HOUSE BILL NO. 24

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INTRODUCED BY KEYSER, MENAHAN, NORMAN, HEMSTAD, MASUREK, 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. |
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| 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. |
| Pebruary 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 T | HE 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. |
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| 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, amondments and Statement of Intent amondments concurred in. |
| April 4, 1983 | Third reading, amendments and Statement of Intent amendments concurred in. |
| | Sent to enrolling. |

Reported correctly enrolled.

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HOUSE BILL NO. 24 1 INTRODUCED BY KEYSER 2 BY REQUEST OF THE JOINT SUBCOMMITTEE ON HUMAN SERVICES 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 5 LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR 6 COMMUNITY-BASED SERVICES FOR YOUTH UNDER THE DEPARTMENT OF 7 SOCIAL AND REHABILITATION SERVICES; AMENDING SECTIONS 8 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 41-3-501 9 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 41-5-523, 10 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 11 76-2-314, NCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 12 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE." 13 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 Section 1. Section 53-2-201, MCA, is amended to read: 16 =53-2-201. Powers and duties of department. (1) The 17 department shall: 18 (a) administer or supervise all forms of public 19 assistance, child protection, and child welfare, including 20 provision of medical care payments in behalf of 21 the recipients of public assistance; 22 (b) administer or supervise all child welfare 23 activities, including: 24 (i) importation and exportation of children; 25

1 (ii) licensing of all children's foster family homes, 2 group homes, child-care agencies and child-placing agencies; 3 (iii) the care of dependent and neglected children in 4 substitute care placement and children who are free for 5 adoption: end 6 (iv) the maintenance of supplemental day care for

7 children:

(v) the care of youth in need of supervision placed by 9 the youth court under the supervision of the department: and 10 fvii all state and federal funds allocated to the 11 department for youth foster homes, youth group homes, 12 child-care agencies, and state programs for youth in need of 13 care. youth in need of supervision, and delinguent youth: 14 (c) give consultant service to private institutions 15 providing care for the needy, indigent, handicapped, or 16 dependent adults;

(d) cooperate with other state agencies and develop 17 provisions for services to the blind, including the 18 prevention of blindness, the location of blind persons, 19 20 medical services for eye conditions, and vocational guidance 21 and training of the blind;

(e) provide services in respect to organization and 22 23 supervise county departments of public welfare and county boards of public welfare in the administation of public 24 25 assistance functions and for efficiency and economy;

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(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;

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.

(2) The department may:

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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.

(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.^N

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

1 #41-5-103. Definitions. For the purposes of the 2 Montana Youth Court Act, unless otherwise stated the Э. following definitions apply: 4 (1) "Adult" means an individual who is 18 years of age 5 or older. (2) "Agency" means the deportment of institutionsy the 6 7 department-of-social-and-rehabilitation--servicesy--and--any division--or--department--of--either any entity of state or 8 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-youthy 16 (6)(5) "Guardianship" means the status created and 17 defined by law between a youth and an adult with the reciprocal rights, duties, and responsibilities. 18 19 *** "Judge" used without further when qualification, means the judge of the youth court. 20 (8)(17) (a) "Legal custody" means the legal status 21 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;

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

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| 1 | what period; | 1 | any condition of his probation. |
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| 2 | (iii) protect, train, and discipline the youth; and | 2 | <pre>(13)(12) "Youth in need of supervision" means a youth</pre> |
| 3 | (iv) provide the youth with food, shelter, education, | 3 | who commits an offense prohibited by law which, if committed |
| 4 | and ordinary medical care. | 4 | by an adult, would not constitute a criminal offense, |
| 5 | (b) An individual granted legal custody of a youth | 5 | including but not limited to a youth who: |
| 6 | shall personally exercise his rights and duties as guardian | 6 | (a) violates any Nontana municipal or state law |
| 7 | unless otherwise authorized by the court entering the order. | 7 | regarding use of alcoholic beverages by minors; |
| 8 | <pre>(9)(8) "Parent" means the natural or adoptive parent</pre> | 8 | (b) habitually disobeys the reasonable and lawful |
| 9 | but does not include a person whose parental rights have | 9 | demands of his parents or guardian or is ungovernable and |
| 10 | been judicially terminated, nor does it include the putative | 10 | beyond their control; |
| 11 | father of an illegitimate youth unless his paternity is | 11 | (c) being subject to compulsory school attendance; is |
| 12 | established by an adjudication or by other clear and | 12 | habitually truant from school; or |
| 13 | convincing proof. | 13 | (d) has committed any of the acts of a delinquent |
| 14 | (10)[9] "Youth" means an individual who is less than | 14 | youth but whom the youth court in its discretion chooses to |
| 15 | 18 years of age without regard to sex or emancipation. | 15 | regard as a youth in need of supervision. |
| 16 | <pre>(11)(10) "Youth court" means the court established</pre> | 16 | (14)(13) "Youth in need of care" means a youth as |
| 17 | pursuant to this chapter to hear all proceedings in which a | 17 | defined in 41-3-102. |
| 18 | youth is alleged to be a delinquent youth, a youth in need | 18 | [15][14] "Custodian" means a person other than a parent |
| 19 | of supervision, or a youth in need of care and includes the | 19 | or guardian to whom legal custody of the youth has been |
| 20 | youth court, the judge, and probation officers. | 20 | given but does not include a person who has only physical |
| 21 | (12)(11) "Delinquent youth" means a youth: | 21 | custody. |
| 22 | (a) who has committed an offense which, if committed | 22 | (16)[15] "Necessary parties" include the youth, his |
| 23 | by an adult, would constitute a criminal offense; | 23 | parents, guardian, custodian, or spouse. |
| 24 | (b) who, having been placed on probation as a | 24 | (17)[16] "State youth correctional facility" means a |
| 25 | delinquent youth or a youth in need of supervision, vialates | 25 | residential facility for the rehabilitation of delinquent |

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| 1 | youth such as Pine Hills school in Miles City, and Mountain | 1 | supervision may be sheltered only in: |
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| 2 | View school in Helena, and Swan River youth forest camp. | 2 | (a) a licensed <u>youth</u> foster home or a home approved by |
| 3 | [18][17] "Shelter care" means the temporary <u>substitute</u> | 3 | thecourtfortheprovisionof-shelter-core-of-youth as |
| 4 | care of youth in physically unrestricting facilities. | 4 | defined in [section 7]; |
| 5 | <pre>(19)(18) "Detention" means the temporary substitute</pre> | 5 | (b) a facility operated by a licensed child welfare |
| 6 | care of youth in physically restricting facilities. | 6 | agency; <u>Q</u> |
| 7 | {20}-"Districtyouthguidancehome"meansa | ۲ | (c) a licensed attention youth group home or shelter |
| 8 | family-oriented-residence-established-in-s-judicial-district | 8 | facility-which-is-operated-by-a-nonprofit-corporation-or-the |
| 9 | of -the-state-of-Montana-as-an-olter native-to-existingstate | 9 | youth-court-for-the-provision-of-shelter-care-ofyouth; as |
| 10 | youth-correction s]facilities,-the-function-of-which-is-to | 10 | defined in [section 7]. |
| 11 | provide-a-home-and-guidance-throughaduitsupervisionfor | 11 | (d)any-other-switable-place-or-facility-designated-or |
| 12 | d elinquant-youths-and-youths-in-need-of-supervisions | 12 | operatedbythecourtforthesupervisionof-youth-in |
| 13 | [21][19] "Restitution" means payments in cash to the | 13 | shelter-care. |
| 14 | victim or with services to the victim or the general | 14 | (2) The youth may be detained in a jail or other |
| 15 | community when these payments are made under the | 15 | facility for the detention of adults only if: |
| 16 | jurisdiction of a youth court proceeding. | 16 | (a) the facilities in subsection (1) are not available |
| 17 | (20) "Substitute care" means full-time care of youth in | 17 | or do not provide adequate security; |
| 18 | a residential setting for the purpose of providing foods | 18 | (b) the detention is in an area physically and |
| 19 | shelter. security and safety.guidance.direction, and if | 19 | visually separate and removed from those of adults; |
| 20 | necessary, treatment to youth who are removed from or | 20 | (c) it appears to the satisfaction of the court that |
| 21 | without the care and supervision of their parents or | 21 | public safety and protection reasonably require detention; |
| 22 | guardian." | 22 | and |
| 23 | Section 3. Section 41-5-306, MCA, is amended to read: | 23 | (d) the court so orders. |
| 24 | #41-5-306。 Place of shelter care or detention。 [1] A | 24 | (3) The official in charge of a jail or other facility |
| 25 | youth alleged to be a delinquent youth or youth in need of | 25 | for the detention of adult offenders or persons charged with |
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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.

