  
8 facility which is operated by a nonprofit corporation or the  
9 youth court for the provision of shelter care of youth; ~~as~~  
10 ~~defined in [section 7].~~

11 ~~{d} any other suitable place or facility designated or~~  
12 ~~operated by the court for the supervision of youth in~~  
13 ~~shelter care.~~

14 (2) The youth may be detained in a jail or other  
15 facility for the detention of adults only if:

16 (a) the facilities in subsection (1) are not available  
17 or do not provide adequate security;

18 (b) the detention is in an area physically and  
19 visually separate and removed from those of adults;

20 (c) it appears to the satisfaction of the court that  
21 public safety and protection reasonably require detention;  
22 and

23 (d) the court so orders.

24 (3) The official in charge of a jail or other facility  
25 for the detention of adult offenders or persons charged with

1 crime shall inform the court immediately if a person who is  
2 or appears to be under the age of 18 years is received at  
3 the facility. Such official shall bring the person before  
4 the court upon request or deliver him to a detention  
5 facility designated by the court.

6 (4) A youth alleged to be in need of care shall be  
7 placed only in the facilities stated in subsection (1) of  
8 this section and shall not be detained in a jail or other  
9 facility intended or used for the detention of adults  
10 charged with criminal offenses."

11 Section 4. Section 41-5-403, MCA, is amended to read:

12 "41-5-403. Disposition permitted under informal  
13 adjustment. (1) The following dispositions may be imposed by  
14 informal adjustment:

15 (a) probation;

16 (b) placement of the youth ~~in a licensed foster home~~  
17 ~~or other home approved by the court for substitute care into~~  
18 a youth care facility as defined in [section 7];

19 (c) placement of the youth in a private agency  
20 responsible for the care and rehabilitation of such a youth  
21 ~~including but not limited to a district youth guidance home;~~

22 ~~(d) transfer of legal custody of the youth to the~~  
23 ~~department of institutions provided that such commitment~~  
24 ~~does not authorize the department of institutions to place~~  
25 ~~the youth in a state youth correctional facility, and such~~

1 ~~commitment may not exceed a period of 6 months without a~~  
2 ~~subsequent order of the court after notice and hearing;~~

3 ~~(e)(d)~~ restitution upon approval of the youth court  
4 judge.

5 (2) In determining whether restitution is appropriate  
6 in a particular case, the following factors may be  
7 considered in addition to any other evidence:

8 (a) age of the youth;

9 (b) ability of the youth to pay;

10 (c) ability of the parents or legal guardian to pay;

11 (d) amount of damage to the victim; and

12 (e) legal remedies of the victim, however the ability  
13 of the victim or his insurer to stand any loss may not be  
14 considered in any case."

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

16 "41-5-523. Disposition of delinquent youth and youth  
17 in need of supervision. (1) If a youth is found to be  
18 delinquent or in need of supervision, the court may enter  
19 its judgment making the following disposition:

20 (a) place the youth on probation;

21 (b) place ~~in a licensed foster home~~ the youth for  
22 substitute care into a youth care facility as defined in  
23 [section 7] or a home approved by the court;

24 (c) place the youth in a private agency responsible  
25 for the care and rehabilitation of such a youth ~~including~~

1 ~~but not limited to a district youth guidance home;~~

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

10 (e) such further care and treatment or evaluation that  
11 the court considers beneficial to the youth; ~~consistent with~~  
12 ~~subsection (1)(d) of this section;~~

13 (f) order restitution by the youth.

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

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

23 (b) in the case of a delinquent youth 16 years or  
24 older whom the court considers a suitable person for  
25 placement at a youth forest camp, notify the director of the

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

23 (3) No youth may be committed or transferred to a  
24 penal institution or other facility used for the execution  
25 of sentence of adult persons convicted of crimes except as



1 provided by subsection (2)(b).

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

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

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

12 ORDER OF COMMITMENT

13 State of Montana )

14 ) ss.

15 County of ..... )

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:

1	Name	Address	Occupation
2	.....	.....	.....
3	.....	.....	.....
4	The names and addresses of their nearest relatives are:		
5	.....	.....	.....
6	.....	.....	.....
7	Witness my hand this .... day of ....., A.D. 19...		
8	.....		
9	Judge"		

10 NEW SECTION. Section 6. Establishment of substitute  
11 care for youth. The legislature, in recognition of the wide  
12 and varied needs of youth in need of care, delinquent youth,  
13 and youth in need of supervision of this state and of the  
14 desirability of meeting these needs on a community level to  
15 the fullest extent possible, establishes by this part a  
16 system of substitute care to provide facilities and services  
17 for youth placed out of their homes and establishes a  
18 program to provide such facilities and services through  
19 local nonprofit corporations and the department of social  
20 and rehabilitation services.

21 NEW SECTION. Section 7. Definitions. For the purposes  
22 of this part the following definitions apply:

23 (1) "Child-care agency" means a youth care facility in  
24 which substitute care is provided to 13 or more children or  
25 youth.

1 (2) "Community-based services to youth" means a system  
2 of services provided to youth in need of care, youth in need  
3 of supervision, and delinquent youth outside of an  
4 institution, including but not limited to the following:

- 5 (a) evaluation services;
- 6 (b) diagnostic services;
- 7 (c) treatment services;
- 8 (d) training services;
- 9 (e) education services;
- 10 (f) counseling services;
- 11 (g) information and referral services;
- 12 (h) protective and other social services;
- 13 (i) residential services.

14 (3) "Department" means the department of social and  
15 rehabilitation services.

16 (4) "Substitute care" means full-time care of youth in  
17 a residential setting for the purpose of providing food,  
18 shelter, security and safety, guidance, direction, and if  
19 necessary, treatment to youth who are removed from or  
20 without the care and supervision of their parents or  
21 guardian.

22 (5) "Treatment facility" is a child-care agency  
23 providing the appropriate level of care.

24 (6) "Youth care facility" means a facility, licensed  
25 in accordance with 41-3-502 through 41-3-504, in which

1 substitute care is provided to youth in need of care, youth  
2 in need of supervision, or delinquent youth and includes  
3 youth foster homes, youth group homes, and child-care  
4 agencies.

5 (7) "Youth foster home" means a youth care facility in  
6 which substitute care is provided to one to six children or  
7 youth to whom the foster parents are not related by blood,  
8 marriage, adoption, or wardship.

9 (8) "Youth group home" means a youth care facility in  
10 which substitute care is provided to 7 to 12 children or  
11 youth.

12 NEW SECTION. Section 8. Powers and duties of  
13 department. (1) The department shall:

14 (a) administer all state and federal funds allocated  
15 to the department for youth foster homes, youth group homes,  
16 child-care agencies, and community-based programs for youth  
17 in need of care, youth in need of supervision, and  
18 delinquent youth;

19 (b) exercise licensing authority over all youth foster  
20 homes, youth group homes, and child-care agencies;

21 (c) collect and disseminate information relating to  
22 youth in need of care, youth in need of supervision, and  
23 delinquent youth;

24 (d) provide for training of program personnel  
25 delivering services;

1 (e) provide by rule for the evaluation of all  
2 community-based services to youth;

3 (f) in cooperation with the department of institutions  
4 and youth care facility providers, develop and implement  
5 standards for youth care facilities;

6 (g) apportion and allocate placement budgets to all  
7 judicial districts;

8 (h) develop an annual comprehensive plan for the  
9 initiation and maintenance of community-based services to  
10 youth; and

11 (i) seek public input on the plan prior to its  
12 adoption and implementation.

13 (2) The department may:

14 (a) enter into contracts with nonprofit corporations  
15 or associations to provide facilities and services for youth  
16 in need of care, youth in need of supervision, and  
17 delinquent youth;

18 (b) accept gifts, grants, and donations of money and  
19 property from public and private sources to initiate and  
20 maintain community-based services to youth.

21 NEW SECTION. Section 9. Apportionment of money to  
22 judicial districts. (1) The department shall apportion and  
23 allocate placement budgets, based upon historical placement  
24 patterns and current placement trends, to the judicial  
25 districts for the substitute care of youth in need of

1 supervision or delinquent youth.

2 (2) The placement budgets may be monitored by a youth  
3 court committee as provided for in 41-5-105 or a foster care  
4 review committee as provided for in 41-5-807.

5 Section 10. Section 41-5-801, MCA, is amended to read:  
6 "41-5-801. ~~Shelter care and foster homes~~ Foster care  
7 payments for youth court placements. ~~(1) The youth court may~~  
8 ~~establish procedures for finding, maintaining, and~~  
9 ~~administering shelter care and foster homes or other homes~~  
10 ~~approved by the court for youth within the provisions of~~  
11 ~~this chapter.~~

12 ~~(2) Pursuant to 41-3-104, the department of social and~~  
13 ~~rehabilitation services shall finance foster homes~~  
14 ~~established make a foster care payment for a child placed by~~  
15 ~~the youth court if:~~

16 ~~(a)(1) the foster home child is placed in a youth care~~  
17 ~~facility licensed by the department or by an appropriate~~  
18 ~~licensing authority from another state;~~

19 ~~(b)(2) the youth court enters into an agreement~~  
20 ~~according to federal regulations with the department for the~~  
21 ~~placement of children;~~

22 ~~(c)(3) the placement of the child is reviewed as~~  
23 ~~required by 41-5-807; and~~

24 ~~(d)(4) the youth court retains supervision of the~~  
25 ~~child in placement.~~

~~(3) The licensed shelter care and foster homes established under this section shall be funded at a rate consistent with other shelter care and foster homes established for other purposes under law. Shelter care as defined by this chapter may be funded through state appropriation to the youth courts and the departments of institutions and social and rehabilitation services."~~

Section 11. Section 41-3-104, MCA, is amended to read:

"41-3-104. Payment for support of youth in need of care, youth in need of supervision, or delinquent youth -- reimbursement by county. (1) Whenever agreements are entered into by the department of ~~social and rehabilitation services~~ or the court for placing a youth in need of care, a youth in need of supervision, or a delinquent youth in a licensed ~~family foster home, child care agency, group home, or treatment youth care~~ facility, the department shall pay by its check or draft each month from any funds appropriated for that purpose the entire amount agreed upon for board, clothing, personal needs, treatment, and room of the children.

(2) On or before the 20th of each month the department shall present a claim to the county of residence of the children for no more than one-half the payments so made during the month. The county must make reimbursement to the department within 20 days after the claim is presented.

(3) The department shall conduct or arrange for the review required under 41-5-807 of a child placed in a ~~licensed family foster home, child care agency, group home, or treatment youth care~~ facility if the child is placed under the supervision of the department or placed by the department or the department pays for the care of the child as set forth in this section."

NEW SECTION. Section 12. Time limitations on youth court placements. (1) If the court has determined that a youth be placed in a licensed youth care facility as provided in 41-5-403 or 41-5-522 and the youth has not been placed within 10 working days of such determination, the probation officer, a representative of the department, and a representative of the elementary or high school district in which the youth resides must meet to determine three appropriate placement alternatives.

(2) The three placement alternatives shall be presented to the youth court judge for his consideration within 15 working days of the informal adjustment or dispositional hearing.

(3) If the judge then orders the placement of the youth in a facility other than one of the three alternatives presented to him, he must state the reason for ordering such placement.

(4) Delays resulting from court-ordered evaluation of

1 the youth are not included in the 15-day time limitation.

2 Section 13. Section 41-3-405, MCA, is amended to read:

3 "41-3-405. Investigation of parents' or guardian's

4 financial ability. (1) Whenever a court determines a youth

5 to be an abused, neglected, or dependent child pursuant to

6 41-3-404, the court shall issue an order directing the

7 county welfare department of the county in which the

8 petition was filed to conduct an investigation of the

9 financial status of the child's parents or the extent of

10 guardianship assets.

11 (2) Upon receipt of the order, the county welfare

12 department shall make an investigation for the purpose of

13 ascertaining the residence of the parents or guardian of the

14 child and the financial ability of the parents or the

15 adequacy of the guardianship assets to pay the cost of

16 supporting the child in a ~~foster home, child care agency,~~

17 ~~group home, or private treatment youth care~~ facility. A

18 written report of the investigation shall be filed with the

19 clerk of court before the time fixed for the dispositional

20 hearing.

21 (3) A copy of the written report shall be provided to

22 all parties to the proceeding before the time set for the

23 dispositional hearing."

24 Section 14. Section 41-5-805, MCA, is amended to read:

25 "41-5-805. Financial investigation by county welfare

1 department. (1) Whenever a disposition under 41-5-403,

2 41-5-523, or 41-5-524 involves placement in a foster home,

3 ~~child care agency, group home, or private treatment youth~~

4 ~~care~~ facility and the department of ~~social and~~

5 ~~rehabilitation services~~ is responsible for all or part of

6 the cost of such placement, the probation officer or the

7 court shall notify the department of ~~social and~~

8 ~~rehabilitation services~~ and order the county welfare

9 department in the youth's county of residence to conduct an

10 investigation of the financial status of the youth's parents

11 or guardianship assets. Following an adjudicatory hearing in

12 which a youth is determined to be a delinquent youth or a

13 youth in need of supervision, the court may order the county

14 welfare department to conduct a financial status

15 investigation.

16 (2) Upon receipt of the order, the county welfare

17 department shall make an investigation for the purpose of

18 ascertaining the residence of the parents or guardian of the

19 youth and the financial ability of the parents or the

20 adequacy of the guardianship assets to pay the cost of

21 supporting the youth in the foster home, child care agency,

22 group home, or private treatment facility. A written report

23 of the investigation shall be filed with the court having

24 jurisdiction, the department of social and rehabilitation

25 services, and the department of institutions, and a copy

1 shall be sent to the parents or guardian of the youth or to  
2 any other party to the proceeding."

3 Section 15. Section 41-3-407, MCA, is amended to read:

4 "41-3-407. Order for financial support. (1) Whenever a  
5 youth is placed in a ~~foster-home, child-care-agency, group~~  
6 ~~home, or private treatment~~ youth care facility under  
7 41-3-406, the court shall determine the ability of the  
8 youth's parents or guardian to contribute to the support of  
9 the youth or the adequacy of the guardianship assets to  
10 provide a contribution. This question of financial ability  
11 shall be considered at the dispositional hearing, and  
12 evidence concerning financial status may be introduced. In  
13 determining financial ability the court shall consider the  
14 report prepared pursuant to 41-3-405 and any other evidence  
15 introduced at the dispositional hearing.

16 (2) If the court determines that the parents are able  
17 to contribute to the support of the youth or that the  
18 guardianship assets are adequate to provide a contribution,  
19 the court shall issue an order directing the parents or  
20 guardian to make specified payments to the department of  
21 social and rehabilitation services to the extent considered  
22 appropriate under the circumstances. Payments required of a  
23 guardian may not exceed the funds available from  
24 guardianship assets. Upon a showing of change in financial  
25 ability, the court may modify the order."

1 Section 16. Section 41-3-105, MCA, is amended to read:

2 "41-3-105. Recovery from parents or guardianship  
3 assets -- division between state and county. (1) In the  
4 event any recovery is made from the parent or parents or  
5 guardianship assets of children for whom board, clothing,  
6 personal needs, and room have been paid by the state and  
7 county, any amount so recovered shall be divided equally  
8 between the department and the county of residence of such  
9 child or children.

10 (2) Any amount collected from the parents or  
11 guardianship assets when a child is placed in a ~~foster-home,~~  
12 ~~child-care-agency, group-home, or private treatment~~ youth  
13 care facility shall be transmitted to the department of  
14 social and rehabilitation services. The department shall  
15 then pay to the county one-half of the amount so collected."

16 Section 17. Section 41-3-501, MCA, is amended to read:

17 "41-3-501. Definitions. (1) Any person owning or  
18 operating a ~~home or institution~~ youth care facility into  
19 which ~~home or institution~~ he takes any child or children for  
20 the purpose of caring for them and maintaining them and for  
21 which care and maintenance he receives money or other  
22 consideration of value, and which child is neither his son,  
23 daughter, nor ward shall be deemed to be an "operator" of a  
24 "~~foster-home or boarding home~~" "youth care facility" within  
25 the meaning of this chapter, except that this chapter shall

1 not apply when any person accepts such care and custody of  
2 such child on a temporary basis and simply as a temporary  
3 accommodation for the parent or parents, guardian, or  
4 relative of such child.

5 (2) The word "person" where used in this chapter shall  
6 include any individual, partnership, voluntary association,  
7 or corporation."

8 NEW SECTION. Section 18. Rules. The department may  
9 adopt rules to carry out the administration and purposes of  
10 this part.

11 NEW SECTION. Section 19. Power of nonprofit  
12 corporations to establish homes and to receive facilities  
13 and funds. Nonprofit corporations or associations may be  
14 formed or organized for the purpose of establishing youth  
15 care facilities or to provide community-based services and  
16 to receive from the department and other governmental units  
17 such services, facilities, and funds as the department or  
18 other governmental units may be authorized by law to  
19 provide.

20 NEW SECTION. Section 20. Governmental contracts with  
21 nonprofit organizations. (1) The department may contract  
22 with nonprofit corporations or associations to provide  
23 facilities and services for youth in need of care, youth in  
24 need of supervision, and delinquent youth in youth care  
25 facilities and is authorized to expend such money as is

1 appropriated or available therefor.

2 (2) Governmental units, including but not limited to  
3 counties, municipalities, school districts, or state  
4 institutions of higher learning, are authorized, at their  
5 own expense, to provide funds, materials, facilities, and  
6 services for community-based services.

7 Section 21. Section 41-3-502, MCA, is amended to read:  
8 "41-3-502. License required. No person shall maintain  
9 or operate a ~~foster-or-boarding-home~~ youth care facility for  
10 any child or children within the meaning of this chapter  
11 without first securing a license in writing from the  
12 department ~~of-social-and-rehabilitation-services~~. No fee  
13 shall be charged for such license."

14 Section 22. Section 41-3-503, MCA, is amended to read:  
15 "41-3-503. Issuance of license — authority of issuing  
16 agency. The department ~~of-social-and-rehabilitation-services~~  
17 is hereby authorized to issue licenses to persons conducting  
18 ~~boarding-or-foster-homes~~ operating youth care facilities and  
19 to prescribe the conditions upon which such licenses shall  
20 be issued and to make such rules as it may deem advisable  
21 for the operation and regulation of ~~foster-and-boarding~~  
22 homes such facilities for minor children consistent with the  
23 welfare of such children. Such licensing agency shall have  
24 the power and authority to inspect all such licensed ~~foster~~  
25 ~~and-boarding-homes~~ facilities through its duly authorized

1 representatives and to cancel licenses theretofore issued  
2 for the failure to observe such rules. The person operating  
3 such homes shall give to such representative such  
4 information as may be required and afford him every  
5 reasonable ~~facility opportunity~~ for observing the operation  
6 of such homes."

7 Section 23. Section 41-3-504, MCA, is amended to read:

8 "41-3-504. Penalty. Any person who maintains or  
9 ~~conducts operates~~ a foster or boarding home youth care  
10 facility or assists in ~~conducting operating~~ or maintaining  
11 such home facility without having first obtained a license  
12 in writing as hereto provided shall be guilty of a  
13 misdemeanor ~~and upon conviction be punished by a fine not to~~  
14 ~~exceed \$100."~~

15 Section 24. Section 41-5-802, MCA, is amended to read:

16 "41-5-802. ~~Shelter care and detention~~ Detention  
17 facilities. (1) ~~(a)~~ In all counties the county commissioners  
18 may provide, by purchase, lease, or otherwise, a place to be  
19 known as the youth detention facility, which shall not be  
20 used for the confinement of adult persons charged with  
21 criminal offenses, where delinquent youths and youths in  
22 need of supervision may be detained until final disposition,  
23 which place shall be maintained by the county as in other  
24 like cases.

25 ~~(b)(2)~~ The judge having jurisdiction may appoint such

1 personnel as required, who shall have charge of said  
2 facility and of the youths detained therein.

3 ~~(c)(3)~~ The compensation of such personnel shall be  
4 fixed by the court, and such compensation and the  
5 maintaining of such facility shall be paid out of the county  
6 treasury which may be supplemented by state appropriation  
7 and federal funds.

8 ~~(2) (a) Youth courts and nonprofit corporations may~~  
9 ~~provide by purchase, lease, or otherwise, a place to be~~  
10 ~~known as a shelter care facility.~~

11 ~~(b) Such facility shall be physically unrestricting~~  
12 ~~and may be used to provide shelter care for youth alleged or~~  
13 ~~adjudicated delinquent, in need of supervision, or in need~~  
14 ~~of care.~~

15 ~~(c) Such facility shall be separate and apart from any~~  
16 ~~facility housing adults charged with criminal offenses.~~

17 ~~(d) State appropriations and federal funds may be~~  
18 ~~received by the youth court or private nonprofit~~  
19 ~~corporations for establishment, maintenance, or operation of~~  
20 ~~such facility.~~

21 ~~(e) Such facility shall be furnished in a comfortable~~  
22 ~~manner and be as nearly as possible like a family home."~~

23 NEW SECTION. Section 25. Petition for placement in  
24 facility or home. Any person between the ages of 18 and 21  
25 years, who is still within the jurisdiction of the youth



1 court, or any person under the age of 18 years may petition  
2 the youth court of a district in which a youth care facility  
3 has been established to be placed in such a facility or in  
4 any other home approved by the court for any period of time  
5 up to the person's 21st birthday.