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."

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:

15 (a) probation;

(b) placement of the youth in-a-licensed-foster-home
ar-other-home-approved-by-the-court for substitute care into
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 youthy 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--institutionsy--provided-that-such-commitment 24 does-not-authorize-the-department-of-institutions--to--ploce 25 the--youth--in-a-state-youth-correctional-focilitys-and-such LC 0156/01

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| 2 | subsequent-order-of-the-courty-after-notice-and-hearing; |
| 3 | <pre>tet(d) restitution upon approval of the youth court</pre> |
| 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 remodies 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 ina-licensed-fosterhome <u>the youth for</u> |
| 22 | substitute care into a youth care facility as defined in |
| 23 | <pre>[section 7] or a home approved by the court;</pre> |
| 24 - | (c) place the youth in a private agency responsible |
| 25 | for the care and rehabilitation of such a youth yincluding |

| 1 | but-not-limited-to-a-district-youth-guidance-home; |
|----|--|
| 2 | (d) in the case of a delinguent youth, transfer legal |
| 3 | custody to the department of institutions; providedy |
| 4 | howevery-that-in-the-case-of-a-youth-in-need-of-supervisiony |
| 5 | suchtransferof-custody-does-not-authorize-the-deportment |
| 6 | o finstitutionstoplacetheyouthinastateyout h |
| 7 | correctionalfacility-and-such-custody-may-not-continu e-for |
| 8 | a-pe riod-of-more-than-6-manths-withouta-subsequentcourt |
| 9 | order-after-notice-and-hearing; |
| 10 | (e) such further care and treatment or evaluation that |
| 11 | the court considers beneficial to the youth y 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

department of institutions of the finding. The director of 1 Ζ 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 department of institutions for a period not to exceed 45 5 days for the purpose of evaluation as to the youth's 6 7 suitability for placement and order the youth delivered for evaluation to the youth facility designated by the director. 8 If after the evaluation the department of institutions 9 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 campy the court may then commit such child directly to the youth forest camp under the terms of 13 commitment of this chapter. If the department of 14 institutions reports and states the reasons to the court why 15 the youth is not suitable for placement, the youth shall be 16 17 returned to the court for such further disposition as the 18 court may consider advisable under the provisions of this chapter. The costs of transporting the youth to the 19 designated youth facility for evaluation and cost of 20 returning the youth to the court shall be borne by the 21 county of residence of the youth. 22 23 (3) No youth may be committed or transferred to a

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

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provided by subsection (2)(b). 1 (4) Any order of the court may be modified at any 2 time. 3 4 (5) Whenever the court vests legal custody in an agency, institution, or department, it must transmit with 5 the dispositional judgment copies of a medical report and 6 such other clinical, predisposition, or other reports and 7 information pertinent to the care and treatment of the 8 9 youth. (6) The order of commitment to the department of 10 institutions shall read as follows: 11 ORDER OF COMMITMENT 12 State of Montana) 13 14 1 55. 15 County of) In the district court for the Judicial District. 16 On the day of 19... a minor of this 17 county, years of age, was brought before me charged 18 with Upon due proof I find that is a suitable 19 person to be committed to the department of institutions. 20 It is ordered that be committed to the department 21 of institutions until 22 The names, addresses, and occupations of the parents 23

1 Name Address Occupation 2 з 4 The names and addresses of their nearest relatives are: 5 6 7 Witness my hand this own day of seens 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 and varied needs of youth in need of care, delinguent youth, 12 13 and youth in need of supervision of this state and of the desirability of meeting these needs on a community level to 14 15 the fullest extent possible, establishes by this part a 16 system of substitute care to provide facilities and services for youth placed out of their homes and establishes a 17 program to provide such facilities and services through 18 local nonprofit corporations and the department of social 19 20 and rehabilitation services. NEW SECTION. Section 7. Definitions. For the purposes 21 22 of this part the following definitions apply: (1) "Child-care agency" means a youth care facility in 23 which substitute care is provided to 13 or more children or 24 25 youth.

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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 institution, including but not limited to the following: 4 5 (a) evaluation services; 6 (b) diagnostic services: 7 (C) treatment services; 8 (d) training services; 9 education services: (e) 10 (f) counseling services: 11 (9) 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, shelter, security and safety, guidance, direction, and if 18 necessary, treatment to youth who are removed from or 19 20 without the care and supervision of their parents or 21 quardian. 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 in accordance with 41-3-502 through 41-3-504, in which 25

substitute care is provided to youth in need of care, youth in need of supervision, or delinquent youth and includes 2 youth foster homes, youth group homes, and child-care 3 agencies. 4 (7) "Youth foster home" means a youth care facility in 5 6 which substitute care is provided to one to six children or 7 youth to whom the foster parents are not related by blood. marriage, adoption, or wardship. 8 9 (6) "Youth group home" means a youth care facility in which substitute care is provided to 7 to 12 children or 10 11 youth. 12 NEW SECIION. Section 8. Powers duties of and department. (1) The department shall: 13 14 (a) administer all state and federal funds allocated to the department for youth foster homes, youth group homes, 15 child-care agencies, and community-based programs for youth 16 in need of care, youth in need of supervision. 17 and 18 delinguent youth; 19 (b) exercise licensing authority over all youth foster homes, youth group homes, and child-care agencies; 20 21 (c) collect and disseminate information relating to 22 youth in need of care, youth in need of supervision, and delinquent youth; 23

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

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(e) provide by rule for the evaluation of all 1 2 community-based services to youth: (f) in cooperation with the department of institutions 3 and youth care facility providers, develop and implement 4 5 standards for youth care facilities; (q) apportion and allocate placement budgets to all 6 7 iudicial districts: (h) develop an annual comprehensive plan for the 8 initiation and maintenance of community-based services to 9 10 youth: and 11 (i) seek public input on the plan prior to its 12 adoption and implementation. (2) The department may: 13 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 property from public and private sources to initiate and 19 20 maintain community-based services to youth. NEW SECTION. Section 9. Apportionment of money to 21 ZŻ judicial districts. (1) The department shall apportion and 23 allocate placement budgets, based upon historical placement

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 review committee as provided for in 41-5-807. 4 Section 10. Section 41-5-801, MCA, is amended to read: 5 *41-5-801. Shetter-core-and-foster-homes Foster care 6 7 payments for youth court placements. (1)-The-youth-court-may 8 administering-shelter-core-and-foster-homes-or--other--homes 9 10 approved-by--the--court--for-youth-within-the-provisions-of 11 this-chapter. 12 ++++ Pursuant to 41-3-104, the department of-social-and 13 rehobilitation---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 facility licensed by the department or by an appropriate 17 18 licensing authority from another state; 19 (b)(12) the youth court enters into an agreement according to federal regulations with the department for the 20 21 placement of children; (c)(3) the placement of the child is reviewed as 22 required by 41-5-807; and 23

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

patterns and current placement trends, to the judicial

districts for the substitute care of youth in need of

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1 +3}--The---licensed---shelter--care--and--foster--homes 2 established-under-this-section-shall-be---funded--at---at--rate 3 consistent --- with --- other -- shelter -- care--and -- faster -- homes 4 established-for-ather-purposes-under-law--Shelter-core--as 5 defined---by--this--chapter--may--be--funded--through--state 6 appropriation-to-the-youth-courts--and--the--departments--of institutions-and-social-and-rehabilitation-services." 7 8 Section 11. Section 41-3-104, MCA, is amended to read: 9 #41-3-104. Payment for support of youth in need of 10 care, youth in need of supervision, or delinquent, youth ---11 reimbursement by county. (1) Whenever agreements are entered 12 into by the department of social ond rehabilitation services 13 or the court for placing a youth in need of cares a youth in 14 need of supervision, or a delinquent youth in a treensed 15 family-foster-homey-child-core-agencyy-group-homey-or 16 treatment youth care facility, the department shall pay by 17 its check or draft each month from any funds appropriated 18 for that purpose the entire amount agreed upon for board, 19 clothing, personal needs, treatment, and room of the 20 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.

1 (3) The department shall conduct or arrange for the 2 review required under 41-5-807 of a child placed in a 3 licensed family foster-hamay-child-care-agencyy-group--homey 4 or--treatment youth care facility if the child is placed 5 under the supervision of the department or placed by the 6 department or the department pays for the care of the child 7 as set forth in this section."

NEW SECTION. Section 12. Time limitations on youth 8 9 court placements. (1) If the court has determined that a 10 youth be placed in a licensed youth care facility as 11 provided in 41-5-403 or 41-5-522 and the youth has not been 12 placed within 10 working days of such determination; the 13 probation officer, a representative of the department, and a 14 representative of the elementary or high school district in 15 which the youth resides must meet to determine three 16 appropriate placement alternatives.

17 (2) The three placement alternatives shall be 18 presented to the youth court judge for his consideration 19 within 15 working days of the informal adjustment or 20 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 hime he must state the reason for ordering such
placement.

(4) Delays resulting from court-ordered evaluation of

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1 the youth are not included in the 15-day time limitation. Section 13. Section 41-3-405, MCA, is amended to read: 2 з. "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 41-3-404. the court shall issue an order directing the 6 county welfare department of the county in which the 7 petition was filed to conduct an investigation of the 8 financial status of the child's parents or the extent of 9 10 quardianship 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 child and the financial ability of the parents or the 14 15 adequacy of the quardianship assets to pay the cost of 16 supporting the child in a foster-homey-child-core-ogency, 17 group-homey-or-private-treatment youth care facility. A written report of the investigation shall be filed with the 18 clerk of court before the time fixed for the dispositional 19 20 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."

24Section 14-Section 41-5-805, MCA, is amended to read:25*41-5-805. Financial investigation by county welfare

department. (1) Whenever a disposition under 41-5-403, 1 . 41-5-523, or 41-5-524 involves placement in a foster-homev 2 child-care-agency-group-homey-or--private--trestment youth 3 4 care facility and the department of---social---and 5 rehabilitation-services is responsible for all or part of the cost of such placement, the probation officer or the 6 7 court shall notify the department of---social---ond rehebilitesion -services and order the county welfare 8 department in the youth's county of residence to conduct an 9 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 quardian of the 19 youth and the financial ability of the parents or the 20 adequacy of the quardianship 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 Z5 services, and the department of institutions, and a copy

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shall be sent to the parents or guardian of the youth or to
 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 youth is placed in a foster-homey-child-care-agencyy-group 5 6 homey--private--treatment youth care facility under 7 41-3-406, the court shall determine the ability of the 8 youth's parents or quardian to contribute to the support of 9 the youth or the adequacy of the quardianship 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 quardianship assets are adequate to provide a contribution. 19 the court shall issue an order directing the parents or 20 quardian 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 quardian 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 quardianship assets -- division between state and county. (1) In the 3 4 event any recovery is made from the parent or parents or 5 quardianship 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 quardianship assets when a child is placed in a foster-homey 12 ehild-care-agencyy-group-homoy-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 wome-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 consideration of value, and which child is neither his son, Z2 daughter, nor ward shall be deemed to be an "operator" of a **Z**3 #forter--home-or-boarding home# "youth care facility" within 24 25 the meaning of this chapter, except that this chapter shall

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not apply when any person accepts such care and custody of
 such child on a temporary basis and simply as a temporary
 accommodation for the parent or parents, guardian, or
 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 <u>NEW SECTION</u> 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 formed or organized for the purpose of establishing youth 14 care facilities or to provide community-based services and 15 to receive from the department and other governmental units 16 17 such services, facilities, and funds as the department or 18 other governmental units may be authorized by law to 19 provide.

20 <u>NEW_SECTION</u> 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) 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 21. Section 41-3-502, MCA, is amended to read:
"41-3-502. License required. No person shall maintain
or operate a foster-or-boording-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."

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

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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."

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 misdemeanor and upon conviction be punished by a fine not to 13 14 excess-si00."

15 Section 24. Section 41-5-802, MCA, is amended to read: "41-5-802. Shetter---care---and---detention Detention 16 17 facilities. (1) tot In all counties the county commissioners may provide, by purchase, lease, or otherwise, a place to be 18 known as the youth detention facility, which shall not be 19 20 used for the confinement of adult persons charged with 21 criminal offenses, where delinguent 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)12) The judge having jurisdiction may appoint such

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| l | personnel as required, who shall have charge of said |
|----|---|
| 2 | facility and of the youths detained therein. |
| 3 | <pre>(c)(3) The compensation of such personnel shall be</pre> |
| 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-m oy |
| 9 | p rovide-by-purchasey-teosey-or otherwiseyaptacetobe |
| 10 | known-ss-a-sheiter-care-facility= |
| 11 | {b}Suchfacilityshallbc-physically-unrestricting |
| 12 | and-may-be-used-to-provide-shelter-care-for-youth-elleged-or |
| 13 | adjudicabed-delinquenty-in-need-of-supervisiony-orinnee d |
| 14 | of~cafe v |
| 15 | {c}Such-facility-shall-be-separate-and-apart-from-any |
| 16 | facility-housing-adults-charged-with-criminal-offenses- |
| 17 | {d}Stateappropriationsandfederalfundsmey-be |
| 18 | receivedby-theyewthcourtorprivatenonpr ofit |
| 19 | corporations-for-establi shwanty-maintenancey-or-operation-of |
| 20 | such-facility |
| 21 | {e}Suchfacility-shall-be-furnished-in-a-comfortoble |
| 22 | "magnor-and-ba-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 |
| | |

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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.