6 NEW SECTION. Section 26. Authority of judge to commit  
7 youth. A youth court judge may in his discretion place a  
8 delinquent youth or a youth in need of supervision in a  
9 youth care facility for any period of time up to the child's  
10 21st birthday, subject to the approval of the facility's  
11 sponsoring nonprofit corporation or association.

12 NEW SECTION. Section 27. Continuing jurisdiction of  
13 youth court. The youth court placing a delinquent youth or a  
14 child in need of supervision in a youth care facility  
15 retains continuing jurisdiction over the youth until the  
16 youth becomes 21 years of age or is otherwise discharged by  
17 order of the court.

18 NEW SECTION. Section 28. Aftercare facilities. (1)  
19 The department of institutions may establish, maintain, and  
20 administer aftercare facilities for the care, custody, and  
21 treatment of youth who have been committed to the  
22 department.

23 (2) Aftercare facilities are under the licensing  
24 authority of the department.

25 Section 29. Section 20-15-403, MCA, is amended to

1 read:

2 "20-15-403. Applications of other school district  
3 provisions. (1) When the term "school district" appears in  
4 the following sections outside of Title 20, the term  
5 includes community college districts and the provisions of  
6 those sections applicable to school districts apply to  
7 community college districts: 2-9-101, 2-9-111, 2-9-316,  
8 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,  
9 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103,  
10 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,  
11 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108,  
12 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202,  
13 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, 18-1-105,  
14 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114,  
15 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-602, 19-1-811,  
16 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104,  
17 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117,  
18 39-71-2106, 39-71-2206, 40-6-237, 44-5-912 [section 20],  
19 49-3-101, 49-3-102, 53-20-304, 77-3-321, 82-10-201,  
20 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules  
21 40(2)(g) and 15(c), M.R.Civ.P., as amended.

22 (2) When the term "school district" appears in a  
23 section outside of Title 20 but the section is not listed in  
24 subsection (1), the school district provision does not apply  
25 to a community college district."

Section 30. Section 76-2-313, MCA, is amended to read:

"76-2-313. Definition of community residential facility. "Community residential facility" means:

(1) a group, foster, or other home specifically provided as a place of residence for developmentally disabled or handicapped persons who do not require nursing care;

(2) a ~~district~~ youth guidance group home established pursuant to 41-5-903 as defined in [section 7];

(3) a halfway house operated in accordance with regulations of the department of health and environmental sciences for the rehabilitation of alcoholics or drug dependent persons; or

(4) a licensed adult foster family care home."

Section 31. Section 76-2-314, MCA, is amended to read:

"76-2-314. Relationship of foster homes, boarding youth group homes, and community residential facilities to zoning. (1) A foster or boarding youth group home operated under the ~~provision~~ provisions of 41-3-501 through 41-3-504 or community residential facility serving eight or fewer persons is considered a residential use of property for purposes of zoning if the home provides care on a 24-hour-a-day basis.

(2) The homes are a permitted use in all residential zones, including but not limited to residential zones for

single-family dwellings. Any safety or sanitary regulation of the department or any other agency of the state or political subdivision thereof which is not applicable to residential occupancies in general may not be applied to a community residential facility serving eight or fewer persons.

(3) Nothing in this section shall be construed to prohibit a city or county from requiring a conditional use permit in order to maintain a home pursuant to the provisions of this section provided such home is licensed by the department of health and environmental sciences and the department of social and rehabilitation services."

**NEW SECTION.** Section 32. Administration. The provisions of Title 41, chapter 3, part 11, govern the administration of this chapter.

**NEW SECTION.** Section 33. Codification and code commissioner instructions. (1) Section 32 is intended to be codified as an integral part of Title 41, chapter 5, and the provisions of Title 41, chapter 5, apply to section 32.

(2) Sections 6, 7, 8, 9, 12, 18, 19, 20, and 25 through 28 are intended to be codified as a new part 11 in Title 41, chapter 3, and the provisions of Title 41, chapter 3, apply to such sections.

(3) (a) Sections 41-3-405 and 41-5-805, MCA, are to be combined.

1 (b) Sections 41-3-407 and 41-5-806, MCA, are to be  
2 combined.

3 (c) The sections enumerated in subsections (3)(a) and  
4 (b) are to be combined into single sections. They are  
5 intended to be renumbered and recodified as integral parts  
6 of Title 41, chapter 3, part 11, and the provisions of Title  
7 41, chapter 3, apply to them. Such sections, when combined,  
8 may not contain redundant subsections.

9 (4) Sections 41-3-104, 41-3-105, 41-3-501 through  
10 41-3-504, 41-5-302, 41-5-801, 41-5-804, and 41-5-807, MCA,  
11 are intended to be recodified and renumbered as an integral  
12 part of Title 41, chapter 3, part 11, and the provisions of  
13 Title 41, chapter 3, apply to those sections.

14 (5) The code commissioner is authorized to change  
15 internal references in the MCA to reflect the renumbering  
16 and recodification required by this section.

17 NEW SECTION. Section 34. Repealer. Sections 41-5-803  
18 and 41-5-901 through 41-5-924, MCA, are repealed.

19 NEW SECTION. Section 35. Effective date. This act is  
20 effective on July 1, 1983.

-End-

## STATE OF MONTANA

REQUEST NO. 030-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, 19 83, there is hereby submitted a Fiscal Note for House Bill 24 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:

House Bill 24 would revise the laws relating to youth and would place the authority for community-based services for youth under the Department of Social and Rehabilitation Services.

ASSUMPTIONS:

- 1) The payments currently provided by the Department of Institutions that would be transferred to SRS are shelter care, institutional foster homes and district youth guidance homes.
- 2) There will be no caseload increase from FY 82 to fiscal years 1984 and 1985 for the above services.
- 3) A 6% inflationary rate increase will be provided.
- 4) No administrative funds or FTE's will be transferred.

FISCAL IMPACT:

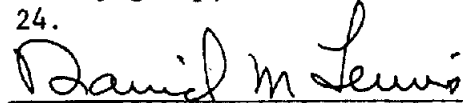
It is estimated the proposal would increase (decrease) general fund expenditures as follows:

	<u>FY 84</u>	<u>FY 85</u>
Department of SRS	\$ 601,431	\$ 637,582
Department of Institutions	(601,431)	(637,582)
Department of Health & Environmental Sciences	-0-	-0-
Net Impact to State	-0-	-0-

TECHNICAL NOTE:

SJR 34 passed by 47th Legislature initiated an interium study of this serivce and recommended the Department of Institutions as the home licensing agency. If the study recommendation and legislation is introduced as drafted by the study group, a conflict of which department would be licensing exists with House Bill 24.

FISCAL NOTE2:Z/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-11-83

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 24

## 3 House Human Services Committee

4  
5 House Bill 24 requires a statement of intent because it  
6 authorizes the Department of Social and Rehabilitation  
7 Services to adopt rules to implement statutory changes in  
8 the delivery of services to youths.

9 The Legislature contemplates that the rules should  
10 address the following, among other things:

11 1. Consideration of aftercare programs for youth under  
12 the department's supervision.

13 2. Consideration of standards for facilities housing  
14 youth in need of care, youth in need of supervision, and  
15 delinquent youth. Such standards should be considered in  
16 licensing and delivery of service.

17 3. Consideration of measures associated with the  
18 allocation of placement budgets to judicial districts, with  
19 such measures including data on placement history and  
20 placement trends.

21 4. Consideration of the proper allocation of annual  
22 budgets for the out-of-home care of youth in need of  
23 supervision and delinquent youth. The funding formula used  
24 in budget allocations should include:

25 a. the total population of the judicial district;

1 b. the total youth population of the judicial  
2 district;

3 c. the total number and costs of placements in public  
4 facilities and out-of-home care facilities;

5 d. trends in population, placements, and local  
6 economics.

7 5. Consideration of measures to investigate parental  
8 contributions.

9 6. Consideration of specific measures for licensing  
10 the various youth facilities, including: facility  
11 acquisition, facility design, group home staffing, staff  
12 training, service goals and design, quality of services,  
13 client placement procedure, client rights and privileges,  
14 client grievance procedure, provider grievance procedure,  
15 accounting procedures including accounting of client  
16 financial resources, health and safety standards including  
17 water and waste disposal, food service, and laundry.

SECOND READING

Approved by Comm. On Human Services

HOUSE BILL NO. 24

INTRODUCED BY KEYSER, MENAHAN,

NORMAN, HEMSTAD, MAZUREK, HAGER

BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE

ON HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL SERVICES FOR YOUTH UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 76-2-314, MCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

(a) administer or supervise all forms of public assistance, child protection, and child welfare, including the provision of medical care payments in behalf of recipients of public assistance;

(b) administer or supervise all child welfare

activities, including:

(i) importation and exportation of children;

(ii) licensing of all children's foster family homes, group homes, child-care agencies and child-placing agencies;

(iii) the care of dependent and neglected children in substitute care placement and children who are free for adoption; and

(iv) the maintenance of supplemental day care for children; AND

~~(v) the care of youth in need of supervision placed by the youth court under the supervision of the department and~~  
~~(vi)(v). all state and federal funds allocated to the department for youth foster homes, youth group homes, child-care agencies, and state programs for youth in need of care, youth in need of supervision, and delinquent youth;~~

(c) give consultant service to private institutions providing care for the needy, indigent, handicapped, or dependent adults;

(d) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(e) provide services in respect to organization and supervise county departments of public welfare and county

boards of public welfare in the administration of public assistance functions and for efficiency and economy;

(f) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions, when so requested, by performing services in conformity with public assistance purposes;

(g) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes; and

(h) make rules governing payment for services and supplies provided to recipients of public assistance.

(2) The department may:

(a) purchase, exchange, condemn, or receive by gift either real or personal property which is necessary to carry out its public assistance functions. Title to property obtained under this subsection shall be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to

be provided to recipients of public assistance."

Section 2. Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. For the purposes of the Montana Youth Court Act, unless otherwise stated the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means ~~the department of institutions, the department of social and rehabilitation services, and any division or department of either~~ any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Commit" means to transfer to legal custody.

(4) "Court", when used without further qualification, means the youth court of the district court.

~~(5) "Foster home" means a private residence approved by the court for placement of a youth.~~

(5) "FOSTER HOME" MEANS A PRIVATE RESIDENCE APPROVED BY THE COURT FOR PLACEMENT OF A YOUTH.

~~(6) (5) (6)~~ "Guardianship" means the status created and defined by law between a youth and an adult with the reciprocal rights, duties, and responsibilities.

~~(7) (6) (7)~~ "Judge", when used without further qualification, means the judge of the youth court.

~~(8) (7) (8)~~ (a) "Legal custody" means the legal status

created by order of a court of competent jurisdiction that gives a person the right and duty to:

- (i) have physical custody of the youth;
- (ii) determine with whom the youth shall live and for what period;
- (iii) protect, train, and discipline the youth; and
- (iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise his rights and duties as guardian unless otherwise authorized by the court entering the order.

~~(10)~~~~(9)~~ "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless his paternity is established by an adjudication or by other clear and convincing proof.

~~(10)~~~~(9)~~~~(10)~~ "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

~~(11)~~~~(10)~~~~(11)~~ "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the youth court, the judge, and probation officers.

~~(12)~~~~(11)~~~~(12)~~ "Delinquent youth" means a youth:

(a) who has committed an offense which, if committed by an adult, would constitute a criminal offense;

(b) who, having been placed on probation as a delinquent youth or a youth in need of supervision, violates any condition of his probation.

~~(13)~~~~(12)~~~~(13)~~ "Youth in need of supervision" means a youth who commits an offense prohibited by law which, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

(a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;

(b) habitually disobeys the reasonable and lawful demands of his parents or guardian or is ungovernable and beyond their control;

(c) being subject to compulsory school attendance, is habitually truant from school; or

(d) has committed any of the acts of a delinquent youth but whom the youth court in its discretion chooses to regard as a youth in need of supervision.

~~(14)~~~~(13)~~~~(14)~~ "Youth in need of care" means a youth as defined in 41-3-102.

~~(15)~~~~(14)~~~~(15)~~ "Custodian" means a person other than a parent or guardian to whom legal custody of the youth has been given but does not include a person who has only physical custody.



1       ~~(16)(15)~~ "Necessary parties" include the youth, his  
2       parents, guardian, custodian, or spouse.

3       ~~(17)(16)~~ "State youth correctional facility" means  
4       a residential facility for the rehabilitation of delinquent  
5       youth such as Pine Hills school in Miles City, and Mountain  
6       View school in Helena, and Swan River youth forest camp.

7       ~~(18)(17)~~ "Shelter care" means the temporary  
8       substitute care of youth in physically unrestricting  
9       facilities.

10       ~~(19)(18)~~ "Detention" means the temporary substitute  
11       care of youth in physically restricting facilities.

12       ~~(20)"District---youth---guidance---home"---means---a~~  
13       ~~family-oriented-residence-established-in-a-judicial-district~~  
14       ~~of-the-state-of-Montana-as-an-alternative-to-existing--state~~  
15       ~~youth--correctional--facilities--the-function-of-which-is-to~~  
16       ~~provide-a-home-and-guidance-through--adult--supervision--for~~  
17       ~~delinquent-youths-and-youths-in-need-of-supervision.~~

18       ~~(21)(19)~~ "Restitution" means payments in cash to  
19       the victim or with services to the victim or the general  
20       community when these payments are made under the  
21       jurisdiction of a youth court proceeding.

22       ~~(22)(21)~~ "Substitute care" means full-time care of  
23       youth in a residential setting for the purpose of providing  
24       food, shelter, security and safety, guidance, direction, and  
25       if necessary, treatment to youth who are removed from or

1       without the care and supervision of their parents or  
2       guardian. NOTHING IN THIS DEFINITION IS INTENDED TO INCLUDE  
3       JUVENILE CORRECTIONAL FACILITIES, EVALUATION FACILITIES,  
4       MENTAL HEALTH FACILITIES AND SERVICES, AND AFTERCARE  
5       PROGRAMS OPERATED BY THE DEPARTMENT OF INSTITUTIONS."

6       Section 3. Section 41-5-306, MCA, is amended to read:  
7       "41-5-306. Place of shelter care or detention. (1) A  
8       youth alleged to be a delinquent youth or youth in need of  
9       supervision may be sheltered only in:

10       (a) a licensed youth foster home or a home approved by  
11       the court for the provision of shelter care of youth as  
12       defined in [section 7];

13       (b) a facility operated by a licensed child welfare  
14       agency; or

15       (c) a licensed attention youth group home or shelter  
16       facility which is operated by a nonprofit corporation or the  
17       youth court for the provision of shelter care of youth as  
18       defined in [section 7].

19       ~~(d) any other suitable place or facility designated or~~  
20       ~~operated by the court for the supervision of youth in~~  
21       ~~shelter care.~~

22       (2) The youth may be detained in a jail or other  
23       facility for the detention of adults only if:

24       (a) the facilities in subsection (1) are not available  
25       or do not provide adequate security;

(b) the detention is in an area physically and visually separate and removed from those of adults;

(c) it appears to the satisfaction of the court that public safety and protection reasonably require detention; and

(d) the court so orders.

(3) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of 18 years is received at the facility. Such official shall bring the person before the court upon request or deliver him to a detention facility designated by the court.

(4) A youth alleged to be in need of care shall be placed only in the facilities stated in subsection (1) of this section and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses."

Section 4. Section 41-5-403, MCA, is amended to read:

"41-5-403. Disposition permitted under informal adjustment. (1) The following dispositions may be imposed by informal adjustment:

(a) probation;

(b) placement of the youth in a licensed foster home or other home approved by the court for substitute care into

a youth care facility as defined in [section 7];

(c) placement of 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 of legal custody of the youth to the department of institutions, provided that such commitment does not authorize the department of institutions to place the youth in a state youth correctional facility, and such commitment may not exceed a period of 6 months without a subsequent order of the court after notice and hearing;

(D) TRANSFER OF LEGAL CUSTODY OF THE YOUTH TO THE DEPARTMENT OF INSTITUTIONS, PROVIDED THAT SUCH COMMITMENT DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE THE YOUTH IN A STATE CORRECTIONAL FACILITY, AND SUCH COMMITMENT MAY NOT EXCEED A PERIOD OF 6 MONTHS WITHOUT A SUBSEQUENT ORDER OF THE COURT, AFTER NOTICE AND HEARING;

(e) (1) restitution upon approval of the youth court judge.

(2) In determining whether restitution is appropriate in a particular case, the following factors may be considered in addition to any other evidence:

(a) age of the youth;

(b) ability of the youth to pay;

(c) ability of the parents or legal guardian to pay;

(d) amount of damage to the victim; and

(e) legal remedies of the victim, however the ability of the victim or his insurer to stand any loss may not be considered in any case."

Section 5. 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~~ the youth for substitute care into a youth care facility as defined in [section 7] 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) ~~in the case of a delinquent youth~~ 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 does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearing.~~ PROVIDED, HOWEVER, THAT IN THE CASE OF A YOUTH IN NEED OF SUPERVISION, SUCH TRANSFER OF CUSTODY DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO

PLACE THE YOUTH IN A STATE YOUTH CORRECTIONAL FACILITY AND SUCH CUSTODY 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 considers beneficial to the youth ~~consistent with subsection (1)(d) of this section;~~

(f) order restitution by the youth.

(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 older whom the court considers a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the department of institutions for a period not to exceed 45

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

18 (3) No youth may be committed or transferred to a  
 19 penal institution or other facility used for the execution  
 20 of sentence of adult persons convicted of crimes except as  
 21 provided by subsection (2)(b).

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

24 (5) Whenever the court vests legal custody in an  
 25 agency, institution, or department, it must transmit with

1 the dispositional judgment copies of a medical report and  
 2 such other clinical, predisposition, or other reports and  
 3 information pertinent to the care and treatment of the  
 4 youth.

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

#### 7 ORDER OF COMMITMENT

8 State of Montana )

9 ) ss.

10 County of ..... )

11 In the district court for the .... Judicial District.

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

16 It is ordered that .... be committed to the department  
 17 of institutions until .....

18 The names, addresses, and occupations of the parents  
 19 are:

20 Name	Address	Occupation
21 .....	.....	.....
22 .....	.....	.....

23 The names and addresses of their nearest relatives are:  
 24 .....

1 .....

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

3 .....

4 Judge"

5 **NEW SECTION.** Section 6. Establishment of substitute  
6 care for youth. The legislature, in recognition of the wide  
7 and varied needs of youth in need of care, delinquent youths,  
8 and youth in need of supervision of this state and of the  
9 desirability of meeting these needs on a community level to  
10 the fullest extent possible, establishes by this part a  
11 system of substitute care to provide facilities and services  
12 for youth placed out of their homes and establishes a  
13 program to provide such facilities and services through  
14 local nonprofit corporations and the department of social  
15 and rehabilitation services.

16 **NEW SECTION.** Section 7. Definitions. For the purposes  
17 of this part the following definitions apply:

18 (1) "Child-care agency" means a youth care facility in  
19 which substitute care is provided to 13 or more children or  
20 youth.

21 ~~{2}--"Community-based-services-to-youth"--means-a-system~~  
22 ~~of-services-provided-to-youth-in-need-of-care-youth-in-need~~  
23 ~~of---supervision---and---delinquent---youth---outside---of---an~~  
24 ~~institution---including-but-not-limited-to-the-following:~~

25 ~~{a}--evaluation-services~~

1 ~~{b}--diagnostic-services~~

2 ~~{c}--treatment-services~~

3 ~~{d}--training-services~~

4 ~~{e}--education-services~~

5 ~~{f}--counseling-services~~

6 ~~{g}--information-and-referral-services~~

7 ~~{h}--protective-and-other-social-services~~

8 ~~{i}--residential-services~~

9 ~~{3}{12}~~ "Department" means the department of social and  
10 rehabilitation services.

11 ~~{4}{13}~~ "Substitute care" means full-time care of youth  
12 in a residential setting for the purpose of providing food,  
13 shelter, security and safety, guidance, direction, and if  
14 necessary, treatment to youth who are removed from or  
15 without the care and supervision of their parents or  
16 guardian.

17 ~~{5}{14}~~ "Treatment facility" is a child-care agency  
18 providing the appropriate level of care.

19 ~~{6}{15}~~ "Youth care facility" means a facility,  
20 licensed in accordance with 41-3-502 through 41-3-504, in  
21 which substitute care is provided to youth in need of care,  
22 youth in need of supervision, or delinquent youth and  
23 includes youth foster homes, youth group homes, and  
24 child-care agencies.

25 ~~{7}{16}~~ "Youth foster home" means a youth care facility

1 in which substitute care is provided to one to six children  
2 or youth to whom the foster parents are not related by  
3 blood, marriage, adoption, or wardship.

4 ~~(f)(1)~~ "Youth group home" means a youth care facility  
5 in which substitute care is provided to 7 to 12 children or  
6 youth.