6 <u>NEW_SECTION</u> 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 <u>NEW SECTIONs</u> 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 <u>NEW SECTION</u> 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.

(2) Aftercare facilities are under the licensing
 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 the following sections outside of Title 20, the term 4 includes community college districts and the provisions of 5 those sections applicable to school districts apply to 6 7 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, 8 g. 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. 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 14 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-602, 19-1-811, 15 39-3-104. 16 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-31-304-39-71-116+ 39-71-117. 39-4-107, 39-31-103, 17 18 39-71-2106, 39-71-2206, 40-6-237, 41-5-912 [section_20], 77-3-321, 82-10-201, 19 49-3-101. 49-3-102. 53-20-304, 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules 20 21 4D(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."

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2 *76-2-313. Definition of community residential 3 facility. "Community residential facility" means: 4 (1) a group, foster, or other home specifically 5 provided as a place of residence for developmentally disabled or handicapped persons who do not require nursing 6 7 care: 8 (2) a district youth guidance group home established pursuant-to-41-5-903 as defined in [section 7]; 9 10 (3) a halfway house operated in accordance with 11 regulations of the department of health and environmental sciences for the rehabilitation of alcoholics or drug 12 13 dependent persons; or 14 (4) a licensed adult foster family care home." 15 Section 31. Section 76-2-314, MCA, is amended to read: 16 #76-2-314. Relationship of foster homes, boarding 17 youth group homes, and community residential facilities to 18 zoning. [1] A foster or boording youth group home operated 19 under the provision provisions of 41-3-501 through 41-3-504 or community residential facility serving eight or fewer 20 21 persons is considered a residential use of property for 22 purposes of zoning if the home provides care on a 23 24-hour-a-day basis.

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

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24 (2) The homes are a permitted use in all residential
 25 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.

7 (3) Nothing in this section shall be construed to 8 prohibit a city or county from requiring a conditional use 9 permit in order to maintain a home pursuant to the 10 provisions of this section provided such home is licensed by 11 the department of health and environmental sciences and the 12 department of social and rehabilitation services."

 NEW_SECTION
 Section 32.
 Administration.
 The

 14
 provisions of Title 41, chapter 3, part 11, govern the
 15
 administration of this chapter.

16NEW SECTION. Section 33. Codificationandcode17commissioner instructions. (1) Section 32 is intended tobe18codified as an integral part of Title 41. chapter 5. and the19provisions of Title 41. chapter 5. apply to section 32.

20 (2) Sections 6: 7: 8: 9: 12: 18: 19: 20: and 25
21 through 28 are intended to be codified as a new part 11 in
22 Title 41: chapter 3: and the provisions of Title 41: chapter
23 3: apply to such sections.

 24
 (3) (a) Sections 41-3-405 and 41-5-805, MCA, are to be

 25
 combined.

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19 C

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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.

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

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

-End-

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STATE OF MONTANA

REQUEST NO. _____

FISCAL NOTE

Form BD-15

| In | compliance with a written request received January 6, |
|----|---|
| fo | r House Bill 24 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). |
| B | ackground information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members |
| o | f 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> | FY 85 |
|--|--------------------------------|--------------------------------|
| Department of SRS Department of Institutions Department of Health & Environmental Sciences | \$ 601,431 (601,431) -0- | \$ 637,582 (637,582) -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

HB 24

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| 1 | STATEMENT OF INTENT | 1 | b . the total youth population of the judicial |
|----|---|-----|--|
| 2 | HOUSE BILL 24 | 2 | district; |
| 3 | House Human Services Committee | 3 | c. the total number and costs of placements in public |
| 4 | | 4 | facilities and out-of-home care facilities; |
| 5 | House Bill 24 requires a statement of intent because it | 5 | d. trends in population, placements, and local |
| 6 | authorizes the Department of Social and Rehabilitation | . 6 | economics. |
| 7 | Services to adopt rules to implement statutory changes in | ٦ | 5. Consideration of measures to investigate parental |
| 8 | the delivery of services to youths. | 8 | contributions. |
| 9 | The Legislature contemplates that the rules should | 9 | 6. Consideration of specific measures for licensing |
| 10 | address the following, among other things: | 10 | the various youth facilities, including: facility |
| 11 | 1. Consideration of aftercare programs for youth under | 11 | acquisition, facility design, group home staffing, staff |
| 12 | the department"s supervision. | 12 | training, service goals and design, quality of services, |
| 13 | ?. Consideration of standards for facilities housing | 13 | client placement procedure, client rights and privileges, |
| 14 | youth in need of care, youth in need of supervision, and | 14 | client grievance procedure, provider grievance procedure, |
| 15 | delinquent youth. Such standards should be considered in | 15 | accounting procedures including accounting of client |
| 16 | licensing and delivery of service. | 16 | financial resources, health and safety standards including |
| 17 | 3. Consideration of measures associated with the | 17 | water and waste disposal, food service, and laundry. |
| 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; | | |
| | | | -2- SECOND READING -2- ABDL |

HB 24

pproved by Comm. On Human Services

| 1 | HOUSE BILL NO. 24 | 1 | activitles, including: |
|----|---|-----|--|
| Z | INTRODUCED BY KEYSER, NENAHAN, | 2 | (i) importation and exportation of children; |
| 3 | NORMAN, HEMSTAD, MAZUREK, HAGER | 3 | (ii) licensing of all children's foster family homes, |
| 4 | BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE | 4 | group homes, child-care agencies and child-placing agencies; |
| 5 | ON HUMAN SERVICES | 5 | (fii) the care of dependent and neglected children in |
| 6 | | e 6 | substitute care placement and children who are free for |
| 7 | A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE | 7 | adoption; and |
| 8 | LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR | 8 | (iv) the maintenance of supplemental day care for |
| 9 | COMMUNITY-BASED Besidential services for youth under the | 9 | children; AND |
| 10 | DEPARTHENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING | 10 | tricthecence-of-youthcincomed-of-supervisioo-pinced-by |
| 11 | SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, | 11 | the_vouth_court_under_the_supervision_of_the_depertments_and |
| 12 | 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, | 12 | tvit(v)_all_state_and_federal_funds_allocated_to_the |
| 13 | 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, | 13 | departmentforyouthfosterbomessyouthgroupbomess |
| 14 | AND 76-2-314, MCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 | 14 | child-care_agenciesand_state_programs_for_youth_in_need_of |
| 15 | THROUGH 41-5-924. HCA; AND PROVIDING AN EFFECTIVE DATE." | 15 | carexouth_in_need_of_supervisionand_delinguent_vouth: |
| 16 | | 16 | (c) give consultant service to private institutions |
| 17 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: | 17 | providing care for the needy, indigent, handicapped, or |
| 18 | Section 1. Section 53-2-201, MCA, is amended to read: | 18 | dependent adults; |
| 19 | "53-2-201. Powers and duties of department. (1) The | 19 | (d) cooperate with other state agencies and develop |
| 20 | department shall: | 20 | provisions for services to the blind, including the |
| 21 | (a) administer or supervise all forms of public | 21 | prevention of blindness, the location of blind persons, |
| 22 | assistance, child protection, and child welfare, including | 22 | medical services for eye conditions, and vocational guidance |
| 23 | the provision of medical care payments in behalf of | 23 | and training of the blind: |
| 24 | recipients of public assistance; | 24 | (e) provide services in respect to organization and |
| 25 | (b) administer or supervise all child welfare | 25 | supervise county departments of public welfare and county |
| | | | |
| | | | -2- HB 24 |

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| 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 ar older. |
| B (2) "Agency" means the-department-of-institutionsy-the |
| 9 department-of-social-and-rehabilitationservicesyandany |
| 10 divisionordepartmentofeither <u>any entity of state or</u> |
| <pre>11 local_government_authorized_by_law_to_be_responsible_for_the</pre> |
| 12 care_or_rebabilitation_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)"fosterhome"means-a-private-residence-approv ed |
| 17 by-the-court-for-płacement-of-a-youth# |
| 18 (5)TEOSIER_HOMEMEANS_A_PRIVATERESIDENCEAPPROVED |
| 19 BY_IHE_COURI_FOR_PLACEMENT_DE_A_YOUTH: |
| 20 (6)<u>15116</u> "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}<u>tát{7</u>] "Judge", when used without further |
| 24 qualification, means the judge of the youth court. |
| 25 t07 <u>t2t(8)</u> (a) "Legal custody" means the legal status |
| |

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boards of public welfare in the administation of public
 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

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

(2) The department may:

13

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.

(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

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| 1 | created by order of a court of competent jurisdiction that | 1 | (a) who has committed an offense which, if committed |
|----|---|----|--|
| z | gives a person the right and duty to: | 2 | by an adult, would constitute a criminal offense; |
| 3 | (i) have physical custody of the youth; | 3 | (b) who, having been placed on probation as a |
| 4 | (ii) determine with whom the youth shall live and for | 5 | delinquent youth or a youth in need of supervision, violates |
| 5 | what period; | 5 | any condition of his probation. |
| 6 | (ili) protect, train, and discipline the youth; and | 6 | (13)(112) "Youth in need of supervision" means a |
| 7 | (iv) provide the youth with food, shelter, education, | 7 | youth who commits an offense prohibited by law which, if |
| 8 | and ordinary medical care. | 8 | committed by an adult, would not constitute a criminal |
| 9 | (b) An individual granted legal custody of a youth | 9 | offense: including but not limited to a youth who: |
| 10 | shall personally exercise his rights and duties as guardian | 10 | (a) violates any Montana municipal or state law |
| 11 | unless otherwise authorized by the court entering the order. | 11 | regarding use of alcoholic beverages by minors; |
| 12 | {?}<u>t@t(9)</u> "Parent" means the natura) or adoptive | 12 | (b) habitually disobeys the reasonable and lawful |
| 13 | parent but does not include a person whose parental rights | 13 | demands of his parents or guardian or is ungovernable and |
| 14 | have been judicially terminated, nor does it include the | 14 | beyond their control; |
| 15 | putative father of an illegitimate youth unless his | 15 | (c) being subject to compulsory school attendance, is |
| 16 | paternity is established by an adjudication or by other | 16 | habitually truant from school; or |
| 17 | clear and convincing proof. | 17 | (d) has committed any of the acts of a delinquent |
| 18 | [10]<u>£91(101</u> "Youth" means an individual who is less | 18 | youth but whom the youth court in its discretion chooses to |
| 19 | than 18 years of age without regard to sex or emancipation. | 19 | regard as a youth in need of supervision. |
| 20 | <pre>fit/figill: "Youth court" means the court established</pre> | 20 | {14}f1111(14) "Youth in need of care" means a youth as |
| 21 | pursuant to this chapter to hear all proceedings in which a | 21 | defined in 41-3-102. |
| 22 | youth is alleged to be a delinquent youth, a youth in need | 22 | f15}<u>t141[15]</u> "Custodian" means a person other than a |
| 23 | of supervision, or a youth in need of care and includes the | 23 | parent or guardian to whom legal custody of the youth has |
| 24 | youth court, the judge, and probation officers. | 24 | been given but does not include a person who has only |
| 25 | <pre>+12+filt(12) "Delinquent youth" means a youth:</pre> | 25 | physical custody. |
| | | | |

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| 1 | <pre>(16;115;(16) "Necessary parties" include the youth; his</pre> | 1 | without_the_care_and_supervision_of_their_parents_or |
|----|---|----|---|
| 2 | parents, guardian, custodian, or spouse. | 2 | QUARDIADA NOTHING_IN_THIS_DEFINITION_IS_INTENDED_TO_INCLUDE |
| 3 | <pre>the state south correctional facility means</pre> | 3 | JUYENILECOBRECTIONALFACILITIESEVALUATIONEACILITIES. |
| 4 | a residential facility for the rehabilitation of delinquent | 4 | MENTAL_HEALTH_EACTLITIES_AND_SERVICESANDAETERCARE |
| 5 | youth such as Pine Hills school in Miles City, and Mountain | 5 | PROGRAMS OPERATED BY THE DEPARTMENT OF INSTITUTIONS." |
| 6 | View school in Helena, and Swan River youth forest camp. | 6 | Section 3. Section 41-5-306, MCA, is amended to read: |
| 7 | {!#;!!!!!!!!!! "Shelter care" means the temporary | 7 | #41-5-306. Place of shelter care or detention. (1) A |
| 8 | substitute care of youth in physically unrestricting | 8 | youth alleged to be a delinquent youth or youth in need of |
| 9 | facilities. | 9 | supervision may be sheltered only in: |
| 10 | <pre>(19):10:00 *** Detention* means the temporary substitute</pre> | 10 | (a) a licensed <u>xouth</u> foster home or-a-home-approved-by |
| 11 | care of youth in physically restricting facilities. | 11 | the-court-for-the-provision-ofsheitercareofyouth as |
| 12 | t20; | 12 | defined_in_[section_7]; |
| 13 | fam+ ly-ortented-residence-established-in- e-judicia l-district | 13 | (b) a facility operated by a licensed child welfare |
| 14 | of-the-state -of -Montana-as-an-alternative-to-existingstate | 14 | agency; or |
| 15 | youthcorrectionalfacilitiesy-the-function-of-which-is-to | 15 | (c) a licensed attention <u>youth</u>group home orsheiter |
| 16 | provide-a-home-and-guidance-throughaduitsupervisionfor | 16 | facility-which-is-operated-by-a-nonprofit-corporation-or-the |
| 17 | delinquent-youtha-and-youtha-in-need-of-aupervision. | 17 | youthcourtfor-the-provision-of-sheiter-care-of-youtht <u>as</u> |
| 18 | <pre>f21f121(20) "Restitution" means payments in cash to</pre> | 18 | defined_in_[section_7]. |
| 19 | the victim or with services to the victim or the general | 19 | {d}any-other-suitable-place-or-facility-designated-or |
| 20 | community when these payments are made under the | 20 | operated -by-thecourtforthesupervisionofyouthin |
| 21 | jurisdiction of a youth court proceeding. | 21 | shelter-care, |
| 22 | t291(21) "Substitute_care"_means_full-time_care_of | 22 | (2) The youth may be detained in a jail or other |
| 23 | <u>vouth_in_a_residential_setting_for_the_purpose_of_providing</u> | 23 | facility for the detention of adults only if: |
| 24 | foods_shelters_security_and_safetys_guidances_directions_and | 24 | (a) the facilities in subsection (1) are not available |
| 25 | if_becessary, treatment to youth who are removed from or | 25 | or do not provide adequate security; |
| | | | |
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(b) the detention is in an area physically and visually separate and removed from those of adults;

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

5 and

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(d) the court so orders.