7 ~~NEW SECTION.~~ Section 8. Powers and duties of  
8 department. (1) The department shall:

9 (a) administer all state and federal funds allocated  
10 to the department for youth foster homes, youth group homes,  
11 ~~AND child-care agencies and community-based programs~~ for  
12 youth in need of care, youth in need of supervision, and  
13 delinquent youth;

14 (b) exercise licensing authority over all youth foster  
15 homes, youth group homes, and child-care agencies;

16 (c) collect and disseminate information relating to  
17 youth in need of care, youth in need of supervision, and  
18 delinquent youth;

19 (d) provide for training of program personnel  
20 delivering services;

21 ~~(e) provide by rule for the evaluation of all~~  
22 ~~community-based services to youth;~~

23 ~~(f)(1)~~ in cooperation with the department of  
24 institutions and youth care facility providers, develop and  
25 implement standards for youth care facilities;

1 ~~(f)(1)~~ (E) apportion and allocate placement budgets to all  
2 judicial districts;

3 ~~(h) develop an annual comprehensive plan for the~~  
4 ~~initiation and maintenance of community-based services to~~  
5 ~~youth and~~

6 ~~(i)(1)~~ seek public input on the plan prior to its  
7 adoption and implementation; ~~AND~~

8 ~~(H) MAINTAIN ADEQUATE DATA ON PLACEMENTS IT FUNDS IN~~  
9 ~~ORDER TO KEEP THE LEGISLATURE PROPERLY INFORMED OF THE~~  
10 ~~FOLLOWING:~~

11 ~~(I) THE BREAKDOWN OF YOUTH IN NEED OF CARE, YOUTH IN~~  
12 ~~NEED OF SUPERVISION, AND DELINQUENT YOUTH BY CATEGORY IN~~  
13 ~~OUT-OF-HOME CARE FACILITIES;~~

14 ~~(II) THE COST PER FACILITY FOR SERVICES RENDERED;~~

15 ~~(III) THE TYPE AND LEVEL OF CARE OF SERVICES PROVIDED~~  
16 ~~BY EACH FACILITY;~~

17 ~~(IV) A PROFILE OF OUT-OF-HOME CARE PLACEMENTS BY LEVEL~~  
18 ~~OF CARE; AND~~

19 ~~(V) A PROFILE OF PUBLIC INSTITUTIONAL PLACEMENTS.~~

20 (2) The department may:

21 (a) enter into contracts with nonprofit corporations  
22 or associations to provide facilities and services for youth  
23 in need of care, youth in need of supervision, and  
24 delinquent youth;

25 (b) accept gifts, grants, and donations of money and

property from public and private sources to initiate and maintain community-based services to youth.

~~(3) THE DEPARTMENT SHALL PAY FOR ROOM, BOARD, CLOTHING, PERSONAL NEEDS, TRANSPORTATION, AND TREATMENT IN DISTRICT YOUTH GUIDANCE HOMES, SHELTER CARE PROGRAMS, AND FOSTER CARE HOMES FOR YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS WHO NEED TO BE PLACED IN SUCH FACILITIES, YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS AND PLACED IN RESIDENTIAL FACILITIES OTHER THAN THOSE DESCRIBED ABOVE SHALL NOT BE THE FINANCIAL RESPONSIBILITY OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNLESS SUCH PLACEMENTS HAVE BEEN APPROVED IN ADVANCE BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES.~~

**NEW SECTION.** Section 9. Apportionment **ALLOCATION** of money to judicial districts. (1) The department shall apportion--and allocate placement budgets, based upon historical placement patterns and current placement trends, to the judicial districts for the substitute care of youth in need of supervision or delinquent youth.

(2) The placement budgets may be monitored by a youth court committee as provided for in 41-5-105 or a foster care review committee as provided for in 41-5-807.

Section 10. Section 41-5-801, MCA, is amended to read:

"41-5-801. Shelter--care--and--foster--homes Foster care payments for youth court placements. (1) The youth court may

~~establish--procedures--for--finding--maintaining--and administering shelter care and foster homes or--other--homes approved--by--the--court--for--youth--within--the--provisions--of this chapter (1) THE YOUTH COURT MAY ESTABLISH PROCEDURES FOR FINDING, MAINTAINING, AND ADMINISTERING SHELTER CARE AND FOSTER HOMES APPROVED BY THE COURT FOR YOUTH WITHIN THE PROVISIONS OF THIS CHAPTER.~~

(2) Pursuant to 41-3-104, the department of--social and--rehabilitation--services shall finance--foster--homes established make a foster care payment for a child placed by the youth court if:

(a) the foster-home child is placed in a youth care facility licensed by the department or by an appropriate licensing authority from another state;

(b) the youth court enters into an agreement according to federal regulations with the department for the placement of children;

(c) the placement of the child is reviewed as required by 41-5-807; and

(d) the youth court retains supervision of the child in placement.

(3) ~~The--licensed--shelter--care--and--foster--homes established under this section shall be funded at a rate consistent with other shelter care and foster homes established for other purposes under laws--Shelter--care--as~~

defined---by---this---chapter---may---be---funded---through---state  
 appropriation-to-the-youth-courts---and---the---departments---of  
 institutions-and-social-and-rehabilitation-services."

Section 11. Section 41-3-104, MCA, is amended to read:

"41-3-104. Payment for support of youth in need of  
 care, youth in need of supervision, or delinquent youth --  
 reimbursement by county. (1) Whenever agreements are entered  
 into by the department of ~~social-and-rehabilitation-services~~  
 or ~~the court~~ for placing a youth in need of care, a youth in  
need of supervision, or a delinquent youth in a ~~licensed~~  
~~family-foster-home, child-care-agency, group-home, or~~  
~~treatment youth care~~ facility, the department shall pay by  
 its check or draft each month from any funds appropriated  
 for that purpose the entire amount agreed upon for board,  
 clothing, personal needs, ~~treatment~~, and room of the  
 children.

(2) On or before the 20th of each month the department  
 shall present a claim to the county of residence of the  
 children for no more than one-half the payments so made  
 during the month. The county must make reimbursement to the  
 department within 20 days after the claim is presented.

(3) The department shall conduct or arrange for the  
 review required under 41-5-807 of a child placed in a  
~~licensed-family-foster-home, child-care-agency, group-home,~~  
 or ~~treatment youth care~~ facility if the child is placed

under the supervision of the department or placed by the  
 department or the department pays for the care of the child  
 as set forth in this section."

~~NEW SECTION. Section 12. Time limitations on youth~~  
~~court placements. (1) If the court has determined that a~~  
~~youth be placed in a licensed youth care facility as~~  
~~provided in 41-5-403 or 41-5-522 and the youth has not been~~  
~~placed within 10 working days of such determination, the~~  
~~probation officer, a representative of the department, and a~~  
~~representative of the elementary or high school district in~~  
~~which the youth resides must meet to determine three~~  
~~appropriate placement alternatives.~~

~~(2) The three placement alternatives shall be~~  
~~presented to the youth court judge for his consideration~~  
~~within 15 working days of the informal adjustment or~~  
~~dispositional hearing.~~

~~(3) If the judge then orders the placement of the~~  
~~youth in a facility other than one of the three alternatives~~  
~~presented to him, he must state the reason for ordering such~~  
~~placement.~~

~~(4) Delays resulting from court-ordered evaluation of~~  
~~the youth are not included in the 15-day time limitations.~~

Section 12. Section 41-3-405, MCA, is amended to read:

"41-3-405. Investigation of parents' or guardian's  
 financial ability. (1) Whenever a court determines a youth



to be an abused, neglected, or dependent child pursuant to 41-3-404, the court shall issue an order directing the county welfare department of the county in which the petition was filed to conduct an investigation of the financial status of the child's parents or the extent of guardianship assets.

(2) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the child and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the child in a foster-home, child-care-agency, group-home, or private treatment youth care facility. A written report of the investigation shall be filed with the clerk of court before the time fixed for the dispositional hearing.

(3) A copy of the written report shall be provided to all parties to the proceeding before the time set for the dispositional hearing."

Section 13. Section 41-5-805, MCA, is amended to read:

"41-5-805. Financial investigation by county welfare department. (1) Whenever a disposition under 41-5-403, 41-5-523, or 41-5-524 involves placement in a foster-home, child-care-agency, group-home, or private treatment youth care facility and the department of social and

rehabilitation services is responsible for all or part of the cost of such placement, the probation officer or the court shall notify the department of social and rehabilitation services and order the county welfare department in the youth's county of residence to conduct an investigation of the financial status of the youth's parents or guardianship assets. Following an adjudicatory hearing in which a youth is determined to be a delinquent youth or a youth in need of supervision, the court may order the county welfare department to conduct a financial status investigation.

(2) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the youth and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the youth in the foster home, child care agency, group home, or private treatment facility. A written report of the investigation shall be filed with the court having jurisdiction, the department of social and rehabilitation services, and the department of institutions, and a copy shall be sent to the parents or guardian of the youth or to any other party to the proceeding."

Section 14. Section 41-3-407, MCA, is amended to read:

"41-3-407. Order for financial support. (1) Whenever a

1 youth is placed in a ~~foster-home-child-care-agency-group~~  
 2 ~~home-or-private-treatment~~ youth care facility under  
 3 41-3-406, the court shall determine the ability of the  
 4 youth's parents or guardian to contribute to the support of  
 5 the youth or the adequacy of the guardianship assets to  
 6 provide a contribution. This question of financial ability  
 7 shall be considered at the dispositional hearing, and  
 8 evidence concerning financial status may be introduced. In  
 9 determining financial ability the court shall consider the  
 10 report prepared pursuant to 41-3-405 and any other evidence  
 11 introduced at the dispositional hearing.

12 (2) If the court determines that the parents are able  
 13 to contribute to the support of the youth or that the  
 14 guardianship assets are adequate to provide a contribution,  
 15 the court shall issue an order directing the parents or  
 16 guardian to make specified payments to the department of  
 17 social and rehabilitation services to the extent considered  
 18 appropriate under the circumstances. Payments required of a  
 19 guardian may not exceed the funds available from  
 20 guardianship assets. Upon a showing of change in financial  
 21 ability, the court may modify the order."

22 Section 15. Section 41-3-105, MCA, is amended to read:

23 "41-3-105. Recovery from parents or guardianship  
 24 assets -- division between state and county. (1) In the  
 25 event any recovery is made from the parent or parents or

1 guardianship assets of children for whom board, clothing,  
 2 personal needs, and room have been paid by the state and  
 3 county, any amount so recovered shall be divided equally  
 4 between the department and the county of residence of such  
 5 child or children.

6 (2) Any amount collected from the parents or  
 7 guardianship assets when a child is placed in a ~~foster-home-~~  
 8 ~~child-care-agency-group-home-or-private-treatment~~ youth  
 9 care facility shall be transmitted to the department of  
 10 social and rehabilitation services. The department shall  
 11 then pay to the county one-half of the amount so collected."

12 Section 16. Section 41-3-501, MCA, is amended to read:

13 "41-3-501. Definitions. (1) Any person owning or  
 14 operating a ~~home-or-institution~~ youth care facility into  
 15 which ~~home-or-institution~~ he takes any child or children for  
 16 the purpose of caring for them and maintaining them and for  
 17 which care and maintenance he receives money or other  
 18 consideration of value, and which child is neither his son,  
 19 daughter, nor ward shall be deemed to be an "operator" of a  
 20 "~~foster--home-or-boarding-home~~" "youth care facility" within  
 21 the meaning of this chapter, except that this chapter shall  
 22 not apply when any person accepts such care and custody of  
 23 such child on a temporary basis and simply as a temporary  
 24 accommodation for the parent or parents, guardian, or  
 25 relative of such child.

(2) The word "person" where used in this chapter shall include any individual, partnership, voluntary association, or corporation."

**NEW SECTION.** Section 17. Rules. The department may adopt rules to carry out the administration and purposes of this part.

**NEW SECTION.** Section 18. Power of nonprofit corporations to establish homes and to receive facilities and funds. Nonprofit corporations or associations may be formed or organized for the purpose of establishing youth care facilities or to provide community-based services and to receive from the department and other governmental units such services, facilities, ~~IRAINING~~, and funds as the department or other governmental units may be authorized by law to provide.

**NEW SECTION.** Section 19. Governmental contracts with nonprofit organizations. (1) The department may contract with nonprofit corporations or associations to provide facilities and services for youth in need of care, youth in need of supervision, and delinquent youth in youth care facilities and is authorized to expend such money as is appropriated or available therefor. SUCH CONTRACTS SHALL BE BASED ON THE FOLLOWING CONSIDERATIONS:

(A) BUDGETS SUBMITTED BY THE NONPROFIT CORPORATION OR ASSOCIATION IDENTIFYING FIXED AND VARIABLE COSTS;

(B) REASONABLE COSTS OF SERVICE;

(C) APPROPRIATION LEVEL; AND

(D) AVAILABILITY OF FUNDS.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning, are authorized, at their own expense, to provide funds, materials, facilities, and services for community-based services.

Section 20. Section 41-3-502, MCA, is amended to read:

"41-3-502. License required. No person shall maintain or operate a ~~foster-or-boarding-home~~ youth care facility for any child or children within the meaning of this chapter without first securing a license in writing from the department ~~of--social--and--rehabilitation--services~~. No fee shall be charged for such license."

Section 21. Section 41-3-503, MCA, is amended to read:

"41-3-503. Issuance of license -- authority of issuing agency. The department ~~of--social--and--rehabilitation--services~~ is hereby authorized to issue licenses to persons ~~conducting~~ boarding-or-foster-homes operating youth care facilities and to prescribe the conditions upon which such licenses shall be issued and to make such rules as it may deem advisable for the operation and regulation of ~~foster--and--boarding~~ homes such facilities for minor children consistent with the welfare of such children. Such licensing agency shall have

the power and authority to inspect all such licensed foster and--boarding--homes facilities through its duly authorized representatives and to cancel licenses theretofore issued for the failure to observe such rules. The person operating such homes shall give to such representative such information as may be required and afford him every reasonable facility opportunity for observing the operation of such homes."

Section 22. Section 41-3-504, MCA, is amended to read:

"41-3-504. Penalty. Any person who maintains or conducts operates a foster--or--boarding--home youth--care facility or assists in conducting operating or maintaining such home facility without having first obtained a license in writing as hereto provided shall be guilty of a misdemeanor and upon conviction be punished by a fine not to exceed \$100."

Section 24. Section 41-5-802, MCA, is amended to read:

"41-5-802. Shelter--care--and--detention--Retention facilities--(1)-(a) In all counties the county commissioners may provide by purchase, lease, or otherwise a place to be known as the youth detention facility, which shall not be used for the confinement of adult persons charged with criminal offenses, where delinquent youths and youths in need of supervision may be detained until final disposition, which place shall be maintained by the county as in other

like cases.

(b)(2) The judge having jurisdiction may appoint such personnel as required who shall have charge of said facility and of the youths detained therein.

(c)(2) The compensation of such personnel shall be fixed by the court and such compensation and the maintaining of such facility shall be paid out of the county treasury which may be supplemented by state appropriation and federal funds.

(2)-(a) Youth courts and nonprofit corporations may provide by purchase, lease, or otherwise a place to be known as a shelter care facility.

(b) Such facility shall be physically unrestricted and may be used to provide shelter care for youth alleged or adjudicated delinquents in need of supervision or in need of care.

(c) Such facility shall be separate and apart from any facility housing adults charged with criminal offenses.

(d) State appropriations and federal funds may be received by the youth court or private nonprofit corporations for establishment, maintenance, or operation of such facility.

(e) Such facility shall be furnished in a comfortable manner and be as nearly as possible like a family home."

NEW SECTION. Section 23. Petition for placement in

1 facility or home. Any person between the ages of 18 and 21  
 2 years, who is still within the jurisdiction of the youth  
 3 court, or any person under the age of 18 years may petition  
 4 the youth court of a district in which a youth care facility  
 5 has been established to be placed in such a facility or in  
 6 any other home approved by the court for any period of time  
 7 up to the person's 21st birthday.

8 ~~NEW SECTION.~~ Section 24. Authority of judge to commit  
 9 youth. A youth court judge may in his discretion place a  
 10 delinquent youth or a youth in need of supervision in a  
 11 youth care facility for any period of time up to the child's  
 12 21st birthday, subject to the approval of the facility's  
 13 sponsoring nonprofit corporation or association.

14 ~~NEW SECTION.~~ Section 25. Continuing jurisdiction of  
 15 youth court. The youth court placing a delinquent youth or a  
 16 child in need of supervision in a youth care facility  
 17 retains continuing jurisdiction over the youth until the  
 18 youth becomes 21 years of age or is otherwise discharged by  
 19 order of the court.

20 ~~NEW SECTION.~~ Section 26. Aftercare facilities. (1)  
 21 The department of institutions may establish, maintain, and  
 22 administer YOUTH CORRECTION FACILITIES, EVALUATION  
 23 FACILITIES, MENTAL HEALTH FACILITIES AND SERVICES, AFTERCARE  
 24 PROGRAMS, and aftercare facilities for the care, custody,  
 25 and treatment of youth who have been committed to the

1 department.

2 (2) Aftercare facilities are under the licensing  
 3 authority of the department.

4 Section 27. Section 20-15-403, MCA, is amended to  
 5 read:

6 "20-15-403. Applications of other school district  
 7 provisions. (1) When the term "school district" appears in  
 8 the following sections outside of Title 20, the term  
 9 includes community college districts and the provisions of  
 10 those sections applicable to school districts apply to  
 11 community college districts: 2-9-101, 2-9-111, 2-9-316,  
 12 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,  
 13 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103,  
 14 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,  
 15 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108,  
 16 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202,  
 17 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, 18-1-105,  
 18 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114,  
 19 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-602, 19-1-811,  
 20 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104,  
 21 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117,  
 22 39-71-2106, 39-71-2206, 40-6-237, 41-5-912 [section 20],  
 23 49-3-101, 49-3-102, 53-20-304, 77-3-321, 82-10-201,  
 24 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules  
 25 40(2)(g) and 15(c), M.R.Civ.P., as amended.

(2) When the term "school district" appears in a section outside of Title 20 but the section is not listed in subsection (1), the school district provision does not apply to a community college district."

Section 28. Section 76-2-313, MCA, is amended to read:

"76-2-313. Definition of community residential facility. "Community residential facility" means:

(1) a group, foster, or other home specifically provided as a place of residence for developmentally disabled or handicapped persons who do not require nursing care;

(2) a ~~district~~ youth guidance group home established pursuant to ~~41-5-903~~ as defined in ~~[section 7]~~;

(3) a halfway house operated in accordance with regulations of the department of health and environmental sciences for the rehabilitation of alcoholics or drug dependent persons; or

(4) a licensed adult foster family care home."

Section 29. Section 76-2-314, MCA, is amended to read:

"76-2-314. Relationship of foster homes, boarding ~~youth group~~ homes, and community residential facilities to zoning. (1) A foster or boarding ~~youth group~~ home operated under the ~~provision provisions~~ of 41-3-501 through 41-3-504 or community residential facility serving eight or fewer persons is considered a residential use of property for

purposes of zoning if the home provides care on a 24-hour-a-day basis.

(2) The homes are a permitted use in all residential zones, including but not limited to residential zones for single-family dwellings. Any safety or sanitary regulation of the department or any other agency of the state or political subdivision thereof which is not applicable to residential occupancies in general may not be applied to a community residential facility serving eight or fewer persons.

(3) Nothing in this section shall be construed to prohibit a city or county from requiring a conditional use permit in order to maintain a home pursuant to the provisions of this section provided such home is licensed by the department of health and environmental sciences and the department of social and rehabilitation services."

~~NEW SECTION.~~ Section 30. Administration. The provisions of Title 41, chapter 3, part 11, govern the administration of this chapter.

~~NEW SECTION.~~ Section 31. Codification and code commissioner instructions. (1) Section ~~32 30~~ is intended to be codified as an integral part of Title 41, chapter 5, and the provisions of Title 41, chapter 5, apply to section ~~32 30~~.

(2) Sections 6, 7, 8, 9, ~~12 17~~, 18, 19, 20, and 25 ~~23~~

1 through 28 26 are intended to be codified as a new part 11  
2 in Title 41, chapter 3, and the provisions of Title 41,  
3 chapter 3, apply to such sections.

4 (3) (a) Sections 41-3-405 and 41-5-805, MCA, are to be  
5 combined.

6 (b) Sections 41-3-407 and 41-5-806, MCA, are to be  
7 combined.

8 (c) The sections enumerated in subsections (3)(a) and  
9 (b) are to be combined into single sections. They are  
10 intended to be renumbered and recodified as integral parts  
11 of Title 41, chapter 3, part 11, and the provisions of Title  
12 41, chapter 3, apply to them. Such sections, when combined,  
13 may not contain redundant subsections.

14 (4) Sections 41-3-104, 41-3-105, 41-3-501 through  
15 41-3-504, 41-5-302, 41-5-801, 41-5-804, and 41-5-807, MCA,  
16 are intended to be recodified and renumbered as an integral  
17 part of Title 41, chapter 3, part 11, and the provisions of  
18 Title 41, chapter 3, apply to those sections.

19 (5) The code commissioner is authorized to change  
20 internal references in the MCA to reflect the renumbering  
21 and recodification required by this section.