7 (3) The official in charge of a jall or other facility 8 for the detention of adult offenders or persons charged with 9 crime shall inform the court immediately if a person who is 10 or appears to be under the age of 18 years is received at 11 the facility. Such official shall bring the person before 12 the court upon request or deliver him to a detention 13 facility designated by the court.

14 (4) A youth alleged to be in need of care shall be 15 placed only in the facilities stated in subsection (1) of 16 this section and shall not be detained in a jail or other 17 facility intended or used for the detention of adults 18 charged with criminal offenses."

Suction 4. Section 41-5-403. MCA. is amended to read:
 m41-5-403. Disposition permitted under informal
 adjustment. (1) The following dispositions may be imposed by
 informal adjustment:

23 (a) probation;

(b) placement of the youth in-a-licensed-foster-home
 or-other-home-approved-by-the-court for substitute_care_ioto

a_voutb_care_facility_as_defined_in_[section_7];

2 (c) placement of the youth in a private agency 3 responsible for the care and rehabilitation of such a youthincluding-but-not-limited-to-a-district-youth-quidance-home; 4 5 td -- transfer--of--legal--custody--of--the-yesth-to-the 6 department-of-institutionsy-provided--that--such--commitment 7 does--not--suthorize-the-department-of-institutions-to-size 8 the-youth-in-a-state-youth-correctionsi-facilityy--and--auch 9 commitment -- may -- not--exceed -- a-seried-of-6-months-without-a 10 subsequent-order-of-the-courty-ofter-notice-and-hearings 11 10)__TRANSFER_OF_LEGAL_CUSTODY_OF_THE_YOUTH_TO_THE DEPARTMENT_OF_INSTITUTIONS.__PROVIDED_THAT_SUCH_COMMITMENT 12 DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE 13 THE YOUTH IN A STATE CORRECTIONAL EACILITY AND SUCH 14 CONMITMENT_MAY_NOI_EXCEED_A_PERIOD_DE__6__MONINS__WITHOUT__A 15 SUBSEQUENT_DEDER_DE_IHE_COUBI. AFTER_NOTICE_AND_HEARING: 16 tettdt[E] restitution upon approval of the youth court 17 18 judge. (2) In determining whether restitution is appropriate 19 in a particular case, the following factors may be 20 considered in addition to any other evidence: 21 (a) age of the youth; 22 ability of the youth to pay: 23 (b) ability of the parents or legal quardian to pay; 24 (c) (d) amount of damage to the victim; and 25

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| | | 1 | PLACE THE YOUTH IN A STATE YOUTH CORRECTIONAL FACILITY AND |
|----|--|----|--|
| L | (e) legal remedies of the victim, however the ability | | |
| 2 | of the victim or his insurer to stand any loss may not be | 2 | SUCH CUSTODY MAY NOT CONTINUE FOR A PERIOD OF MORE IHAN 6 |
| 3 | considered in any case." | 3 | MONIES_WITHOUT_A_SUBSEQUENT_COURT_OBDER_AFTER_NOTICE_AND |
| 4 | Section 5. Section 41-5-523, MCA, is amended to read: | 4 | HEARINGE |
| 5 | "41-5-523. Disposition of delinquent youth and youth | 5 | (e) such further care and treatment or evaluation that |
| 6 | in need of supervision. (1) If a youth is found to be | 6 | the court considers beneficial to the youth y-consistent-with |
| 7 | delinquent or in need of supervision, the court may enter | 7 | subsection-(l)(d)-of-this-section; |
| 8 | its judgment making the following disposition: | 8 | (f) order restitution by the youth. |
| 9 | (a) place the youth on probation; | 9 | (2) At any time after the youth has been taken into |
| 10 | | 10 | custody, the court may, with the consent of the youth in the |
| | (b) place in-m-licensedfosterhome <u>the_youth_for</u> | 11 | manner provided in 41-5-303 for consent by a youth to waiver |
| | substitute_care_into_a_youth_care_facility_as_defined_in | 12 | of his constitutional rights or after the youth has been |
| | [section_7] or a home approved by the court; | 13 | adjudicated delinguent or in need of supervision: |
| 13 | (c) place the youth in a private agency responsible | | (a) order the youth to be evaluated by the department |
| 14 | for the care and rehabilitation of such a youth y-including | | |
| 15 | but-not-limited-to-a-district-youth-guidance-home; | 15 | of institutions for a period not to exceed 45 days of |
| 16 | (d) <u>insthesessespfsasdelinguent-youths</u> transfer legal | 16 | evaluation at a reception and evaluation center for youths; |
| 17 | custody to the department of institutions ; providedy | 17 | or |
| 18 | howevery-that-in-the-case-of-a-youth-in-need-of-supervisiony | 18 | (b) in the case of a delinquent youth 16 years or |
| 19 | such-transfer-of-custody-does-not-authorizethedepartment | 19 | older whom the court considers a suitable person for |
| 20 | ofinstitutionstoplacetheyouthinastateyouth | 20 | placement at a youth forest camp, notify the director of the |
| 21 | correctional-facility-and-such-custody-may-not-continuefar | 21 | department of institutions of the finding. The director of |
| 22 | dperiodofmore-than-6-months-without-a-subsequent-court | 22 | the department of institutions shall then designate to the |
| 23 | | 23 | court the facility to which the youth shall be delivered for |
| | order-after-notice-and-hearingts_PROVIDEDs_HOWEVERs_THATIN | 24 | evaluation. The court may then commit the youth to the |
| 24 | IHE CASE OF A YOUTH IN NEED OF SUPERVISION, SUCH TRANSFER OF | 25 | department of institutions for a period not to exceed 45 |
| 25 | CUSIODY_DOES_NOT_AUTHORIZE_THE_DEPARIMENT_DE_INSTITUTIONS_TO | 2. | |
| | | | |

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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 directly to the youth forest camp under the terms of 8 9 commitment of this chapter. If the department of institutions reports and states the reasons to the court why 10 11 the youth is not suitable for placement, the youth shall be 12 returned to the court for such further disposition as the court may consider advisable under the provisions of this 13 chapter. The costs of transporting the youth to the 14 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 of sentence of adult persons convicted of crimes except as 20 21 provided by subsection (2)(b).

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

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

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 institutions shall read as follows: 6 7 ORDER OF COMMITMENT 8 State of Montana) 9 1 55. 10 County of 11 In the district court for the Judicial District. On the day of, 19...,, a minor of this 12 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. It is ordered that be committed to the department 16 17 of institutions until 18 The names, addresses, and occupations of the parents

19 are:

| 20 | Name | Address | Bccupation |
|----|-------------|-----------------------------|-------------------|
| 21 | | | |
| 22 | ••••• | | |
| 23 | The names a | nd addresses of their neare | st relatives are: |
| 24 | | | |
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| 1 | ••••••••••••••••••••••••••••••••••••••• | 1 | (b)diagnostic-services; |
|----|---|----|--|
| 2 | Witness my hand this day of, A.D. 19 | 2 | {c}treatment-services; |
| 3 | ************** | 3 | fd)training-services; |
| 4 | Judge" | 4 | te;education-services; |
| 5 | <u>NEW_SECTION:</u> Section 6. Establishment of substitute | 5 | tfjcounseting-servicest |
| 6 | care for youth. The legislature, in recognition of the wide | 6 | tg}information-and-referral-services; |
| 7 | and varied needs of youth in need of care, delinquent youth, | 7 | th}protective-and-other-social-services; |
| 8 | and youth in need of supervision of this state and of the | 8 | {i}-~residential-services |
| 9 | desirability of meeting these needs on a community level to | 9 | <pre>f3;[2] "Department" means the department of social and</pre> |
| 10 | the fullest extent possible, establishes by this part a | 10 | rehabilitation services. |
| 11 | system of substitute care to provide facilities and services | 11 | <pre>f4/131 "Substitute care" means full-time care of youth</pre> |
| 12 | for youth placed out of their homes and establishes a | 12 | in a residential setting for the purpose of providing food. |
| 13 | program to provide such facilities and services through | 13 | shelter, security and safety, guidance, direction, and if |
| 14 | local nonprofit corporations and the department of social | 14 | necessary, treatment to youth who are removed from or |
| 15 | and rehabilitation services. | 15 | without the care and supervision of their parents or |
| 16 | <u>YEW_SECTION.</u> Section 7. Definitions. For the purposes | 16 | guardian. |
| 17 | of this part the following definitions apply: | 17 | <pre>t57141 "Treatment facility" is a child-care agency</pre> |
| 18 | (1) "Child-care agency" means a youth care facility in | 18 | providing the appropriate level of care. |
| 19 | which substitute care is provided to 13 or more children or | 19 | {6}<u>{5</u>] "Youth care facility" means a facility, |
| 20 | youth. | 20 | licensed in accordance with 41-3-502 through 41+3+504, in |
| 21 | t2)#Community-based-services-to-youth"-means-o-system | 21 | which substitute care is provided to youth in need of care, |
| 22 | of-services-provided-to-youth-in-need-of-carev-youth-in-need | 22 | youth in need of supervision, or delinquent youth and |
| 23 | ofsupervisionyanddelinguent youthout sideofan | 23 | incluies youth foster homes, youth group homes, and |
| 24 | institutiony-including-but-not-limited-to-the-following+ | 24 | child-care agencies. |
| 25 | fa}evaluation-servicest | 25 | <pre>(77)16) "Youth foster home" means a youth care facility</pre> |
| | | | |
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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.
 for(11) "Youth group home" means a youth care facility
 in which substitute care is provided to 7 to 12 children or

5 in which substitute care is provided to 7 to 12 children or 6 youth-

7 <u>NEW_SECTION</u> 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 agenciesy-and--community-based--programs for
12 youth in need of care, youth in need of supervision, and
13 delinguent 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 personnel20 delivering services;

21 tet--provide---by---rule--for--the--evaluation--of--all
22 community-based-services-to-youth;

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

| 1 | to the second |
|----|---|
| 2 | judicial districts; |
| 3 | th)developanannualcomprehensiveplanforthe |
| 4 | initiationandmaintenanceof-community-based-services-to |
| 5 | youths-and |
| 6 | {i}/[6] seek public input on the plan prior to its |
| 7 | adoption and implementation# <u>:_AND</u> |
| 8 | LEYBAINTAIN_ADEQUATEDATA_ON_PLACEMENTS_IT_FUNDS_IN |
| 9 | ORDER_IQ_KEEPIHELEGISLATUREPROPERLY_INFORMEDOEIHE |
| 10 | EQLIQUING: |
| 11 | LIIIHEBREAKODHNDE_YOUTH_IN_NEED_DE_CAREs_YOUTH_IN |
| 12 | NEED_GE_SUPERVISION, AND_DELINQUENI_YOUTH_BY_CATEGORY_IN |
| 13 | OUT_QE_HOME_CARE_EACILITIES: |
| 14 | 1111_IHE_COST_PER_EACILITY_EOR_SERVICES_BENDERED: |
| 15 | LIIII_INE_IYPE_AND_LEVEL_DE_CARE_DE_SERVICES_PROVIDED |
| 16 | BY_EACH_EACILIIY: |
| 17 | (IV)_A_PROFILE_DE_OUI-DE-HONE_CABE_PLACEMENIS_BYLEVEL |
| 18 | QE_CAREL_AND |
| 19 | (Y)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 |

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| 1 | property from public and private sources to initiate and |
|----|---|
| 2 | maintain community-based services to youth. |
| 3 | (3)IHEDEPARIMENTSHALLPAYEOR&OQMsBDARD |
| 4 | CLOIHINGPERSONALNEEDSIRANSCORIATIONAND_TREATMENT_IN |
| 5 | DISTRICT_YOUTH_GUIDANCE_HOMESSHELTERCAREPROGRAMSAND |
| 6 | EQSIER_ <u>CARE_HOMES_FOR_YOUTHS_COMMITTED_TO_THE_DEPARTMENT_OF</u> |
| 7 | INSTITUTIONS_WHO_NEEDTOBEPLACEDINSUCHFACILITIES. |
| 8 | YOUTHS COMMITTED IG THE DEPARTMENT OF INSTITUTIONS AND |
| 9 | PLACED_IN_RESIDENTIAL_FACILITIES_OTHER_IHAN_THOSEDESCRIBED |
| 10 | ABOYE_SHALL_NOI_BE_IHE_EINANCIAL_RESPONSIBILITY_DE_IHE |
| 11 | DEPARTMENT_DE_SOCIAL_AND_REMABILITATION_SERVICES_UNLESS_SUCH |
| 12 | PLACEMENTS HAVE BEEN APPROVED IN ADVANCE BY THE DEPARTMENT |
| 13 | QE_SOCIAL_AND_REHABILITATION_SEBVICES. |
| 14 | <u>NEW_SECTION</u> Section 9. Apportionment <u>ALLOCATION</u> of |
| 15 | money to judicial districts. (1) The department shall |
| 16 | opportionand allocate placement budgets, based upon |
| 17 | historical placement patterns and current placement trends, |
| 18 | to the judicial districts for the substitute care of youth |
| 19 | in need of supervision or delinquent youth. |

(2) The placement budgets may be monitored by a youth 20 21 court committee as provided for in 41-5-105 or a foster care 22 review committee as provided for in 41-5-807.

23 Section 10. Section 41-5-801, MCA, is amended to read: "41-5-801. Shelter--care--and-faster-homes Easter_care 24 25 payments_for_youth_court_placements. (1)-The-youth-court-may

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| 1 | establishproceduresfindingymaintainingyand |
|----|--|
| Z | administering-shelter-care-and-foster-homes-orotherhomes |
| 3 | approvedbythecourtfor-youth-within-the-provisians-of |
| 4 | this-chapter. (1)_IHE_YOUTH_COURT_MAY_ESTABLISH_PROCEDUBES |
| 5 | EOR_EINDING+_MAINTAINING+_AND_ADMINISTERING_SHELTER_CABE_AND |
| 6 | EDSIERHONESAREROYEDBYIHECOURI_EOR_YOUTH_WIIHIN_IHE |
| 7 | PROVISIONS_OF_IHIS_CHAPTER. |
| 8 | f2 <u>f[2]</u> Pursuant to 41~3~104, the department ofsocial |
| 9 | andrehabilitationservices Shall finance-fosterhomes |
| 10 | established make_a_foster_care_payment_for_a_child_placed by |
| 11 | the youth court if: |
| 12 | <pre>tattl(A) the foster-home child is placed in a youth</pre> |
| 13 | <u>Care facility</u> licensed by the department <u>or by an</u> |
| 14 | appropriate_licensing_authority_from_another_state; |
| 15 | <pre>{b}<u>f2t(B)</u> the youth court enters into an agreement</pre> |
| 16 | according to federal regulations with the department for the |
| 17 | placement of children; |
| 18 | <pre>tettation the placement of the child is reviewed as</pre> |
| 19 | required by 41-5-807; and |
| 20 | <pre>fdfffff01 the youth court retains supervision of the</pre> |
| 21 | child in placement. |
| 22 | (3)The}icensedsheitercareandfoster h omes |
| 23 | astablished-under-this-section-shall-bafundedatarate |
| 24 | consistentwithothersheitercareandfosterhomes |
| 25 | cstablished-for-other-purposes-under-lawsShelterca re as |
| | |