22 NEW SECTION. Section 32. Repealer. Sections 41-5-803  
23 and 41-5-901 through 41-5-924, MCA, are repealed.

24 NEW SECTION. Section 33. Effective date. This act is  
25 effective on July 1, 1983.

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 24

## 3 House Human Services Committee

4  
5 House Bill 24 requires a statement of intent because it  
6 authorizes the Department of Social and Rehabilitation  
7 Services to adopt rules to implement statutory changes in  
8 the delivery of services to youths.

9 The Legislature contemplates that the rules should  
10 address the following, among other things:

11 1. Consideration of aftercare programs for youth under  
12 the department's supervision.

13 2. Consideration of standards for facilities housing  
14 youth in need of care, youth in need of supervision, and  
15 delinquent youth. Such standards should be considered in  
16 licensing and delivery of service.

17 3. Consideration of measures associated with the  
18 allocation of placement budgets to judicial districts, with  
19 such measures including data on placement history and  
20 placement trends.

21 4. Consideration of the proper allocation of annual  
22 budgets for the out-of-home care of youth in need of  
23 supervision and delinquent youth. The funding formula used  
24 in budget allocations should include:

25 a. the total population of the judicial district;

1 b. the total youth population of the judicial  
2 district;

3 c. the total number and costs of placements in public  
4 facilities and out-of-home care facilities;

5 d. trends in population, placements, and local  
6 economics.

7 5. Consideration of measures to investigate parental  
8 contributions.

9 6. Consideration of specific measures for licensing  
10 the various youth facilities, including: facility  
11 acquisition, facility design, group home staffing, staff  
12 training, service goals and design, quality of services,  
13 client placement procedure, client rights and privileges,  
14 client grievance procedure, provider grievance procedure,  
15 accounting procedures including accounting of client  
16 financial resources, health and safety standards including  
17 water and waste disposal, food service, and laundry.



Approved by Comm. On Human Services

## HOUSE BILL NO. 24

INTRODUCED BY KEYSER, MENAHAN,

NORMAN, HEMSTAD, HAZUREK, HAGER

BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE

ON HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL SERVICES FOR YOUTH UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 76-2-314, MCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

(a) administer or supervise all forms of public assistance, child protection, and child welfare, including the provision of medical care payments in behalf of recipients of public assistance;

(b) administer or supervise all child welfare

activities, including:

(i) importation and exportation of children;

(ii) licensing of all children's foster family homes, group homes, child-care agencies and child-placing agencies;

(iii) the care of dependent and neglected children in substitute care placement and children who are free for adoption; and

(iv) the maintenance of supplemental day care for children; AND

~~ix) the care of youth in need of supervision placed by the youth court under the supervision of the department; and~~  
~~xi) all state and federal funds allocated to the department for youth foster homes, youth group homes, child-care agencies, and state programs for youth in need of care, youth in need of supervision, and delinquent youth;~~

(c) give consultant service to private institutions providing care for the needy, indigent, handicapped, or dependent adults;

(d) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(e) provide services in respect to organization and supervise county departments of public welfare and county

boards of public welfare in the administration of public assistance functions and for efficiency and economy;

(f) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions, when so requested, by performing services in conformity with public assistance purposes;

(g) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes; and

(h) make rules governing payment for services and supplies provided to recipients of public assistance.

(2) The department may:

(a) purchase, exchange, condemn, or receive by gift either real or personal property which is necessary to carry out its public assistance functions. Title to property obtained under this subsection shall be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to

be provided to recipients of public assistance."

Section 2. Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. For the purposes of the Montana Youth Court Act, unless otherwise stated the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means ~~the department of institutions, the department of social and rehabilitation services, and any division or department of either~~ any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Commit" means to transfer to legal custody.

(4) "Court", when used without further qualification, means the youth court of the district court.

~~(5) "Foster home" means a private residence approved by the court for placement of a youth.~~

~~(5) "FOSTER HOME" MEANS A PRIVATE RESIDENCE APPROVED BY THE COURT FOR PLACEMENT OF A YOUTH.~~

~~(6) "Guardianship"~~ <sup>(6)</sup> "Guardianship" means the status created and defined by law between a youth and an adult with the reciprocal rights, duties, and responsibilities.

~~(7) "Judge"~~ <sup>(7)</sup> "Judge", when used without further qualification, means the judge of the youth court.

~~(8) (a) "Legal custody"~~ <sup>(8)</sup> (a) "Legal custody" means the legal status

created by order of a court of competent jurisdiction that gives a person the right and duty to:

- (i) have physical custody of the youth;
- (ii) determine with whom the youth shall live and for what period;
- (iii) protect, train, and discipline the youth; and
- (iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise his rights and duties as guardian unless otherwise authorized by the court entering the order.

~~(10)~~ ~~(11)~~ ~~(12)~~ "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless his paternity is established by an adjudication or by other clear and convincing proof.

~~(13)~~ ~~(14)~~ ~~(15)~~ "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

~~(16)~~ ~~(17)~~ ~~(18)~~ ~~(19)~~ "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the youth court, the judge, and probation officers.

~~(20)~~ ~~(21)~~ ~~(22)~~ ~~(23)~~ "Delinquent youth" means a youth:

(a) who has committed an offense which, if committed by an adult, would constitute a criminal offense;

(b) who, having been placed on probation as a delinquent youth or a youth in need of supervision, violates any condition of his probation.

~~(24)~~ ~~(25)~~ ~~(26)~~ ~~(27)~~ "Youth in need of supervision" means a youth who commits an offense prohibited by law which, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

(a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;

(b) habitually disobeys the reasonable and lawful demands of his parents or guardian or is ungovernable and beyond their control;

(c) being subject to compulsory school attendance, is habitually truant from school; or

(d) has committed any of the acts of a delinquent youth but whom the youth court in its discretion chooses to regard as a youth in need of supervision.

~~(28)~~ ~~(29)~~ ~~(30)~~ ~~(31)~~ "Youth in need of care" means a youth as defined in 41-3-102.

~~(32)~~ ~~(33)~~ ~~(34)~~ ~~(35)~~ "Custodian" means a person other than a parent or guardian to whom legal custody of the youth has been given but does not include a person who has only physical custody.

~~(16)(15)(16)~~ "Necessary parties" include the youth, his parents, guardian, custodian, or spouse.

~~(17)(16)(17)~~ "State youth correctional facility" means a residential facility for the rehabilitation of delinquent youth such as Pine Hills school in Miles City, and Mountain View school in Helena, and Swan River youth forest camp.

~~(18)(17)(18)~~ "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

~~(19)(18)(19)~~ "Detention" means the temporary substitute care of youth in physically restricting facilities.

~~(20) "District youth guidance home" means a family-oriented residence established in a judicial district of the state of Montana as an alternative to existing state youth correctional facilities, the function of which is to provide a home and guidance through adult supervision for delinquent youths and youths in need of supervision.~~

~~(21)(19)(20)~~ "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made under the jurisdiction of a youth court proceeding.

~~(22)(21) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, directions and if necessary, treatment to youth who are removed from or~~

~~without the care and supervision of their parents or guardian. NOTHING IN THIS DEFINITION IS INTENDED TO INCLUDE JUVENILE CORRECTIONAL FACILITIES, EVALUATION FACILITIES, MENTAL HEALTH FACILITIES AND SERVICES, AND AFTERCARE PROGRAMS OPERATED BY THE DEPARTMENT OF INSTITUTIONS."~~

Section 3. Section 41-5-306, MCA, is amended to read:

"41-5-306. Place of shelter care or detention. (1) A youth alleged to be a delinquent youth or youth in need of supervision may be sheltered only in:

(a) a licensed youth foster home or a home approved by the court for the provision of shelter care of youth as defined in [section 7];

(b) a facility operated by a licensed child welfare agency; or

(c) a licensed attention youth group home or shelter facility which is operated by a nonprofit corporation or the youth court for the provision of shelter care of youth as defined in [section 7];

~~(d) any other suitable place or facility designated or operated by the court for the supervision of youth in shelter care.~~

(2) The youth may be detained in a jail or other facility for the detention of adults only if:

(a) the facilities in subsection (1) are not available or do not provide adequate security;

(b) the detention is in an area physically and visually separate and removed from those of adults;

(c) it appears to the satisfaction of the court that public safety and protection reasonably require detention; and

(d) the court so orders.

(3) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of 18 years is received at the facility. Such official shall bring the person before the court upon request or deliver him to a detention facility designated by the court.

(4) A youth alleged to be in need of care shall be placed only in the facilities stated in subsection (1) of this section and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses."

Section 4. Section 41-5-403, MCA, is amended to read:

"41-5-403. Disposition permitted under informal adjustment. (1) The following dispositions may be imposed by informal adjustment:

(a) probation;

(b) placement of the youth in a licensed foster home or other home approved by the court for substitute care into

a youth care facility as defined in (section 7);

(c) placement of 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 of legal custody of the youth to the department of institutions, provided that such commitment does not authorize the department of institutions to place the youth in a state youth correctional facility, and such commitment may not exceed a period of 6 months without a subsequent order of the court after notice and hearing;~~

(D) TRANSFER OF LEGAL CUSTODY OF THE YOUTH TO THE DEPARTMENT OF INSTITUTIONS, PROVIDED THAT SUCH COMMITMENT DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE THE YOUTH IN A STATE CORRECTIONAL FACILITY, AND SUCH COMMITMENT MAY NOT EXCEED A PERIOD OF 6 MONTHS WITHOUT A SUBSEQUENT ORDER OF THE COURT, AFTER NOTICE AND HEARING;

~~(e) (E) restitution upon approval of the youth court judge.~~

(2) In determining whether restitution is appropriate in a particular case, the following factors may be considered in addition to any other evidence:

(a) age of the youth;

(b) ability of the youth to pay;

(c) ability of the parents or legal guardian to pay;

(d) amount of damage to the victim; and

(e) legal remedies of the victim, however the ability of the victim or his insurer to stand any loss may not be considered in any case."

Section 5. 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 the youth for substitute care into a youth care facility as defined in [section 7]~~ 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) ~~in the case of a delinquent youth, 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 does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearing; PROVIDED, HOWEVER, THAT IN THE CASE OF A YOUTH IN NEED OF SUPERVISION, SUCH TRANSFER OF CUSTODY DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO~~

~~PLACE THE YOUTH IN A STATE YOUTH CORRECTIONAL FACILITY AND SUCH CUSTODY 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 considers beneficial to the youth, ~~consistent with subsection (1)(d) of this section;~~

(f) order restitution by the youth.

(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 older whom the court considers a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the department of institutions for a period not to exceed 45

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

18 (3) No youth may be committed or transferred to a  
 19 penal institution or other facility used for the execution  
 20 of sentence of adult persons convicted of crimes except as  
 21 provided by subsection (2)(b).

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

24 (5) Whenever the court vests legal custody in an  
 25 agency, institution, or department, it must transmit with

1 the dispositional judgment copies of a medical report and  
 2 such other clinical, predisposition, or other reports and  
 3 information pertinent to the care and treatment of the  
 4 youth.

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

#### 7 ORDER OF COMMITMENT

8 State of Montana )

9 ) ss.

10 County of ..... )

11 In the district court for the .... Judicial District.

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

16 It is ordered that .... be committed to the department  
 17 of institutions until .....

18 The names, addresses, and occupations of the parents  
 19 are:

20 Name	Address	Occupation
21 .....	.....	.....
22 .....	.....	.....

23 The names and addresses of their nearest relatives are:  
 24 .....

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

Judge"

**NEW SECTION.** Section 6. Establishment of substitute care for youth. The legislature, in recognition of the wide and varied needs of youth in need of care, delinquent youth, and youth in need of supervision of this state and of the desirability of meeting these needs on a community level to the fullest extent possible, establishes by this part a system of substitute care to provide facilities and services for youth placed out of their homes and establishes a program to provide such facilities and services through local nonprofit corporations and the department of social and rehabilitation services.

**NEW SECTION.** Section 7. Definitions. For the purposes of this part the following definitions apply:

(1) "Child-care agency" means a youth care facility in which substitute care is provided to 13 or more children or youth.

~~(2) "Community-based services to youth" means a system of services provided to youth in need of care, youth in need of supervision, and delinquent youth outside of an institution, including but not limited to the following:~~

~~(a) evaluation services;~~

~~(b) diagnostic services;~~

~~(c) treatment services;~~

~~(d) training services;~~

~~(e) education services;~~

~~(f) counseling services;~~

~~(g) information and referral services;~~

~~(h) protective and other social services;~~

~~(i) residential services.~~

~~(3)(2)~~ "Department" means the department of social and rehabilitation services.

~~(4)(3)~~ "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and if necessary, treatment to youth who are removed from or without the care and supervision of their parents or guardian.

~~(5)(4)~~ "Treatment facility" is a child-care agency providing the appropriate level of care.

~~(6)(5)~~ "Youth care facility" means a facility, licensed in accordance with 41-3-502 through 41-3-504, in which substitute care is provided to youth in need of care, youth in need of supervision, or delinquent youth and includes youth foster homes, youth group homes, and child-care agencies.

~~(7)(6)~~ "Youth foster home" means a youth care facility



in which substitute care is provided to one to six children or youth to whom the foster parents are not related by blood, marriage, adoption, or wardship.

~~(f)(11)~~ "Youth group home" means a youth care facility in which substitute care is provided to 7 to 12 children or youth.

**NEW SECTION.** Section 8. Powers and duties of department. (1) The department shall:

(a) administer all state and federal funds allocated to the department for youth foster homes, youth group homes, ~~AND child-care agencies, and community-based programs~~ for youth in need of care, youth in need of supervision, and delinquent youth;

(b) exercise licensing authority over all youth foster homes, youth group homes, and child-care agencies;

(c) collect and disseminate information relating to youth in need of care, youth in need of supervision, and delinquent youth;

(d) provide for training of program personnel delivering services;

~~(e) provide by rule for the evaluation of all community-based services to youth;~~

~~(f)(15)~~ in cooperation with the department of institutions and youth care facility providers, develop and implement standards for youth care facilities;

~~(g)(15)~~ apportion and allocate placement budgets to all judicial districts;

~~(h) develop an annual comprehensive plan for the initiation and maintenance of community-based services to youth; and~~

~~(i)(16)~~ seek public input on the plan prior to its adoption and implementation; **AND**

(H) MAINTAIN ADEQUATE DATA ON PLACEMENTS IT FUNDS IN ORDER TO KEEP THE LEGISLATURE PROPERLY INFORMED OF THE FOLLOWING:

(I) THE BREAKDOWN OF YOUTH IN NEED OF CARE, YOUTH IN NEED OF SUPERVISION, AND DELINQUENT YOUTH BY CATEGORY IN OUT-OF-HOME CARE FACILITIES;

(II) THE COST PER FACILITY FOR SERVICES RENDERED;

(III) THE TYPE AND LEVEL OF CARE OF SERVICES PROVIDED BY EACH FACILITY;

(IV) A PROFILE OF OUT-OF-HOME CARE PLACEMENTS BY LEVEL OF CARE; AND

(V) A PROFILE OF PUBLIC INSTITUTIONAL PLACEMENTS.

(2) The department may:

(a) enter into contracts with nonprofit corporations or associations to provide facilities and services for youth in need of care, youth in need of supervision, and delinquent youth;

(b) accept gifts, grants, and donations of money and

property from public and private sources to initiate and maintain community-based services to youth.

~~(3) THE DEPARTMENT SHALL PAY FOR ROOM, BOARD, CLOTHING, PERSONAL NEEDS, TRANSPORTATION, AND TREATMENT IN DISTRICT YOUTH GUIDANCE HOMES, SHELTER CARE PROGRAMS, AND FOSTER CARE HOMES FOR YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS WHO NEED TO BE PLACED IN SUCH FACILITIES. YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS AND PLACED IN RESIDENTIAL FACILITIES OTHER THAN THOSE DESCRIBED ABOVE SHALL NOT BE THE FINANCIAL RESPONSIBILITY OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNLESS SUCH PLACEMENTS HAVE BEEN APPROVED IN ADVANCE BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES.~~

**NEW SECTION.** Section 9. Apportionment **ALLOCATION** of money to judicial districts. (1) The department shall apportion--and allocate placement budgets, based upon historical placement patterns and current placement trends, to the judicial districts for the substitute care of youth in need of supervision or delinquent youth.

(2) The placement budgets may be monitored by a youth court committee as provided for in 41-5-105 or a foster care review committee as provided for in 41-5-807.

Section 10. Section 41-5-801, MCA, is amended to read:

~~"41-5-801. Shelter--care--and--foster--homes Foster care payments for youth court placements. (1) The youth court may~~

~~establish--procedures--for--finding--maintaining--and administering--shelter--care--and--foster--homes--or--other--homes approved--by--the--court--for--youth--within--the--provisions--of this--chapter. (1) THE YOUTH COURT MAY ESTABLISH PROCEDURES FOR FINDING, MAINTAINING, AND ADMINISTERING SHELTER CARE AND FOSTER HOMES APPROVED BY THE COURT FOR YOUTH WITHIN THE PROVISIONS OF THIS CHAPTER.~~

~~(2)(2) Pursuant to 41-3-104, the department of--social and--rehabilitation--services shall finance--foster--homes established make a foster care payment for a child placed by the youth court if:~~

~~(a) the foster-home child is placed in a youth care facility licensed by the department or by an appropriate licensing authority from another state;~~

~~(b) the youth court enters into an agreement according to federal regulations with the department for the placement of children;~~

~~(c) the placement of the child is reviewed as required by 41-5-807; and~~

~~(d) the youth court retains supervision of the child in placement.~~

~~(3) The--licensed--shelter--care--and--foster--homes established--under--this--section--shall--be--funded--at--a--rate constant--with--other--shelter--care--and--foster--homes established--for--other--purposes--under--law--Shelter--care--as~~

~~defined---by---this---chapter---may---be---funded---through---state  
appropriation---to---the---youth---courts---and---the---departments---of  
institutions---and---social---and---rehabilitation---services."~~

Section 11. Section 41-3-104, MCA, is amended to read:

"41-3-104. Payment for support of youth in need of care, youth in need of supervision, or delinquent youth -- reimbursement by county. (1) Whenever agreements are entered into by the department of ~~social and rehabilitation services~~ or the court for placing a youth in need of care, a youth in need of supervision, or a delinquent youth in a ~~licensed family foster home, child care agency, group home, or treatment youth care~~ facility, the department shall pay by its check or draft each month from any funds appropriated for that purpose the entire amount agreed upon for board, clothing, personal needs, ~~treatments~~, and room of the children.

(2) On or before the 20th of each month the department shall present a claim to the county of residence of the children for no more than one-half the payments so made during the month. The county must make reimbursement to the department within 20 days after the claim is presented.

(3) The department shall conduct or arrange for the review required under 41-5-807 of a child placed in a ~~licensed family foster home, child care agency, group home, or treatment youth care~~ facility if the child is placed

under the supervision of the department or placed by the department or the department pays for the care of the child as set forth in this section."

~~NEW SECTION. Section 12. Time limitations on youth court placements. (1) If the court has determined that a youth be placed in a licensed youth care facility as provided in 41-5-403 or 41-5-522 and the youth has not been placed within 10 working days of such determination, the probation officer, a representative of the department, and a representative of the elementary or high school district in which the youth resides must meet to determine three appropriate placement alternatives.~~

~~(2) The three placement alternatives shall be presented to the youth court judge for his consideration within 15 working days of the information adjustment or dispositional hearing.~~

~~(3) If the judge then orders the placement of the youth in a facility other than one of the three alternatives presented to him, he must state the reason for ordering such placements.~~

~~(4) Delays resulting from court ordered evaluation of the youth are not included in the 15 day time limitations.~~

Section 12. Section 41-3-405, MCA, is amended to read:

"41-3-405. Investigation of parents' or guardian's financial ability. (1) Whenever a court determines a youth

to be an abused, neglected, or dependent child pursuant to 41-3-404, the court shall issue an order directing the county welfare department of the county in which the petition was filed to conduct an investigation of the financial status of the child's parents or the extent of guardianship assets.

(2) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the child and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the child in a foster-home, child-care-agency, group-home, or private treatment ~~youth care~~ facility. A written report of the investigation shall be filed with the clerk of court before the time fixed for the dispositional hearing.

(3) A copy of the written report shall be provided to all parties to the proceeding before the time set for the dispositional hearing."

Section 13. Section 41-5-805, MCA, is amended to read:

"41-5-805. Financial investigation by county welfare department. (1) Whenever a disposition under 41-5-403, 41-5-523, or 41-5-524 involves placement in a foster-home, child-care-agency, group-home, or private treatment youth care facility and the department of ~~social and~~

rehabilitation-services is responsible for all or part of the cost of such placement, the probation officer or the court shall notify the department of ~~social and~~ rehabilitation-services and order the county welfare department in the youth's county of residence to conduct an investigation of the financial status of the youth's parents or guardianship assets. Following an adjudicatory hearing in which a youth is determined to be a delinquent youth or a youth in need of supervision, the court may order the county welfare department to conduct a financial status investigation.

(2) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the youth and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the youth in the foster home, child care agency, group home, or private treatment facility. A written report of the investigation shall be filed with the court having jurisdiction, the department of social and rehabilitation services, and the department of institutions, and a copy shall be sent to the parents or guardian of the youth or to any other party to the proceeding."

Section 14. Section 41-3-407, MCA, is amended to read:

"41-3-407. Order for financial support. (1) Whenever a

1 youth is placed in a ~~foster-homey-child-care-agencyy-group~~  
 2 ~~homey--or--private--treatment~~ youth\_care facility under  
 3 41-3-406, the court shall determine the ability of the  
 4 youth's parents or guardian to contribute to the support of  
 5 the youth or the adequacy of the guardianship assets to  
 6 provide a contribution. This question of financial ability  
 7 shall be considered at the dispositional hearing, and  
 8 evidence concerning financial status may be introduced. In  
 9 determining financial ability the court shall consider the  
 10 report prepared pursuant to 41-3-405 and any other evidence  
 11 introduced at the dispositional hearing.

12 (2) If the court determines that the parents are able  
 13 to contribute to the support of the youth or that the  
 14 guardianship assets are adequate to provide a contribution,  
 15 the court shall issue an order directing the parents or  
 16 guardian to make specified payments to the department of  
 17 social and rehabilitation services to the extent considered  
 18 appropriate under the circumstances. Payments required of a  
 19 guardian may not exceed the funds available from  
 20 guardianship assets. Upon a showing of change in financial  
 21 ability, the court may modify the order."

22 Section 15. Section 41-3-105, MCA, is amended to read:

23 "41-3-105. Recovery from parents or guardianship  
 24 assets -- division between state and county. (1) In the  
 25 event any recovery is made from the parent or parents or

1 guardianship assets of children for whom board, clothing,  
 2 personal needs, and room have been paid by the state and  
 3 county, any amount so recovered shall be divided equally  
 4 between the department and the county of residence of such  
 5 child or children.

6 (2) Any amount collected from the parents or  
 7 guardianship assets when a child is placed in a ~~foster-homey~~  
 8 ~~child-care-agencyy-group-homey-or--private--treatment~~ youth  
 9 care facility shall be transmitted to the department of  
 10 social and rehabilitation services. The department shall  
 11 then pay to the county one-half of the amount so collected."

12 Section 16. Section 41-3-501, MCA, is amended to read:

13 "41-3-501. Definitions. (1) Any person owning or  
 14 operating a ~~home-or-institution~~ youth\_care\_facility into  
 15 which ~~home-or-institution~~ he takes any child or children for  
 16 the purpose of caring for them and maintaining them and for  
 17 which care and maintenance he receives money or other  
 18 consideration of value, and which child is neither his son,  
 19 daughter, nor ward shall be deemed to be an "operator" of a  
 20 "~~foster--home-or-boardng-home~~" "youth\_care\_facility" within  
 21 the meaning of this chapter, except that this chapter shall  
 22 not apply when any person accepts such care and custody of  
 23 such child on a temporary basis and simply as a temporary  
 24 accommodation for the parent or parents, guardian, or  
 25 relative of such child.

(2) The word "person" where used in this chapter shall include any individual, partnership, voluntary association, or corporation."

**NEW SECTION.** Section 17. Rules. The department may adopt rules to carry out the administration and purposes of this part.

**NEW SECTION.** Section 18. Power of nonprofit corporations to establish homes and to receive facilities and funds. Nonprofit corporations or associations may be formed or organized for the purpose of establishing youth care facilities or to provide community-based services and to receive from the department and other governmental units such services, facilities, ~~TRAINING~~, and funds as the department or other governmental units may be authorized by law to provide.

**NEW SECTION.** Section 19. Governmental contracts with nonprofit organizations. (1) The department may contract with nonprofit corporations or associations to provide facilities and services for youth in need of care, youth in need of supervision, and delinquent youth in youth care facilities and is authorized to expend such money as is appropriated or available therefor. SUCH CONTRACTS SHALL BE BASED ON THE FOLLOWING CONSIDERATIONS:

(A) BUDGETS SUBMITTED BY THE NONPROFIT CORPORATION OR ASSOCIATION IDENTIFYING FIXED AND VARIABLE COSTS;

(B) REASONABLE COSTS OF SERVICE;

(C) APPROPRIATION LEVEL; AND

(D) AVAILABILITY OF FUNDS.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning, are authorized, at their own expense, to provide funds, materials, facilities, and services for community-based services.

Section 20. Section 41-3-502, MCA, is amended to read:

"41-3-502. License required. No person shall maintain or operate a ~~foster-or-boarding-home~~ youth care facility for any child or children within the meaning of this chapter without first securing a license in writing from the department ~~of--social--and--rehabilitation--services~~. No fee shall be charged for such license."

Section 21. Section 41-3-503, MCA, is amended to read:

"41-3-503. Issuance of license -- authority of issuing agency. The department ~~of--social--and--rehabilitation--services~~ is hereby authorized to issue licenses to persons ~~conducting boarding-or-foster-homes~~ operating youth care facilities and to prescribe the conditions upon which such licenses shall be issued and to make such rules as it may deem advisable for the operation and regulation of ~~foster--and--boarding homes~~ such facilities for minor children consistent with the welfare of such children. Such licensing agency shall have

the power and authority to inspect all such licensed foster and boarding homes facilities through its duly authorized representatives and to cancel licenses theretofore issued for the failure to observe such rules. The person operating such homes shall give to such representative such information as may be required and afford him every reasonable facility opportunity for observing the operation of such homes."

Section 22. Section 41-3-504, MCA, is amended to read:

"41-3-504. Penalty. Any person who maintains or conducts operates a foster or boarding home youth care facility or assists in conducting operating or maintaining such home facility without having first obtained a license in writing as hereto provided shall be guilty of a misdemeanor and upon conviction be punished by a fine not to exceed \$100."

Section 24. Section 41-5-002, MCA, is amended to read:

"41-5-002. Shelter care and detention Retention facilities (1) (a) In all counties the county commissioners may provide by purchase lease or otherwise a place to be known as the youth detention facility which shall not be used for the confinement of adult persons charged with criminal offenses where delinquent youths and youths in need of supervision may be detained until final disposition which place shall be maintained by the county as in other

like cases

(b) (1) The judge having jurisdiction may appoint such personnel as required who shall have charge of said facility and of the youths detained therein

(c) (1) The compensation of such personnel shall be fixed by the court and such compensation and the maintaining of such facility shall be paid out of the county treasury which may be supplemented by state appropriation and federal funds

(2) (a) Youth courts and nonprofit corporations may provide by purchase lease or otherwise a place to be known as a shelter care facility

(b) Such facility shall be physically unrestricted and may be used to provide shelter care for youth alleged or adjudicated delinquent in need of supervision or in need of care

(c) Such facility shall be separate and apart from any facility housing adults charged with criminal offenses

(d) State appropriations and federal funds may be received by the youth court or private nonprofit corporations for establishment maintenance or operation of such facility

(e) Such facility shall be furnished in a comfortable manner and be as nearly as possible like a family home

NEW SECTION. Section 23. Petition for placement in

facility or home. Any person between the ages of 18 and 21 years, who is still within the jurisdiction of the youth court, or any person under the age of 18 years may petition the youth court of a district in which a youth care facility has been established to be placed in such a facility or in any other home approved by the court for any period of time up to the person's 21st birthday.

**NEW SECTION.** Section 24. Authority of Judge to commit youth. A youth court judge may in his discretion place a delinquent youth or a youth in need of supervision in a youth care facility for any period of time up to the child's 21st birthday, subject to the approval of the facility's sponsoring nonprofit corporation or association.

**NEW SECTION.** Section 25. Continuing jurisdiction of youth court. The youth court placing a delinquent youth or a child in need of supervision in a youth care facility retains continuing jurisdiction over the youth until the youth becomes 21 years of age or is otherwise discharged by order of the court.

**NEW SECTION.** Section 26. Aftercare facilities. (1) The department of institutions may establish, maintain, and administer YOUTH CORRECTION FACILITIES, EVALUATION FACILITIES, MENTAL HEALTH FACILITIES AND SERVICES, AFTERCARE PROGRAMS, AND aftercare facilities for the care, custody, and treatment of youth who have been committed to the

department.

(2) Aftercare facilities are under the licensing authority of the department.

Section 27. Section 20-15-403, MCA, is amended to read:

"20-15-403. Applications of other school district provisions. (1) When the term "school district" appears in the following sections outside of Title 20, the term includes community college districts and the provisions of those sections applicable to school districts apply to community college districts: 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108, 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, 18-1-105, 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-602, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 40-6-237, 41-5-912 [section 20], 49-3-101, 49-3-102, 53-20-304, 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules 40(2)(g) and 15(c), M.R.Civ.P., as amended.



(2) When the term "school district" appears in a section outside of Title 20 but the section is not listed in subsection (1), the school district provision does not apply to a community college district."

Section 28. Section 76-2-313, MCA, is amended to read:

"76-2-313. Definition of community residential facility. "Community residential facility" means:

(1) a group, foster, or other home specifically provided as a place of residence for developmentally disabled or handicapped persons who do not require nursing care;

(2) a district youth guidance group home established pursuant to 41-5-903 as defined in [section 7];

(3) a halfway house operated in accordance with regulations of the department of health and environmental sciences for the rehabilitation of alcoholics or drug dependent persons; or

(4) a licensed adult foster family care home."

Section 29. Section 76-2-314, MCA, is amended to read:

"76-2-314. Relationship of foster homes, boarding youth group homes, and community residential facilities to zoning. (1) A foster or boarding youth group home operated under the provision provisions of 41-3-501 through 41-3-504 or community residential facility serving eight or fewer persons is considered a residential use of property for

purposes of zoning if the home provides care on a 24-hour-a-day basis.

(2) The homes are a permitted use in all residential zones, including but not limited to residential zones for single-family dwellings. Any safety or sanitary regulation of the department or any other agency of the state or political subdivision thereof which is not applicable to residential occupancies in general may not be applied to a community residential facility serving eight or fewer persons.

(3) Nothing in this section shall be construed to prohibit a city or county from requiring a conditional use permit in order to maintain a home pursuant to the provisions of this section provided such home is licensed by the department of health and environmental sciences and the department of social and rehabilitation services."

NEW SECTION. Section 30. Administration. The provisions of Title 41, chapter 3, part 11, govern the administration of this chapter.

NEW SECTION. Section 31. Codification and code commissioner instructions. (1) Section 32 30 is intended to be codified as an integral part of Title 41, chapter 5, and the provisions of Title 41, chapter 5, apply to section 32 30.

(2) Sections 6, 7, 8, 9, 12 17, 18, 19, 20, and 25 23

through 28 26 are intended to be codified as a new part 11 in Title 41, chapter 3, and the provisions of Title 41, chapter 3, apply to such sections.

(3) (a) Sections 41-3-405 and 41-5-805, MCA, are to be combined.

(b) Sections 41-3-407 and 41-5-806, MCA, are to be combined.

(c) The sections enumerated in subsections (3)(a) and (b) are to be combined into single sections. They are intended to be renumbered and recodified as integral parts of Title 41, chapter 3, part 11, and the provisions of Title 41, chapter 3, apply to them. Such sections, when combined, may not contain redundant subsections.

(4) Sections 41-3-104, 41-3-105, 41-3-501 through 41-3-504, 41-5-302, 41-5-801, 41-5-804, and 41-5-807, MCA, are intended to be recodified and renumbered as an integral part of Title 41, chapter 3, part 11, and the provisions of Title 41, chapter 3, apply to those sections.

(5) The code commissioner is authorized to change internal references in the MCA to reflect the renumbering and recodification required by this section.

**NEW SECTION.** Section 32. Repealer. Sections 41-5-803 and 41-5-901 through 41-5-924, MCA, are repealed.

**NEW SECTION.** Section 33. Effective date. This act is effective on July 1, 1983.

March 23, 1983

SENATE STANDING COMMITTEE REPORT  
(Judiciary)

That House Bill No. 24 be amended as follows:

1. Statement of Intent, Page 2.

Following: line 17

Insert: "The department should also develop plans that inform youth courts about budgeted amounts available for placements during the fiscal year within the limits of appropriations.

The department will on a regular basis advise the youth courts on the status of such budgeted amounts. Payment for placements will be in accordance with 41-3-104."

2. Page 10, line 1.

Following: "[section 7]"

Insert: "or into a home approved by the court"

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 24

## 3 House Human Services Committee

4  
5 House Bill 24 requires a statement of intent because it  
6 authorizes the Department of Social and Rehabilitation  
7 Services to adopt rules to implement statutory changes in  
8 the delivery of services to youths.

9 The Legislature contemplates that the rules should  
10 address the following, among other things:

11 1. Consideration of aftercare programs for youth under  
12 the department's supervision.

13 2. Consideration of standards for facilities housing  
14 youth in need of care, youth in need of supervision, and  
15 delinquent youth. Such standards should be considered in  
16 licensing and delivery of service.

17 3. Consideration of measures associated with the  
18 allocation of placement budgets to judicial districts, with  
19 such measures including data on placement history and  
20 placement trends.

21 4. Consideration of the proper allocation of annual  
22 budgets for the out-of-home care of youth in need of  
23 supervision and delinquent youth. The funding formula used  
24 in budget allocations should include:

25 a. the total population of the judicial district;

1 b. the total youth population of the judicial  
2 district;

3 c. the total number and costs of placements in public  
4 facilities and out-of-home care facilities;

5 d. trends in population, placements, and local  
6 economics.

7 5. Consideration of measures to investigate parental  
8 contributions.

9 6. Consideration of specific measures for licensing  
10 the various youth facilities, including: facility  
11 acquisition, facility design, group home staffing, staff  
12 training, service goals and design, quality of services,  
13 client placement procedure, client rights and privileges,  
14 client grievance procedure, provider grievance procedure,  
15 accounting procedures including accounting of client  
16 financial resources, health and safety standards including  
17 water and waste disposal, food service, and laundry.

18 THE DEPARTMENT SHOULD ALSO DEVELOP PLANS THAT INFORM  
19 YOUTH COURTS ABOUT BUDGETED AMOUNTS AVAILABLE FOR PLACEMENTS  
20 DURING THE FISCAL YEAR WITHIN THE LIMITS OF APPROPRIATIONS.  
21 THE DEPARTMENT WILL ON A REGULAR BASIS ADVISE THE YOUTH  
22 COURTS ON THE STATUS OF SUCH BUDGETED AMOUNTS. PAYMENT FOR  
23 PLACEMENTS WILL BE IN ACCORDANCE WITH 41-3-104.

## HOUSE BILL NO. 24

INTRODUCED BY KEYSER, MENAHAN,

NORMAN, HEMSTAD, MAZUREK, HAGER

BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE

ON HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR COMMUNITY-BASED ~~RESIDENTIAL~~ SERVICES FOR YOUTH UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 76-2-314, MCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

(a) administer or supervise all forms of public assistance, child protection, and child welfare, including the provision of medical care payments in behalf of recipients of public assistance;

(b) administer or supervise all child welfare

activities, including:

(i) importation and exportation of children;

(ii) licensing of all children's foster family homes, group homes, child-care agencies and child-placing agencies;

(iii) the care of dependent and neglected children in substitute care placement and children who are free for adoption; and

(iv) the maintenance of supplemental day care for children; AND

~~vi) the care of youth in need of supervision placed by the youth court under the supervision of the department; and~~  
~~vii) (V) all state and federal funds allocated to the department for youth foster homes, youth group homes, child-care agencies, and state programs for youth in need of care, youth in need of supervision, and delinquent youth;~~

(c) give consultant service to private institutions providing care for the needy, indigent, handicapped, or dependent adults;

(d) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(e) provide services in respect to organization and supervise county departments of public welfare and county

1 boards of public welfare in the administration of public  
2 assistance functions and for efficiency and economy;

3 (f) assist and cooperate with other state and federal  
4 departments, bureaus, agencies, and institutions, when so  
5 requested, by performing services in conformity with public  
6 assistance purposes;

7 (g) administer all state and federal funds allocated  
8 to the department for public assistance and do all things  
9 necessary, in conformity with federal and state law, for the  
10 proper fulfillment of public assistance purposes; and

11 (h) make rules governing payment for services and  
12 supplies provided to recipients of public assistance.

13 (2) The department may:

14 (a) purchase, exchange, condemn, or receive by gift  
15 either real or personal property which is necessary to carry  
16 out its public assistance functions. Title to property  
17 obtained under this subsection shall be taken in the name of  
18 the state of Montana for the use and benefit of the  
19 department.

20 (b) contract with the federal government to carry out  
21 its public assistance functions. The department may do all  
22 things necessary in order to avail itself of federal aid and  
23 assistance.

24 (c) make rules, consistent with state and federal law,  
25 establishing the amount, scope, and duration of services to

1 be provided to recipients of public assistance."

2 Section 2. Section 41-5-103, MCA, is amended to read:

3 "41-5-103. Definitions. For the purposes of the  
4 Montana Youth Court Act, unless otherwise stated the  
5 following definitions apply:

6 (1) "Adult" means an individual who is 18 years of age  
7 or older.

8 (2) "Agency" means ~~the department of institutions, the~~  
9 ~~department of social and rehabilitation services, and any~~  
10 ~~division or department of either~~ any entity of state or  
11 local government authorized by law to be responsible for the  
12 care or rehabilitation of youth.

13 (3) "Commit" means to transfer to legal custody.

14 (4) "Court", when used without further qualification,  
15 means the youth court of the district court.

16 ~~(5) "Foster home" means a private residence approved~~  
17 ~~by the court for placement of a youth.~~

18 (5) "FOSTER HOME" MEANS A PRIVATE RESIDENCE APPROVED  
19 BY THE COURT FOR PLACEMENT OF A YOUTH.

20 ~~(6) (5) (6) "Guardianship"~~ means the status created and  
21 defined by law between a youth and an adult with the  
22 reciprocal rights, duties, and responsibilities.

23 ~~(7) (6) (7) "Judge"~~, when used without further  
24 qualification, means the judge of the youth court.

25 ~~(8) (7) (8) (a) "Legal custody"~~ means the legal status

created by order of a court of competent jurisdiction that gives a person the right and duty to:

- (i) have physical custody of the youth;
- (ii) determine with whom the youth shall live and for what period;
- (iii) protect, train, and discipline the youth; and
- (iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise his rights and duties as guardian unless otherwise authorized by the court entering the order.

~~(10)~~~~(11)~~ "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless his paternity is established by an adjudication or by other clear and convincing proof.

~~(10)~~~~(11)~~ "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

~~(11)~~~~(12)~~ "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the youth court, the judge, and probation officers.

~~(12)~~~~(13)~~ "Delinquent youth" means a youth:

(a) who has committed an offense which, if committed by an adult, would constitute a criminal offense;

(b) who, having been placed on probation as a delinquent youth or a youth in need of supervision, violates any condition of his probation.

~~(13)~~~~(14)~~ "Youth in need of supervision" means a youth who commits an offense prohibited by law which, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

(a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;

(b) habitually disobeys the reasonable and lawful demands of his parents or guardian or is ungovernable and beyond their control;

(c) being subject to compulsory school attendance, is habitually truant from school; or

(d) has committed any of the acts of a delinquent youth but whom the youth court in its discretion chooses to regard as a youth in need of supervision.

~~(14)~~~~(15)~~ "Youth in need of care" means a youth as defined in 41-3-102.

~~(15)~~~~(16)~~ "Custodian" means a person other than a parent or guardian to whom legal custody of the youth has been given but does not include a person who has only physical custody.

1       ~~(16)(15)(16)~~ "Necessary parties" include the youth, his  
2       parents, guardian, custodian, or spouse.

3       ~~(17)(16)(17)~~ "State youth correctional facility" means  
4       a residential facility for the rehabilitation of delinquent  
5       youth such as Pine Hills school in Miles City, and Mountain  
6       View school in Helena, and Swan River youth forest camp.

7       ~~(18)(17)(18)~~ "Shelter care" means the temporary  
8       substitute care of youth in physically unrestricting  
9       facilities.

10       ~~(19)(18)(19)~~ "Detention" means the temporary substitute  
11       care of youth in physically restricting facilities.

12       ~~(20) "District youth guidance home" means a~~  
13       ~~family-oriented residence established in a judicial district~~  
14       ~~of the state of Montana as an alternative to existing state~~  
15       ~~youth correctional facilities, the function of which is to~~  
16       ~~provide a home and guidance through adult supervision for~~  
17       ~~delinquent youths and youths in need of supervision.~~

18       ~~(21)(19)(20)~~ "Restitution" means payments in cash to  
19       the victim or with services to the victim or the general  
20       community when these payments are made under the  
21       jurisdiction of a youth court proceeding.

22       ~~(22)(21)~~ "Substitute care" means full-time care of  
23       youth in a residential setting for the purpose of providing  
24       foods, shelter, security and safety, guidance, direction, and  
25       if necessary, treatment to youth who are removed from or

1       ~~without the care and supervision of their parents or~~  
2       ~~guardian. NOTHING IN THIS DEFINITION IS INTENDED TO INCLUDE~~  
3       ~~JUVENILE CORRECTIONAL FACILITIES, EVALUATION FACILITIES,~~  
4       ~~MENTAL HEALTH FACILITIES AND SERVICES, AND AFTERCARE~~  
5       ~~PROGRAMS OPERATED BY THE DEPARTMENT OF INSTITUTIONS."~~

6       Section 3. Section 41-5-306, MCA, is amended to read:

7       "41-5-306. Place of shelter care or detention. (1) A  
8       youth alleged to be a delinquent youth or youth in need of  
9       supervision may be sheltered only in:

10       (a) a licensed youth foster home or a home approved by  
11       the court for the provision of shelter care of youth as  
12       defined in [section 7];

13       (b) a facility operated by a licensed child welfare  
14       agency; or

15       (c) a licensed attention youth group home or shelter  
16       facility which is operated by a nonprofit corporation or the  
17       youth court for the provision of shelter care of youth as  
18       defined in [section 7].

19       ~~(d) any other suitable place or facility designated or~~  
20       ~~operated by the court for the supervision of youth in~~  
21       ~~shelter care.~~

22       (2) The youth may be detained in a jail or other  
23       facility for the detention of adults only if:

24       (a) the facilities in subsection (1) are not available  
25       or do not provide adequate security;



(b) the detention is in an area physically and visually separate and removed from those of adults;

(c) it appears to the satisfaction of the court that public safety and protection reasonably require detention; and

(d) the court so orders.

(3) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of 18 years is received at the facility. Such official shall bring the person before the court upon request or deliver him to a detention facility designated by the court.

(4) A youth alleged to be in need of care shall be placed only in the facilities stated in subsection (1) of this section and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses."

Section 4. Section 41-5-403, MCA, is amended to read:

"41-5-403. Disposition permitted under informal adjustment. (1) The following dispositions may be imposed by informal adjustment:

(a) probation;

(b) placement of the youth in a licensed foster home or other home approved by the court for substitute care into

a youth care facility as defined in [section 7] OR INTO A HOME APPROVED BY THE COURT;

(c) placement of 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 of legal custody of the youth to the department of institutions provided that such commitment does not authorize the department of institutions to place the youth in a state youth correctional facility and such commitment may not exceed a period of 6 months without a subsequent order of the court after notice and hearing;~~

(D) TRANSFER OF LEGAL CUSTODY OF THE YOUTH TO THE DEPARTMENT OF INSTITUTIONS, PROVIDED THAT SUCH COMMITMENT DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE THE YOUTH IN A STATE CORRECTIONAL FACILITY, AND SUCH COMMITMENT MAY NOT EXCEED A PERIOD OF 6 MONTHS WITHOUT A SUBSEQUENT ORDER OF THE COURT, AFTER NOTICE AND HEARING;

~~(e) (1) restitution upon approval of the youth court judge.~~

(2) In determining whether restitution is appropriate in a particular case, the following factors may be considered in addition to any other evidence:

(a) age of the youth;

(b) ability of the youth to pay;

(c) ability of the parents or legal guardian to pay;

(d) amount of damage to the victim; and

(e) legal remedies of the victim, however the ability of the victim or his insurer to stand any loss may not be considered in any case."

Section 5. 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~~ the youth for substitute care into a youth care facility as defined in [Section 7] 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) ~~in the case of a delinquent youth~~ 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 does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearings.~~ PROVIDED, HOWEVER, THAT IN THE CASE OF A YOUTH IN NEED OF SUPERVISION, SUCH TRANSFER OF

CUSTODY DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE THE YOUTH IN A STATE YOUTH CORRECTIONAL FACILITY AND SUCH CUSTODY 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 considers beneficial to the youth ~~consistent with subsection (1)(d) of this section;~~

(f) order restitution by the youth.

(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 older whom the court considers a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the

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

19 (3) No youth may be committed or transferred to a  
 20 penal institution or other facility used for the execution  
 21 of sentence of adult persons convicted of crimes except as  
 22 provided by subsection (2)(b).

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

25 (5) Whenever the court vests legal custody in an

1 agency, institution, or department, it must transmit with  
 2 the dispositional judgment copies of a medical report and  
 3 such other clinical, predisposition, or other reports and  
 4 information pertinent to the care and treatment of the  
 5 youth.

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

#### 8 ORDER OF COMMITMENT

9 State of Montana )

10 ) ss.

11 County of ..... )

12 In the district court for the .... Judicial District.

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

17 It is ordered that .... be committed to the department  
 18 of institutions until .....

19 The names, addresses, and occupations of the parents  
 20 are:

21 Name	Address	Occupation
22 .....	.....	.....
23 .....	.....	.....

24 The names and addresses of their nearest relatives are:

1 .....  
 2 .....  
 3 Witness my hand this .... day of ...., A.D. 19...  
 4 .....  
 5 Judge"

6 **NEW\_SECTION.** Section 6. Establishment of substitute  
 7 care for youth. The legislature, in recognition of the wide  
 8 and varied needs of youth in need of care, delinquent youth,  
 9 and youth in need of supervision of this state and of the  
 10 desirability of meeting these needs on a community level to  
 11 the fullest extent possible, establishes by this part a  
 12 system of substitute care to provide facilities and services  
 13 for youth placed out of their homes and establishes a  
 14 program to provide such facilities and services through  
 15 local nonprofit corporations and the department of social  
 16 and rehabilitation services.

17 **NEW\_SECTION.** Section 7. Definitions. For the purposes  
 18 of this part the following definitions apply:

19 (1) "Child-care agency" means a youth care facility in  
 20 which substitute care is provided to 13 or more children or  
 21 youth.

22 ~~(2) "Community-based services to youth" means a system~~  
 23 ~~of services provided to youth in need of care, youth in need~~  
 24 ~~of supervision, and delinquent youth outside of an~~  
 25 ~~institution, including but not limited to the following:~~

1 ~~(a) "evaluation services"~~  
 2 ~~(b) "diagnostic services"~~  
 3 ~~(c) "treatment services"~~  
 4 ~~(d) "training services"~~  
 5 ~~(e) "education services"~~  
 6 ~~(f) "counseling services"~~  
 7 ~~(g) "information and referral services"~~  
 8 ~~(h) "protective and other social services"~~  
 9 ~~(i) "residential services"~~  
 10 ~~(5)(2)~~ "Department" means the department of social and  
 11 rehabilitation services.  
 12 ~~(4)(3)~~ "Substitute care" means full-time care of youth  
 13 in a residential setting for the purpose of providing food,  
 14 shelter, security and safety, guidance, direction, and if  
 15 necessary, treatment to youth who are removed from or  
 16 without the care and supervision of their parents or  
 17 guardian.  
 18 ~~(5)(4)~~ "Treatment facility" is a child-care agency  
 19 providing the appropriate level of care.  
 20 ~~(6)(5)~~ "Youth care facility" means a facility,  
 21 licensed in accordance with 41-3-502 through 41-3-504, in  
 22 which substitute care is provided to youth in need of care,  
 23 youth in need of supervision, or delinquent youth and  
 24 includes youth foster homes, youth group homes, and  
 25 child-care agencies.

1        ~~(f)(6)~~ "Youth foster home" means a youth care facility  
 2        in which substitute care is provided to one to six children  
 3        or youth to whom the foster parents are not related by  
 4        blood, marriage, adoption, or wardship.

5        ~~(f)(7)~~ "Youth group home" means a youth care facility  
 6        in which substitute care is provided to 7 to 12 children or  
 7        youth.

8        ~~NEW SECTION.~~ Section 8. Powers and duties of  
 9        department. (1) The department shall:

10        (a) administer all state and federal funds allocated  
 11        to the department for youth foster homes, youth group homes,  
 12        ~~AND child-care agencies, and community-based programs~~ for  
 13        youth in need of care, youth in need of supervision, and  
 14        delinquent youth;

15        (b) exercise licensing authority over all youth foster  
 16        homes, youth group homes, and child-care agencies;

17        (c) collect and disseminate information relating to  
 18        youth in need of care, youth in need of supervision, and  
 19        delinquent youth;

20        (d) provide for training of program personnel  
 21        delivering services;

22        ~~(e) provide by rule for the evaluation of all~~  
 23        ~~community-based services to youth~~

24        ~~(f)(1)~~ in cooperation with the department of  
 25        institutions and youth care facility providers, develop and

1        implement standards for youth care facilities;

2        ~~(g)(1)~~ apportion and allocate placement budgets to all  
 3        judicial districts;

4        ~~(h) develop an annual comprehensive plan for the~~  
 5        ~~initiation and maintenance of community-based services to~~  
 6        ~~youth and~~

7        ~~(i)(1)~~ seek public input on the plan prior to its  
 8        adoption and implementation; ~~AND~~

9        ~~(H) MAINTAIN ADEQUATE DATA ON PLACEMENTS II FUNDS IN~~  
 10        ~~ORDER TO KEEP THE LEGISLATURE PROPERLY INFORMED OF THE~~  
 11        ~~FOLLOWING:~~

12        ~~(I) THE BREAKDOWN OF YOUTH IN NEED OF CARE, YOUTH IN~~  
 13        ~~NEED OF SUPERVISION, AND DELINQUENT YOUTH BY CATEGORY IN~~  
 14        ~~OUT-OF-HOME CARE FACILITIES;~~

15        ~~(II) THE COST PER FACILITY FOR SERVICES RENDERED;~~

16        ~~(III) THE TYPE AND LEVEL OF CARE OF SERVICES PROVIDED~~  
 17        ~~BY EACH FACILITY;~~

18        ~~(IV) A PROFILE OF OUT-OF-HOME CARE PLACEMENTS BY LEVEL~~  
 19        ~~OF CARE; AND~~

20        ~~(V) A PROFILE OF PUBLIC INSTITUTIONAL PLACEMENTS.~~

21        (2) The department may:

22        (a) enter into contracts with nonprofit corporations  
 23        or associations to provide facilities and services for youth  
 24        in need of care, youth in need of supervision, and  
 25        delinquent youth;

(b) accept gifts, grants, and donations of money and property from public and private sources to initiate and maintain community-based services to youth.

~~(3) THE DEPARTMENT SHALL PAY FOR ROOM, BOARD, CLOTHING, PERSONAL NEEDS, TRANSPORTATION, AND TREATMENT IN DISTRICT YOUTH GUIDANCE HOMES, SHELTER CARE PROGRAMS, AND FOSTER CARE HOMES FOR YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS WHO NEED TO BE PLACED IN SUCH FACILITIES, YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS AND PLACED IN RESIDENTIAL FACILITIES OTHER THAN THOSE DESCRIBED ABOVE SHALL NOT BE THE FINANCIAL RESPONSIBILITY OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNLESS SUCH PLACEMENTS HAVE BEEN APPROVED IN ADVANCE BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES.~~

**NEW SECTION.** Section 9. Apportionment **ALLOCATION** of money to judicial districts. (1) The department shall apportion--and allocate placement budgets, based upon historical placement patterns and current placement trends, to the judicial districts for the substitute care of youth in need of supervision or delinquent youth.

(2) The placement budgets may be monitored by a youth court committee as provided for in 41-5-105 or a foster care review committee as provided for in 41-5-807.

Section 10. Section 41-5-801, MCA, is amended to read:

"41-5-801. Shelter-care-and-foster-homes Foster care

~~payments for youth court placements. (1) The youth court may establish--procedures--for--finding--maintaining--and administering shelter care and foster homes or other--homes approved--by--the--court--for youth within the provisions of this chapter. (1) THE YOUTH COURT MAY ESTABLISH PROCEDURES FOR FINDING, MAINTAINING, AND ADMINISTERING SHELTER CARE AND FOSTER HOMES APPROVED BY THE COURT FOR YOUTH WITHIN THE PROVISIONS OF THIS CHAPTER.~~

~~(2)(2)~~ Pursuant to 41-3-104, the department of--social and--rehabilitation--services shall finance--foster--homes established make a foster care payment for a child placed by the youth court if:

~~(a) (1)(A)~~ the foster-home child is placed in a youth care facility licensed by the department or by an appropriate licensing authority from another state;

~~(b) (2)(B)~~ the youth court enters into an agreement according to federal regulations with the department for the placement of children;

~~(c) (3)(C)~~ the placement of the child is reviewed as required by 41-5-807; and

~~(d) (4)(D)~~ the youth court retains supervision of the child in placement.

~~(3) The--licensed--shelter--care--and--foster--homes established under this section shall be--funded--at--a--rate consistent--with--other--shelter--care--and--foster--homes~~

~~established for other purposes under law. Shelter care as defined by this chapter may be funded through state appropriation to the youth courts and the departments of institutions and social and rehabilitation services."~~

Section 11. Section 41-3-104, MCA, is amended to read:

"41-3-104. Payment for support of youth in need of care, youth in need of supervision, or delinquent youth -- reimbursement by county. (1) Whenever agreements are entered into by the department of ~~social and rehabilitation services~~ or the court for placing a youth in need of care, a youth in need of supervision, or a delinquent youth in a licensed family foster home, child care agency, group home, or treatment youth care facility, the department shall pay by its check or draft each month from any funds appropriated for that purpose the entire amount agreed upon for board, clothing, personal needs, ~~irrigation~~ and room of the children.

(2) On or before the 20th of each month the department shall present a claim to the county of residence of the children for no more than one-half the payments so made during the month. The county must make reimbursement to the department within 20 days after the claim is presented.

(3) The department shall conduct or arrange for the review required under 41-5-807 of a child placed in a ~~licensed family foster home, child care agency, group home,~~

or treatment youth care facility if the child is placed under the supervision of the department or placed by the department or the department pays for the care of the child as set forth in this section."

~~NEW SECTION. Section 12. Time limitations on youth court placements. (1) If the court has determined that a youth be placed in a licensed youth care facility as provided in 41-5-403 or 41-5-522 and the youth has not been placed within 18 working days of such determination, the probation officer, a representative of the department, and a representative of the elementary or high school district in which the youth resides must meet to determine three appropriate placement alternatives.~~

~~(2) The three placement alternatives shall be presented to the youth court judge for his consideration within 15 working days of the informal adjustment or dispositional hearing.~~

~~(3) If the judge then orders the placement of the youth in a facility other than one of the three alternatives presented to him, he must state the reason for ordering such placement.~~

~~(4) Delays resulting from court ordered evaluation of the youth are not included in the 15 day time limitation.~~

Section 12. Section 41-3-405, MCA, is amended to read:

"41-3-405. Investigation of parents' or guardian's

financial ability. (1) Whenever a court determines a youth to be an abused, neglected, or dependent child pursuant to 41-3-404, the court shall issue an order directing the county welfare department of the county in which the petition was filed to conduct an investigation of the financial status of the child's parents or the extent of guardianship assets.

(2) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the child and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the child in a foster-home, child-care-agency, group-home, or private--treatment youth care facility. A written report of the investigation shall be filed with the clerk of court before the time fixed for the dispositional hearing.

(3) A copy of the written report shall be provided to all parties to the proceeding before the time set for the dispositional hearing."

Section 13. Section 41-5-805, MCA, is amended to read:

"41-5-805. Financial investigation by county welfare department. (1) Whenever a disposition under 41-5-403, 41-5-523, or 41-5-524 involves placement in a foster-home, child-care-agency, group-home, or private--treatment youth

care facility and the department of--social--and rehabilitation--services is responsible for all or part of the cost of such placement, the probation officer or the court shall notify the department of--social--and rehabilitation--services and order the county welfare department in the youth's county of residence to conduct an investigation of the financial status of the youth's parents or guardianship assets. Following an adjudicatory hearing in which a youth is determined to be a delinquent youth or a youth in need of supervision, the court may order the county welfare department to conduct a financial status investigation.

(2) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the youth and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the youth in the foster home, child care agency, group home, or private treatment facility. A written report of the investigation shall be filed with the court having jurisdiction, the department of social and rehabilitation services, and the department of institutions, and a copy shall be sent to the parents or guardian of the youth or to any other party to the proceeding."

Section 14. Section 41-3-407, MCA, is amended to read:



1       "41-3-407. Order for financial support. (1) Whenever a  
 2 youth is placed in a ~~foster-homey-child-care-agencyy-group~~  
 3 ~~homey--or--private--treatment~~ youth\_care facility under  
 4 41-3-406, the court shall determine the ability of the  
 5 youth's parents or guardian to contribute to the support of  
 6 the youth or the adequacy of the guardianship assets to  
 7 provide a contribution. This question of financial ability  
 8 shall be considered at the dispositional hearing, and  
 9 evidence concerning financial status may be introduced. In  
 10 determining financial ability the court shall consider the  
 11 report prepared pursuant to 41-3-405 and any other evidence  
 12 introduced at the dispositional hearing.

13       (2) If the court determines that the parents are able  
 14 to contribute to the support of the youth or that the  
 15 guardianship assets are adequate to provide a contribution,  
 16 the court shall issue an order directing the parents or  
 17 guardian to make specified payments to the department of  
 18 social and rehabilitation services to the extent considered  
 19 appropriate under the circumstances. Payments required of a  
 20 guardian may not exceed the funds available from  
 21 guardianship assets. Upon a showing of change in financial  
 22 ability, the court may modify the order."

23       Section 15. Section 41-3-105, MCA, is amended to read:

24       "41-3-105. Recovery from parents or guardianship  
 25 assets -- division between state and county. (1) In the

1 event any recovery is made from the parent or parents or  
 2 guardianship assets of children for whom board, clothing,  
 3 personal needs, and room have been paid by the state and  
 4 county, any amount so recovered shall be divided equally  
 5 between the department and the county of residence of such  
 6 child or children.

7       (2) Any amount collected from the parents or  
 8 guardianship assets when a child is placed in a ~~foster-homey~~  
 9 ~~child-care-agencyy-group-homey-or--private--treatment~~ youth  
 10 care facility shall be transmitted to the department of  
 11 social and rehabilitation services. The department shall  
 12 then pay to the county one-half of the amount so collected."

13       Section 16. Section 41-3-501, MCA, is amended to read:

14       "41-3-501. Definitions. (1) Any person owning or  
 15 operating a ~~home-or-institution~~ youth\_care\_facility into  
 16 which ~~home-or-institution~~ he takes any child or children for  
 17 the purpose of caring for them and maintaining them and for  
 18 which care and maintenance he receives money or other  
 19 consideration of value, and which child is neither his son,  
 20 daughter, nor ward shall be deemed to be an "operator" of a  
 21 "~~foster--home-or-boarding-home~~" "youth\_care\_facility" within  
 22 the meaning of this chapter, except that this chapter shall  
 23 not apply when any person accepts such care and custody of  
 24 such child on a temporary basis and simply as a temporary  
 25 accommodation for the parent or parents, guardian, or

1 relative of such child.

2 (2) The word "person" where used in this chapter shall  
3 include any individual, partnership, voluntary association,  
4 or corporation."

5 NEW SECTION. Section 17. Rules. The department may  
6 adopt rules to carry out the administration and purposes of  
7 this part.

8 NEW SECTION. Section 18. Power of nonprofit  
9 corporations to establish homes and to receive facilities  
10 and funds. Nonprofit corporations or associations may be  
11 formed or organized for the purpose of establishing youth  
12 care facilities or to provide community-based services and  
13 to receive from the department and other governmental units  
14 such services, facilities, TRAINING, and funds as the  
15 department or other governmental units may be authorized by  
16 law to provide.

17 NEW SECTION. Section 19. Governmental contracts with  
18 nonprofit organizations. (1) The department may contract  
19 with nonprofit corporations or associations to provide  
20 facilities and services for youth in need of care, youth in  
21 need of supervision, and delinquent youth in youth care  
22 facilities and is authorized to expend such money as is  
23 appropriated or available therefor. SUCH CONTRACTS SHALL BE  
24 BASED ON THE FOLLOWING CONSIDERATIONS:

25 (A) BUDGETS SUBMITTED BY THE NONPROFIT CORPORATION OR

1 ASSOCIATION IDENTIFYING FIXED AND VARIABLE COSTS:

2 (B) REASONABLE COSTS OF SERVICE;

3 (C) APPROPRIATION LEVEL; AND

4 (D) AVAILABILITY OF FUNDS.

5 (2) Governmental units, including but not limited to  
6 counties, municipalities, school districts, or state  
7 institutions of higher learning, are authorized, at their  
8 own expense, to provide funds, materials, facilities, and  
9 services for community-based services.

10 Section 20. Section 41-3-502, MCA, is amended to read:

11 "41-3-502. License required. No person shall maintain  
12 or operate a foster-or-boarding-home youth care facility for  
13 any child or children within the meaning of this chapter  
14 without first securing a license in writing from the  
15 department of--social--and--rehabilitation-services. No fee  
16 shall be charged for such license."

17 Section 21. Section 41-3-503, MCA, is amended to read:

18 "41-3-503. Issuance of license -- authority of issuing  
19 agency. The department of--social--and--rehabilitation-services  
20 is hereby authorized to issue licenses to persons conducting  
21 boarding-or-foster-homes operating youth care facilities and  
22 to prescribe the conditions upon which such licenses shall  
23 be issued and to make such rules as it may deem advisable  
24 for the operation and regulation of foster--and--boarding  
25 homes such facilities for minor children consistent with the

welfare of such children. Such licensing agency shall have the power and authority to inspect all such licensed foster and--boarding--homes facilities through its duly authorized representatives and to cancel licenses theretofore issued for the failure to observe such rules. The person operating such homes shall give to such representative such information as may be required and afford him every reasonable facility opportunity for observing the operation of such homes."

Section 22. Section 41-3-504, MCA, is amended to read:

"41-3-504. Penalty. Any person who maintains or conducts ~~operates~~ a foster--or--boarding--home youth care facility or assists in conducting ~~operating~~ or maintaining such home facility without having first obtained a license in writing as hereto provided shall be guilty of a misdemeanor and upon conviction be punished by a fine not to exceed \$100."

Section 24. Section 41-5-802, MCA, is amended to read:

"41-5-802. Shelter--care--and--detention--~~Detention~~ facilities--(1)-(a)--in--all--counties--the--county--commissioners may--provide--by--purchase--lease--or--otherwise--a--place--to--be known--as--the--youth--detention--facility--which--shall--not--be used--for--the--confinement--of--adult--persons--charged--with criminal--offenses--where--delinquent--youths--and--youths--in need--of--supervision--may--be--detained--until--final--disposition"

which--place--shall--be--maintained--by--the--county--as--in--other like--cases"

(b)(2)--The--judge--having--jurisdiction--may--appoint--such personnel--as--required--who--shall--have--charge--of--said facility--and--of--the--youths--detained--therein"

(c)(2)--The--compensation--of--such--personnel--shall--be fixed--by--the--court--and--such--compensation--and--the maintaining--of--such--facility--shall--be--paid--out--of--the--county treasury--which--may--be--supplemented--by--state--appropriation and--federal--funds"

(2)--(a)--Youth--courts--and--nonprofit--corporations--may provide--by--purchase--lease--or--otherwise--a--place--to--be known--as--a--shelter--care--facility"

(b)--Such--facility--shall--be--physically--unrestricting and--may--be--used--to--provide--shelter--care--for--youth--alleged--or adjudicated--delinquent--in--need--of--supervision--or--in--need of--care"

(c)--Such--facility--shall--be--separate--and--apart--from--any facility--housing--adults--charged--with--criminal--offenses"

(d)--State--appropriations--and--federal--funds--may--be received--by--the--youth--court--or--private--nonprofit corporations--for--establishment--maintenance--or--operation--of such--facility"

(e)--Such--facility--shall--be--furnished--in--a--comfortable manner--and--be--as--nearly--as--possible--like--a--family--home"

1        NEW SECTION. Section 23. Petition for placement in  
2 facility or home. Any person between the ages of 18 and 21  
3 years, who is still within the jurisdiction of the youth  
4 court, or any person under the age of 18 years may petition  
5 the youth court of a district in which a youth care facility  
6 has been established to be placed in such a facility or in  
7 any other home approved by the court for any period of time  
8 up to the person's 21st birthday.

9        NEW SECTION. Section 24. Authority of judge to commit  
10 youth. A youth court judge may in his discretion place a  
11 delinquent youth or a youth in need of supervision in a  
12 youth care facility for any period of time up to the child's  
13 21st birthday, subject to the approval of the facility's  
14 sponsoring nonprofit corporation or association.

15        NEW SECTION. Section 25. Continuing jurisdiction of  
16 youth court. The youth court placing a delinquent youth or a  
17 child in need of supervision in a youth care facility  
18 retains continuing jurisdiction over the youth until the  
19 youth becomes 21 years of age or is otherwise discharged by  
20 order of the court.

21        NEW SECTION. Section 26. Aftercare facilities. (1)  
22 The department of institutions may establish, maintain, and  
23 administer YOUTH CORRECTION FACILITIES, EVALUATION  
24 FACILITIES, MENTAL HEALTH FACILITIES AND SERVICES, AFTERCARE  
25 PROGRAMS, AND aftercare facilities for the care, custody,

1 and treatment of youth who have been committed to the  
2 department.

3        (2) Aftercare facilities are under the licensing  
4 authority of the department.

5        Section 27. Section 20-15-403, MCA, is amended to  
6 read:

7        "20-15-403. Applications of other school district  
8 provisions. (1) When the term "school district" appears in  
9 the following sections outside of Title 20, the term  
10 includes community college districts and the provisions of  
11 those sections applicable to school districts apply to  
12 community college districts: 2-9-101, 2-9-111, 2-9-316,  
13 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,  
14 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103,  
15 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,  
16 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108,  
17 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202,  
18 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, 18-1-105,  
19 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114,  
20 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-602, 19-1-811,  
21 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104,  
22 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117,  
23 39-71-2106, 39-71-2206, 40-6-237, 41-5-912 [section 20],  
24 49-3-101, 49-3-102, 53-20-304, 77-3-321, 82-10-201,  
25 82-10-202, 82-10-203, 95-7-2158, and 90-6-208 and Rules

1 40(2)(g) and 15(c), M.R.Civ.P., as amended.

2 (2) When the term "school district" appears in a  
3 section outside of Title 20 but the section is not listed in  
4 subsection (1), the school district provision does not apply  
5 to a community college district."

6 Section 28. Section 76-2-313, MCA, is amended to read:

7 "76-2-313. Definition of community residential  
8 facility. "Community residential facility" means:

9 (1) a group, foster, or other home specifically  
10 provided as a place of residence for developmentally  
11 disabled or handicapped persons who do not require nursing  
12 care;

13 (2) a ~~district~~ youth guidance group home established  
14 ~~pursuant to 41-5-903 as defined in [section 7]~~;

15 (3) a halfway house operated in accordance with  
16 regulations of the department of health and environmental  
17 sciences for the rehabilitation of alcoholics or drug  
18 dependent persons; or

19 (4) a licensed adult foster family care home."

20 Section 29. Section 76-2-314, MCA, is amended to read:

21 "76-2-314. Relationship of foster homes, boarding  
22 youth\_group homes, and community residential facilities to  
23 zoning. (1) A foster or boarding youth\_group home operated  
24 under the ~~provision~~ provisions of 41-3-501 through 41-3-504  
25 or community residential facility serving eight or fewer

1 persons is considered a residential use of property for  
2 purposes of zoning if the home provides care on a  
3 24-hour-a-day basis.

4 (2) The homes are a permitted use in all residential  
5 zones, including but not limited to residential zones for  
6 single-family dwellings. Any safety or sanitary regulation  
7 of the department or any other agency of the state or  
8 political subdivision thereof which is not applicable to  
9 residential occupancies in general may not be applied to a  
10 community residential facility serving eight or fewer  
11 persons.

12 (3) Nothing in this section shall be construed to  
13 prohibit a city or county from requiring a conditional use  
14 permit in order to maintain a home pursuant to the  
15 provisions of this section provided such home is licensed by  
16 the department of health and environmental sciences and the  
17 department of social and rehabilitation services."

18 NEW SECTION. Section 30. Administration. The  
19 provisions of Title 41, chapter 3, part 11, govern the  
20 administration of this chapter.

21 NEW SECTION. Section 31. Codification and code  
22 commissioner instructions. (1) Section 32 ~~30~~ is intended to  
23 be codified as an integral part of Title 41, chapter 5, and  
24 the provisions of Title 41, chapter 5, apply to section 32  
25 ~~30~~.

1       (2) Sections 6, 7, 8, 9, ~~12~~ 17, 18, 19, ~~20~~ and ~~25~~ 23  
 2 through ~~20~~ 26 are intended to be codified as a new part 11  
 3 in Title 41, chapter 3, and the provisions of Title 41,  
 4 chapter 3, apply to such sections.

5       (3) (a) Sections 41-3-405 and 41-5-805, MCA, are to be  
 6 combined.

7       (b) Sections 41-3-407 and 41-5-806, MCA, are to be  
 8 combined.

9       (c) The sections enumerated in subsections (3)(a) and  
 10 (b) are to be combined into single sections. They are  
 11 intended to be renumbered and recodified as integral parts  
 12 of Title 41, chapter 3, part 11, and the provisions of Title  
 13 41, chapter 3, apply to them. Such sections, when combined,  
 14 may not contain redundant subsections.

15       (4) Sections 41-3-104, 41-3-105, 41-3-501 through  
 16 41-3-504, 41-5-302, 41-5-801, 41-5-804, and 41-5-807, MCA,  
 17 are intended to be recodified and renumbered as an integral  
 18 part of Title 41, chapter 3, part 11, and the provisions of  
 19 Title 41, chapter 3, apply to those sections.

20       (5) The code commissioner is authorized to change  
 21 internal references in the MCA to reflect the renumbering  
 22 and recodification required by this section.

23       ~~NEW SECTION.~~ Section 32. Repealer. Sections 41-5-803  
 24 and 41-5-901 through 41-5-924, MCA, are repealed.

25       ~~NEW SECTION.~~ Section 33. Effective date. This act is

1       effective on July 1, 1983.

-End-

## CORRECTED REFERENCE

## HOUSE BILL NO. 24

INTRODUCED BY KEYSER, MENAHAN,

NORMAN, MEMSTAD, MAZUREK, HAGER

BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE

ON HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL SERVICES FOR YOUTH UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 76-2-314, MCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

(a) administer or supervise all forms of public assistance, child protection, and child welfare, including the provision of medical care payments in behalf of recipients of public assistance;

(b) administer or supervise all child welfare

activities, including:

(i) importation and exportation of children;

(ii) licensing of all children's foster family homes, group homes, child-care agencies and child-placing agencies;

(iii) the care of dependent and neglected children in substitute care placement and children who are free for adoption; and

(iv) the maintenance of supplemental day care for children; AND

~~fix--the care of youth in need of supervision placed by the youth court under the supervision of the department and~~~~fix (V) all state and federal funds allocated to the department for youth foster homes, youth group homes, child-care agencies, and state programs for youth in need of care, youth in need of supervision, and delinquent youth;~~

(c) give consultant service to private institutions providing care for the needy, indigent, handicapped, or dependent adults;

(d) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(e) provide services in respect to organization and supervise county departments of public welfare and county

boards of public welfare in the administration of public assistance functions and for efficiency and economy;

(f) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions, when so requested, by performing services in conformity with public assistance purposes;

(g) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes; and

(h) make rules governing payment for services and supplies provided to recipients of public assistance.

(2) The department may:

(a) purchase, exchange, condemn, or receive by gift either real or personal property which is necessary to carry out its public assistance functions. Title to property obtained under this subsection shall be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to

be provided to recipients of public assistance."

Section 2. Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. For the purposes of the Montana Youth Court Act, unless otherwise stated the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means ~~the department of institutions, the department of social and rehabilitation services, and any division or department of either~~ any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Commit" means to transfer to legal custody.

(4) "Court", when used without further qualification, means the youth court of the district court.

~~(5) "Foster home" means a private residence approved by the court for placement of a youth.~~

(5) "FOSTER HOME" MEANS A PRIVATE RESIDENCE APPROVED BY THE COURT FOR PLACEMENT OF A YOUTH.

~~(6) (6) "Guardianship"~~ (6) "Guardianship" means the status created and defined by law between a youth and an adult with the reciprocal rights, duties, and responsibilities.

~~(7) (7) "Judge"~~ (7) "Judge", when used without further qualification, means the judge of the youth court.

~~(8) (8) (a) "Legal custody"~~ (a) "Legal custody" means the legal status



created by order of a court of competent jurisdiction that gives a person the right and duty to:

- (i) have physical custody of the youth;
- (ii) determine with whom the youth shall live and for what period;
- (iii) protect, train, and discipline the youth; and
- (iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise his rights and duties as guardian unless otherwise authorized by the court entering the order.

~~(9)~~~~(10)~~(2) "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless his paternity is established by an adjudication or by other clear and convincing proof.

~~(10)~~~~(11)~~(10) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

~~(11)~~~~(12)~~(11) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the youth court, the judge, and probation officers.

~~(12)~~~~(13)~~(12) "Delinquent youth" means a youth:

(a) who has committed an offense which, if committed by an adult, would constitute a criminal offense;

(b) who, having been placed on probation as a delinquent youth or a youth in need of supervision, violates any condition of his probation.

~~(13)~~~~(14)~~(13) "Youth in need of supervision" means a youth who commits an offense prohibited by law which, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

(a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;

(b) habitually disobeys the reasonable and lawful demands of his parents or guardian or is ungovernable and beyond their control;

(c) being subject to compulsory school attendance, is habitually truant from school; or

(d) has committed any of the acts of a delinquent youth but whom the youth court in its discretion chooses to regard as a youth in need of supervision.

~~(14)~~~~(15)~~(14) "Youth in need of care" means a youth as defined in 41-3-102.

~~(15)~~~~(16)~~(15) "Custodian" means a person other than a parent or guardian to whom legal custody of the youth has been given but does not include a person who has only physical custody.

~~(15)(16)~~ "Necessary parties" include the youth, his parents, guardian, custodian, or spouse.

~~(17)(17)~~ "State youth correctional facility" means a residential facility for the rehabilitation of delinquent youth such as Pine Hills school in Miles City, and Mountain View school in Helena, and Swan River youth forest camp.

~~(18)(18)~~ "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

~~(19)(19)~~ "Detention" means the temporary substitute care of youth in physically restricting facilities.

~~(20) "District youth guidance home" means a family-oriented residence established in a judicial district of the state of Montana as an alternative to existing state youth correctional facilities, the function of which is to provide a home and guidance through adult supervision for delinquent youths and youths in need of supervision.~~

~~(21)(20)~~ "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made under the jurisdiction of a youth court proceeding.

~~(22)(21)~~ "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and if necessary, treatment to youth who are removed from or

~~without the care and supervision of their parents or guardian. NOTHING IN THIS DEFINITION IS INTENDED TO INCLUDE JUVENILE CORRECTIONAL FACILITIES, EVALUATION FACILITIES, MENTAL HEALTH FACILITIES AND SERVICES, AND AFTERCARE PROGRAMS OPERATED BY THE DEPARTMENT OF INSTITUTIONS."~~

Section 3. Section 41-5-306, MCA, is amended to read:

"41-5-306. Place of shelter care or detention. (1) A youth alleged to be a delinquent youth or youth in need of supervision may be sheltered only in:

(a) a licensed youth foster home or a home approved by the court for the provision of shelter care of youth as defined in [section 7];

(b) a facility operated by a licensed child welfare agency; or

(c) a licensed attention youth group home or shelter facility which is operated by a nonprofit corporation or the youth court for the provision of shelter care of youth as defined in [section 7].

~~(d) any other suitable place or facility designated or operated by the court for the supervision of youth in shelter care.~~

(2) The youth may be detained in a jail or other facility for the detention of adults only if:

(a) the facilities in subsection (1) are not available or do not provide adequate security;

(b) the detention is in an area physically and visually separate and removed from those of adults;

(c) it appears to the satisfaction of the court that public safety and protection reasonably require detention; and

(d) the court so orders.

(3) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of 18 years is received at the facility. Such official shall bring the person before the court upon request or deliver him to a detention facility designated by the court.

(4) A youth alleged to be in need of care shall be placed only in the facilities stated in subsection (1) of this section and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses."

Section 4. Section 41-5-403, MCA, is amended to read:

"41-5-403. Disposition permitted under informal adjustment. (1) The following dispositions may be imposed by informal adjustment:

(a) probation;

(b) placement of the youth ~~in a licensed foster home or other home approved by the court~~ for substitute care into

a youth care facility as defined in [section 7] OR INTO A HOME APPROVED BY THE COURT;

(c) placement of 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 of legal custody of the youth to the department of institutions, provided that such commitment does not authorize the department of institutions to place the youth in a state youth correctional facility, and such commitment may not exceed a period of 6 months without a subsequent order of the court after notice and hearing;~~

(d) TRANSFER OF LEGAL CUSTODY OF THE YOUTH TO THE DEPARTMENT OF INSTITUTIONS, PROVIDED THAT SUCH COMMITMENT DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE THE YOUTH IN A STATE CORRECTIONAL FACILITY, AND SUCH COMMITMENT MAY NOT EXCEED A PERIOD OF 6 MONTHS WITHOUT A SUBSEQUENT ORDER OF THE COURT, AFTER NOTICE AND HEARING;

~~and~~ restitution upon approval of the youth court judge.

(2) In determining whether restitution is appropriate in a particular case, the following factors may be considered in addition to any other evidence:

(a) age of the youth;

(b) ability of the youth to pay;

(c) ability of the parents or legal guardian to pay;

(d) amount of damage to the victim; and

(e) legal remedies of the victim, however the ability of the victim or his insurer to stand any loss may not be considered in any case."

Section 5. 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~~ the youth for substitute care into a youth care facility as defined in [section 7] 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) ~~in the case of a delinquent youth~~ 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 does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearings;~~ PROVIDED, HOWEVER, THAT IN THE CASE OF A YOUTH IN NEED OF SUPERVISION, SUCH TRANSFER OF

CUSTODY DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE THE YOUTH IN A STATE YOUTH CORRECTIONAL FACILITY AND SUCH CUSTODY 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 considers beneficial to the youth ~~consistent with subsection (1)(d) of this section;~~

(f) order restitution by the youth.

(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 older whom the court considers a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the

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

19 (3) No youth may be committed or transferred to a  
 20 penal institution or other facility used for the execution  
 21 of sentence of adult persons convicted of crimes except as  
 22 provided by subsection (2)(b).

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

25 (5) Whenever the court vests legal custody in an

1 agency, institution, or department, it must transmit with  
 2 the dispositional judgment copies of a medical report and  
 3 such other clinical, predisposition, or other reports and  
 4 information pertinent to the care and treatment of the  
 5 youth.

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

#### 8 ORDER OF COMMITMENT

9 State of Montana )

10 ) ss.

11 County of ..... )

12 In the district court for the .... Judicial District.

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

17 It is ordered that .... be committed to the department  
 18 of institutions until .....

19 The names, addresses, and occupations of the parents  
 20 are:

21 Name	Address	Occupation
22 .....		
23 .....		

24 The names and addresses of their nearest relatives are:

1 .....  
 2 .....  
 3 Witness my hand this .... day of .... A.D. 19...  
 4 .....  
 5 Judge"  
 6 **NEW SECTION.** Section 6. Establishment of substitute  
 7 care for youth. The legislature, in recognition of the wide  
 8 and varied needs of youth in need of care, delinquent youth,  
 9 and youth in need of supervision of this state and of the  
 10 desirability of meeting these needs on a community level to  
 11 the fullest extent possible, establishes by this part a  
 12 system of substitute care to provide facilities and services  
 13 for youth placed out of their homes and establishes a  
 14 program to provide such facilities and services through  
 15 local nonprofit corporations and the department of social  
 16 and rehabilitation services.  
 17 **NEW SECTION.** Section 7. Definitions. For the purposes  
 18 of this part the following definitions apply:  
 19 (1) "Child-care agency" means a youth care facility in  
 20 which substitute care is provided to 13 or more children or  
 21 youth.  
 22 ~~(2) "Community-based services to youth" means a system~~  
 23 ~~of services provided to youth in need of care, youth in need~~  
 24 ~~of supervisory and delinquent youth outside of an~~  
 25 ~~institution, including but not limited to the following:~~

1 ~~(a) "evaluation services"~~  
 2 ~~(b) "diagnostic services"~~  
 3 ~~(c) "treatment services"~~  
 4 ~~(d) "training services"~~  
 5 ~~(e) "education services"~~  
 6 ~~(f) "counseling services"~~  
 7 ~~(g) "information and referral services"~~  
 8 ~~(h) "protective and other social services"~~  
 9 ~~(i) "residential services"~~  
 10 ~~(3)(2)~~ "Department" means the department of social and  
 11 rehabilitation services.  
 12 ~~(4)(3)~~ "Substitute care" means full-time care of youth  
 13 in a residential setting for the purpose of providing food,  
 14 shelter, security and safety, guidance, direction, and if  
 15 necessary, treatment to youth who are removed from or  
 16 without the care and supervision of their parents or  
 17 guardian.  
 18 ~~(5)(4)~~ "Treatment facility" is a child-care agency  
 19 providing the appropriate level of care.  
 20 ~~(6)(5)~~ "Youth care facility" means a facility,  
 21 licensed in accordance with 41-3-502 through 41-3-504, in  
 22 which substitute care is provided to youth in need of care,  
 23 youth in need of supervision, or delinquent youth and  
 24 includes youth foster homes, youth group homes, and  
 25 child-care agencies.

~~(f)(6)~~ "Youth foster home" means a youth care facility in which substitute care is provided to one to six children or youth to whom the foster parents are not related by blood, marriage, adoption, or wardship.

~~(f)(7)~~ "Youth group home" means a youth care facility in which substitute care is provided to 7 to 12 children or youth.

NEW SECTION. Section 8. Powers and duties of department. (1) The department shall:

(a) administer all state and federal funds allocated to the department for youth foster homes, youth group homes, ~~AND child-care agencies, and community-based programs~~ for youth in need of care, youth in need of supervision, and delinquent youth;

(b) exercise licensing authority over all youth foster homes, youth group homes, and child-care agencies;

(c) collect and disseminate information relating to youth in need of care, youth in need of supervision, and delinquent youth;

(d) provide for training of program personnel delivering services;

~~(e) provide by rule for the evaluation of all community-based services to youth;~~

~~(f)(E)~~ in cooperation with the department of institutions and youth care facility providers, develop and

implement standards for youth care facilities;

~~(g)(E)~~ apportion and allocate placement budgets to all judicial districts;

~~(h) develop an annual comprehensive plan for the initiation and maintenance of community-based services to youth; and~~

~~(i)(G)~~ seek public input on the plan prior to its adoption and implementation; AND

(H) MAINTAIN ADEQUATE DATA ON PLACEMENTS IT FUNDS IN ORDER TO KEEP THE LEGISLATURE PROPERLY INFORMED OF THE FOLLOWING:

(I) THE BREAKDOWN OF YOUTH IN NEED OF CARE, YOUTH IN NEED OF SUPERVISION, AND DELINQUENT YOUTH BY CATEGORY IN OUT-OF-HOME CARE FACILITIES;

(II) THE COST PER FACILITY FOR SERVICES RENDERED;

(III) THE TYPE AND LEVEL OF CARE OF SERVICES PROVIDED BY EACH FACILITY;

(IV) A PROFILE OF OUT-OF-HOME CARE PLACEMENTS BY LEVEL OF CARE; AND

(V) A PROFILE OF PUBLIC INSTITUTIONAL PLACEMENTS.

(2) The department may:

(a) enter into contracts with nonprofit corporations or associations to provide facilities and services for youth in need of care, youth in need of supervision, and delinquent youth;

(b) accept gifts, grants, and donations of money and property from public and private sources to initiate and maintain community-based services to youth.

~~(3) THE DEPARTMENT SHALL PAY FOR ROOM, BOARD, CLOTHING, PERSONAL NEEDS, TRANSPORTATION, AND TREATMENT IN DISTRICT YOUTH GUIDANCE HOMES, SHELTER CARE PROGRAMS, AND FOSTER CARE HOMES FOR YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS WHO NEED TO BE PLACED IN SUCH FACILITIES, YOUTHS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS AND PLACED IN RESIDENTIAL FACILITIES OTHER THAN THOSE DESCRIBED ABOVE SHALL NOT BE THE FINANCIAL RESPONSIBILITY OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNLESS SUCH PLACEMENTS HAVE BEEN APPROVED IN ADVANCE BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES.~~

**NEW SECTION.** Section 9. Apportionment **ALLOCATION** of money to judicial districts. (1) The department shall apportion--and allocate placement budgets, based upon historical placement patterns and current placement trends, to the judicial districts for the substitute care of youth in need of supervision or delinquent youth.

(2) The placement budgets may be monitored by a youth court committee as provided for in 41-5-105 or a foster care review committee as provided for in 41-5-807.

Section 10. Section 41-5-801, MCA, is amended to read:

"41-5-801. Shelter-care-and-foster-homes Foster care

~~payments for youth court placements. (1) The youth court may establish--procedures--for--finding--maintaining--and administering shelter care and foster homes or--other--homes approved by the court for youth within the provisions of this chapter (1) THE YOUTH COURT MAY ESTABLISH PROCEDURES FOR FINDING, MAINTAINING, AND ADMINISTERING SHELTER CARE AND FOSTER HOMES APPROVED BY THE COURT FOR YOUTH WITHIN THE PROVISIONS OF THIS CHAPTER.~~

~~(2)(2) Pursuant to 41-3-104, the department of--social and--rehabilitation--services shall finance--foster--homes established make a foster care payment for a child placed by the youth court if:~~

~~(a)(1)(A) the foster-home child is placed in a youth care facility licensed by the department or by an appropriate licensing authority from another state;~~

~~(b)(2)(B) the youth court enters into an agreement according to federal regulations with the department for the placement of children;~~

~~(c)(3)(C) the placement of the child is reviewed as required by 41-5-807; and~~

~~(d)(4)(D) the youth court retains supervision of the child in placement.~~

~~(3)--The--licensed--shelter--care--and--foster--homes established under this section shall be funded--at--a--rate consistent--with--other--shelter--care--and--foster--homes~~



~~established for other purposes under laws. Shelter care as defined by this chapter may be funded through state appropriation to the youth courts and the departments of institutions and social and rehabilitation services."~~

Section 11. Section 41-3-104, MCA, is amended to read:

"41-3-104. Payment for support of youth in need of care, youth in need of supervision, or delinquent youth -- reimbursement by county. (1) Whenever agreements are entered into by the department of ~~social and rehabilitation services~~ or the court for placing a youth in need of care, a youth in need of supervision, or a delinquent youth in a ~~licensed family foster home, child care agency, group home, or treatment youth care facility~~, the department shall pay by its check or draft each month from any funds appropriated for that purpose the entire amount agreed upon for board, clothing, personal needs, ~~treatment~~, and room of the children.

(2) On or before the 20th of each month the department shall present a claim to the county of residence of the children for no more than one-half the payments so made during the month. The county must make reimbursement to the department within 20 days after the claim is presented.

(3) The department shall conduct or arrange for the review required under 41-5-807 of a child placed in a ~~licensed family foster home, child care agency, group home,~~

or treatment youth care facility if the child is placed under the supervision of the department or placed by the department or the department pays for the care of the child as set forth in this section."

~~NEW SECTION: Section 12. Time limitations on youth court placements. (1) If the court has determined that a youth be placed in a licensed youth care facility as provided in 41-5-403 or 41-5-522 and the youth has not been placed within 10 working days of such determination, the probation officer, a representative of the department, and a representative of the elementary or high school district in which the youth resides must meet to determine three appropriate placement alternatives.~~

~~(2) The three placement alternatives shall be presented to the youth court judge for his consideration within 15 working days of the informal adjustment or dispositional hearing.~~

~~(3) If the judge then orders the placement of the youth in a facility other than one of the three alternatives presented to him, he must state the reason for ordering such placement.~~

~~(4) Delays resulting from court-ordered evaluation of the youth are not included in the 15-day time limitations.~~

Section 12. Section 41-3-405, MCA, is amended to read:

"41-3-405. Investigation of parents' or guardian's

1 financial ability. (1) Whenever a court determines a youth  
2 to be an abused, neglected, or dependent child pursuant to  
3 41-3-404, the court shall issue an order directing the  
4 county welfare department of the county in which the  
5 petition was filed to conduct an investigation of the  
6 financial status of the child's parents or the extent of  
7 guardianship assets.

8 (2) Upon receipt of the order, the county welfare  
9 department shall make an investigation for the purpose of  
10 ascertaining the residence of the parents or guardian of the  
11 child and the financial ability of the parents or the  
12 adequacy of the guardianship assets to pay the cost of  
13 supporting the child in a foster-homey-child-care-agencyy,  
14 group-homey-or-private--treatment youth care facility. A  
15 written report of the investigation shall be filed with the  
16 clerk of court before the time fixed for the dispositional  
17 hearing.

18 (3) A copy of the written report shall be provided to  
19 all parties to the proceeding before the time set for the  
20 dispositional hearing."

21 Section 13. Section 41-5-805, MCA, is amended to read:

22 "41-5-805. Financial investigation by county welfare  
23 department. (1) Whenever a disposition under 41-5-403,  
24 41-5-523, or 41-5-524 involves placement in a foster-homey  
25 child-care-agencyy-group-homey-or--private--treatment youth

1 care facility and the department of---social---and  
2 rehabilitation-services is responsible for all or part of  
3 the cost of such placement, the probation officer or the  
4 court shall notify the department of---social---and  
5 rehabilitation---services and order the county welfare  
6 department in the youth's county of residence to conduct an  
7 investigation of the financial status of the youth's parents  
8 or guardianship assets. Following an adjudicatory hearing in  
9 which a youth is determined to be a delinquent youth or a  
10 youth in need of supervision, the court may order the county  
11 welfare department to conduct a financial status  
12 investigation.

13 (2) Upon receipt of the order, the county welfare  
14 department shall make an investigation for the purpose of  
15 ascertaining the residence of the parents or guardian of the  
16 youth and the financial ability of the parents or the  
17 adequacy of the guardianship assets to pay the cost of  
18 supporting the youth in the foster home, child care agency,  
19 group home, or private treatment facility. A written report  
20 of the investigation shall be filed with the court having  
21 jurisdiction, the department of social and rehabilitation  
22 services, and the department of institutions, and a copy  
23 shall be sent to the parents or guardian of the youth or to  
24 any other party to the proceeding."

25 Section 14. Section 41-3-407, MCA, is amended to read:

1       "41-3-407. Order for financial support. (1) Whenever a  
 2 youth is placed in a ~~foster-homey-child-care-agencyy-group~~  
 3 ~~homey-or-private-treatment~~ youth care facility under  
 4 41-3-406, the court shall determine the ability of the  
 5 youth's parents or guardian to contribute to the support of  
 6 the youth or the adequacy of the guardianship assets to  
 7 provide a contribution. This question of financial ability  
 8 shall be considered at the dispositional hearing, and  
 9 evidence concerning financial status may be introduced. In  
 10 determining financial ability the court shall consider the  
 11 report prepared pursuant to 41-3-405 and any other evidence  
 12 introduced at the dispositional hearing.

13       (2) If the court determines that the parents are able  
 14 to contribute to the support of the youth or that the  
 15 guardianship assets are adequate to provide a contribution,  
 16 the court shall issue an order directing the parents or  
 17 guardian to make specified payments to the department of  
 18 social and rehabilitation services to the extent considered  
 19 appropriate under the circumstances. Payments required of a  
 20 guardian may not exceed the funds available from  
 21 guardianship assets. Upon a showing of change in financial  
 22 ability, the court may modify the order."

23       Section 15. Section 41-3-105, MCA, is amended to read:

24       "41-3-105. Recovery from parents or guardianship  
 25 assets -- division between state and county. (1) In the

1 event any recovery is made from the parent or parents or  
 2 guardianship assets of children for whom board, clothing,  
 3 personal needs, and room have been paid by the state and  
 4 county, any amount so recovered shall be divided equally  
 5 between the department and the county of residence of such  
 6 child or children.

7       (2) Any amount collected from the parents or  
 8 guardianship assets when a child is placed in a ~~foster-homey~~  
 9 ~~child-care-agencyy-group-homey-or-private-treatment~~ youth  
 10 care facility shall be transmitted to the department of  
 11 social and rehabilitation services. The department shall  
 12 then pay to the county one-half of the amount so collected."

13       Section 16. Section 41-3-501, MCA, is amended to read:

14       "41-3-501. Definitions. (1) Any person owning or  
 15 operating a ~~home-or-institution~~ youth care facility into  
 16 which ~~home-or-institution~~ he takes any child or children for  
 17 the purpose of caring for them and maintaining them and for  
 18 which care and maintenance he receives money or other  
 19 consideration of value, and which child is neither his son,  
 20 daughter, nor ward shall be deemed to be an "operator" of a  
 21 "~~foster--home-or-boarding-home~~" "youth care facility" within  
 22 the meaning of this chapter, except that this chapter shall  
 23 not apply when any person accepts such care and custody of  
 24 such child on a temporary basis and simply as a temporary  
 25 accommodation for the parent or parents, guardian, or

1 relative of such child.

2 (2) The word "person" where used in this chapter shall  
3 include any individual, partnership, voluntary association,  
4 or corporation."

5 NEW SECTION. Section 17. Rules. The department may  
6 adopt rules to carry out the administration and purposes of  
7 this part.

8 NEW SECTION. Section 18. Power of nonprofit  
9 corporations to establish homes and to receive facilities  
10 and funds. Nonprofit corporations or associations may be  
11 formed or organized for the purpose of establishing youth  
12 care facilities or to provide community-based services and  
13 to receive from the department and other governmental units  
14 such services, facilities, TRAINING, and funds as the  
15 department or other governmental units may be authorized by  
16 law to provide.

17 NEW SECTION. Section 19. Governmental contracts with  
18 nonprofit organizations. (1) The department may contract  
19 with nonprofit corporations or associations to provide  
20 facilities and services for youth in need of care, youth in  
21 need of supervision, and delinquent youth in youth care  
22 facilities and is authorized to expend such money as is  
23 appropriated or available therefor. SUCH CONTRACTS SHALL BE  
24 BASED ON THE FOLLOWING CONSIDERATIONS:

25 (A) BUDGETS SUBMITTED BY THE NONPROFIT CORPORATION OR

1 ASSOCIATION IDENTIFYING FIXED AND VARIABLE COSTS;

2 (B) REASONABLE COSTS OF SERVICE;

3 (C) APPROPRIATION LEVEL; AND

4 (D) AVAILABILITY OF FUNDS.

5 (2) Governmental units, including but not limited to  
6 counties, municipalities, school districts, or state  
7 institutions of higher learning, are authorized, at their  
8 own expense, to provide funds, materials, facilities, and  
9 services for community-based services.

10 Section 20. Section 41-3-502, MCA, is amended to read:

11 "41-3-502. License required. No person shall maintain  
12 or operate a foster-or-boardng-home youth care facility for  
13 any child or children within the meaning of this chapter  
14 without first securing a license in writing from the  
15 department of--social--and--rehabilitation-services. No fee  
16 shall be charged for such license."

17 Section 21. Section 41-3-503, MCA, is amended to read:

18 "41-3-503. Issuance of license -- authority of issuing  
19 agency. The department of--social--and--rehabilitation-services  
20 is hereby authorized to issue licenses to persons conducting  
21 boarding-or-foster-homes operating youth care facilities and  
22 to prescribe the conditions upon which such licenses shall  
23 be issued and to make such rules as it may deem advisable  
24 for the operation and regulation of foster--and--boarding  
25 homes such facilities for minor children consistent with the

1 welfare of such children. Such licensing agency shall have  
 2 the power and authority to inspect all such licensed foster  
 3 and--boarding--homes facilities through its duly authorized  
 4 representatives and to cancel licenses theretofore issued  
 5 for the failure to observe such rules. The person operating  
 6 such homes shall give to such representative such  
 7 information as may be required and afford him every  
 8 reasonable facility opportunity for observing the operation  
 9 of such homes."

10 Section 22. Section 41-3-504, MCA, is amended to read:

11 "41-3-504. Penalty. Any person who maintains or  
 12 conducts operates a foster--or--boarding--home youth care  
 13 facility or assists in conducting operating or maintaining  
 14 such home facility without having first obtained a license  
 15 in writing as hereto provided shall be guilty of a  
 16 misdemeanor and upon conviction be punished by a fine not to  
 17 exceed \$100."

18 Section 24. Section 41-5-802, MCA, is amended to read:

19 "41-5-802. Shelter care and--detention--Retention  
 20 facilities--(1)-(a)--In all counties the county commissioners  
 21 may provide by purchase, lease, or otherwise a place to be  
 22 known as the youth detention facility, which shall not be  
 23 used for the confinement of adult persons charged with  
 24 criminal offenses, where delinquent youths and youths in  
 25 need of supervision may be detained until final disposition

1 which place shall be maintained by the county as in other  
 2 like cases;

3 (b)(2)--The judge having jurisdiction may appoint such  
 4 personnel as required, who shall have charge of said  
 5 facility and of the youths detained therein;

6 (c)(2)--The compensation of such personnel shall be  
 7 fixed by the court and such compensation and the  
 8 maintaining of such facility shall be paid out of the county  
 9 treasury which may be supplemented by state appropriation  
 10 and federal funds;

11 (2)-(a) Youth courts and nonprofit corporations may  
 12 provide by purchase, lease, or otherwise a place to be  
 13 known as a shelter care facility;

14 (b)--Such facility shall be physically unrestricting  
 15 and may be used to provide shelter care for youth alleged or  
 16 adjudicated delinquents in need of supervision or in need  
 17 of care;

18 (c)--Such facility shall be separate and apart from any  
 19 facility housing adults charged with criminal offenses;

20 (d)--State appropriations and federal funds may be  
 21 received by the youth court or private nonprofit  
 22 corporations for establishment, maintenance, or operation of  
 23 such facility;

24 (e)--Such facility shall be furnished in a comfortable  
 25 manner and be as nearly as possible like a family home."

1 NEW SECTION. Section 23. Petition for placement in  
2 facility or home. Any person between the ages of 18 and 21  
3 years, who is still within the jurisdiction of the youth  
4 court, or any person under the age of 18 years may petition  
5 the youth court of a district in which a youth care facility  
6 has been established to be placed in such a facility or in  
7 any other home approved by the court for any period of time  
8 up to the person's 21st birthday.

9 NEW SECTION. Section 24. Authority of judge to commit  
10 youth. A youth court judge may in his discretion place a  
11 delinquent youth or a youth in need of supervision in a  
12 youth care facility for any period of time up to the child's  
13 21st birthday, subject to the approval of the facility's  
14 sponsoring nonprofit corporation or association.

15 NEW SECTION. Section 25. Continuing jurisdiction of  
16 youth court. The youth court placing a delinquent youth or a  
17 child in need of supervision in a youth care facility  
18 retains continuing jurisdiction over the youth until the  
19 youth becomes 21 years of age or is otherwise discharged by  
20 order of the court.

21 NEW SECTION. Section 26. Aftercare facilities. (1)  
22 The department of institutions may establish, maintain, and  
23 administer YOUTH CORRECTION FACILITIES, EVALUATION  
24 FACILITIES, MENTAL HEALTH FACILITIES AND SERVICES, AFTERCARE  
25 PROGRAMS, AND aftercare facilities for the care, custody,

1 and treatment of youth who have been committed to the  
2 department.

3 (2) Aftercare facilities are under the licensing  
4 authority of the department.

5 Section 27. Section 20-15-403, MCA, is amended to  
6 read:

7 "20-15-403. Applications of other school district  
8 provisions. (1) When the term "school district" appears in  
9 the following sections outside of Title 20, the term  
10 includes community college districts and the provisions of  
11 those sections applicable to school districts apply to  
12 community college districts: 2-9-101, 2-9-111, 2-9-316,  
13 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,  
14 7-6-2901, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103,  
15 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,  
16 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108,  
17 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202,  
18 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, 18-1-105,  
19 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114,  
20 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-602, 19-1-811,  
21 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104,  
22 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117,  
23 39-71-2106, 39-71-2206, 40-6-237, 41-5-912 [section 28 19],  
24 49-3-101, 49-3-102, 53-20-304, 77-3-321, 82-10-201,  
25 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules

1 40(2)(g) and 15(c), M.R.Civ.P., as amended.

2 (2) When the term "school district" appears in a  
3 section outside of Title 20 but the section is not listed in  
4 subsection (1), the school district provision does not apply  
5 to a community college district."

6 Section 28. Section 76-2-313, MCA, is amended to read:

7 "76-2-313. Definition of community residential  
8 facility. "Community residential facility" means:

9 (1) a group, foster, or other home specifically  
10 provided as a place of residence for developmentally  
11 disabled or handicapped persons who do not require nursing  
12 care;

13 (2) a ~~district~~ youth guidance group home established  
14 pursuant to ~~41-5-903~~ as defined in [section 7];

15 (3) a halfway house operated in accordance with  
16 regulations of the department of health and environmental  
17 sciences for the rehabilitation of alcoholics or drug  
18 dependent persons; or

19 (4) a licensed adult foster family care home."

20 Section 29. Section 76-2-314, MCA, is amended to read:

21 "76-2-314. Relationship of foster homes, boarding  
22 youth group homes, and community residential facilities to  
23 zoning. (1) A foster or boarding youth group home operated  
24 under the provision provisions of 41-3-501 through 41-3-504  
25 or community residential facility serving eight or fewer

1 persons is considered a residential use of property for  
2 purposes of zoning if the home provides care on a  
3 24-hour-a-day basis.

4 (2) The homes are a permitted use in all residential  
5 zones, including but not limited to residential zones for  
6 single-family dwellings. Any safety or sanitary regulation  
7 of the department or any other agency of the state or  
8 political subdivision thereof which is not applicable to  
9 residential occupancies in general may not be applied to a  
10 community residential facility serving eight or fewer  
11 persons.

12 (3) Nothing in this section shall be construed to  
13 prohibit a city or county from requiring a conditional use  
14 permit in order to maintain a home pursuant to the  
15 provisions of this section provided such home is licensed by  
16 the department of health and environmental sciences and the  
17 department of social and rehabilitation services."

18 NEW SECTION. Section 30. Administration. The  
19 provisions of Title 41, chapter 3, part 11, govern the  
20 administration of this chapter.

21 NEW SECTION. Section 31. Codification and code  
22 commissioner instructions. (1) Section ~~32 30~~ is intended to  
23 be codified as an integral part of Title 41, chapter 5, and  
24 the provisions of Title 41, chapter 5, apply to section ~~32~~  
25 30.

(2) Sections 6, 7, 8, 9, 12 11, 18, 19, 20, and 25 23 through 28 26 are intended to be codified as a new part 11 in Title 41, chapter 3, and the provisions of Title 41, chapter 3, apply to such sections.

(3) (a) Sections 41-3-405 and 41-5-805, MCA, are to be combined.

(b) Sections 41-3-407 and 41-5-806, MCA, are to be combined.

(c) The sections enumerated in subsections (3)(a) and (b) are to be combined into single sections. They are intended to be renumbered and recodified as integral parts of Title 41, chapter 3, part 11, and the provisions of Title 41, chapter 3, apply to them. Such sections, when combined, may not contain redundant subsections.

(4) Sections 41-3-104, 41-3-105, 41-3-501 through 41-3-504, 41-5-302, 41-5-801, 41-5-804, and 41-5-807, MCA, are intended to be recodified and renumbered as an integral part of Title 41, chapter 3, part 11, and the provisions of Title 41, chapter 3, apply to those sections.

(5) The code commissioner is authorized to change internal references in the MCA to reflect the renumbering and recodification required by this section.

**NEW SECTION.** Section 32. Repealer. Sections 41-5-803 and 41-5-901 through 41-5-924, MCA, are repealed.

**NEW SECTION.** Section 33. Effective date. This act is

1 effective on July 1, 1983.

-End-