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| 1 | detinedbythischoptermaybetundedthroughstate |
|----|---|
| 2 | appropriation-to-the-youth-courtsandthedepartmentsof |
| 3 | institu tions-and-social-and-rehabilitation-services. " |
| 4 | Section 11. Section 41-3-104, MCA, is amended to read: |
| 5 | *41-3-104. Payment for support of youth in need of |
| 6 | care, youth_in_meed_of_supervision, or_delinquent_youth |
| 7 | reimbursement by county. (1) Whenever agreements are entered |
| 8 | into by the department of-social-and-rehabilitation-services |
| 9 | <u>or the court</u> for placing a youth in need of care <u>s a youth in</u> |
| 10 | need_ofsupervisionsora_delinquent_youth in a ticensed |
| 11 | femily-fosterhomeschildcoreagencysgrouphomesor |
| 12 | treatment youth_care facility, the department shall pay by |
| 13 | its check or draft each month from any funds appropriated |
| 14 | for that purpose the entire amount agreed upon for board, |
| 15 | clothing, personal needs, <u>treatment</u> , and room of the |
| 16 | children. |
| 17 | (?) On or before the 20th of each month the department |
| 18 | shall present a claim to the county of residence of the |

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18 shall present a claim to the county of residence of the 19 children for no more than one-half the payments so made 20 during the month. The county must make reimbursement to the 21 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-homey-child-core-agencyy-group--homey
 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."

4 5 court--placements----fil---if-the-court-has-determined-that-a 6 youth-be--placed--in--a--licensed--youth--care--facility--as 7 provided--in-41-5-483-or-41-5-522-and-the-vouth-has-not-been 8 placed-within-10-working-days--of--such--determingtiony--the 9 probation-officery-a-representative-of-the-departmenty-and-a 10 representative--of-the-elementary-or-high-school-district-in 11 which--the--youth--resides--must--meet--to--determine--three 12 appropriate-placement-alternatives. 13 +2+--The---three---placement---alternatives---shall--be presented-to-the-youth-court--judge--for--his--consideration 14 15 within--15--working--days--of--the--informal--adjustment--or 16 dispositional-hearing. 17 f3}--if-the-judge-then--orders--the--p3scement--of--the 18 youth-in-s-facility-other-than-one-sf-the-three-siternatives 19 presented-to-himy-he-must-state-the-reason-for-ordering-such 20 otacementy 21 t4j-~Betays--resulting-from-court-ordered-cvaluation-of 22 the-youth-are-not-included-in-the-15-day-time-limitation* 23 Section 12. Section 41-3-405, MCA, is amended to read: 24 "41-3-405. Investigation of parents' or guardian's 25 financial ability. (1) Whenever a court determines a youth

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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.

7 (2) Upon receipt of the order, the county welfare 8 department shall make an investigation for the purpose of 9 ascertaining the residence of the parents or quardian of the 10 child and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of 11 12 supporting the child in a foster-homey-child-core-agency, 13 group-homey-or-private--treatment youth care facility. A 14 written report of the investigation shall be filed with the clerk of court before the time fixed for the dispositional 15 16 hearing.

17 (3) A copy of the written report shall be provided to
18 all parties to the proceeding before the time set for the
19 dispositional hearing.^m

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-homey child-care-agencyy-group-homey-or--private--treatment youth care facility and the department of---social---and

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rehobilitation-services is responsible for all or part of ł 2 the cost of such placement, the probation officer or the 3 court shall notify the department of---social---and 4 rehabilitation---services and order the county welfare 5 department in the youth's county of residence to conduct an investigation of the financial status of the youth's parents 6 7 or quardianship assets. Following an adjudicatory hearing in 8 which a youth is determined to be a delinquent youth or a 9 youth in need of supervision, the court may order the county 10 welfare department to conduct a financial status 11 investigation.

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(2) Upon receipt of the order, the county welfare 12 13 department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the 14 15 youth and the financial ability of the parents or the 16 adequacy of the guardianship assets to pay the cost of supporting the youth in the foster home, child care agency, 17 18 group home, or private treatment facility. A written report of the investigation shall be filed with the court having 19 20 jurisdiction, the department of social and rehabilitation 21 services, and the department of institutions, and a copy 22 shall be sent to the parents or quardian of the youth or to 23 any other party to the proceeding."

- 24 Saction 14. Section 41-3-407, MCA, is amended to read:
- 25 "41-3-407. Order for financial support. (1) Whenever a

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youth is placed in a foster-homey-child-care-ageneyy-group homey--or--private--treatment youth__care facility under 41-3-406, the court shall determine the ability of the youth's parents or guardian to contribute to the support of the youth or the adequacy of the guardianship assets to 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.

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(2) If the court determines that the parents are able 12 to contribute to the support of the youth or that the 13 14 quardianship assets are adequate to provide a contribution, 15 the court shall issue an order directing the parents or 16 quardian 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 quardian may not exceed the funds available from 20 quardianship 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 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-core-agencyy-group-homey-or-private--treatment youth 9 care facility shall be transmitted to the department of social and rehabilitation services. The department shall 10 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: "41-3-501. Definitions. (1) Any person owning or 13 14 operating a home-or-institution youth care facility into 15 which home-or-institution he takes any child or children for the purpose of caring for them and maintaining them and for 16 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, quardian, or 25 relative of such child.

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

4 <u>NEW_SECTION</u> Section 17. Rules. The department may 5 adopt rules to carry out the administration and purposes of 6 this part.

7 NEW SECTION. Section 18. Power of nonprofit corporations to establish homes and to receive facilities 8 and funds. Nonprofit corporations or associations may be 9 formed or organized for the purpose of establishing youth 10 care facilities or to provide community-based services and 11 12 to receive from the department and other governmental units 13 such services, facilities, IRAINING, and funds as the department or other governmental units may be authorized by 14 15 law to provide.

NEW_SECTION. Section 19. Governmental contracts with 16 17 nonprofit organizations. (1) The department may contract 18 with nonprofit corporations or associations to provide 19 facilities and services for youth in need of care, youth in need of supervision, and delinquent youth in youth care 20 facilities and is authorized to expend such money as is 21 appropriated or available therefor. SUCH_CONTRACTS_SHALL_BE 22 23 BASED ON THE FOLLOWING CONSIDERATIONS:

 24
 (A)__BUDGETS__SUBNITED_BY_THE_NONPROFIT_CORPORATION_OR

 25
 ASSOCIATION_IDENTIFYING_EIXED_AND_YABIABLE_COSIS:

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| | 1 | (B)BEASONABLE_COST | IS_DE_SERVICE: |
|--|---|--------------------|----------------|
|--|---|--------------------|----------------|

- 2 (C)_APPROPRIATION_LEVEL: AND
- 3 101 AVAILABILITY OF FUNDS.

4 (2) Governmental units, including but not limited to 5 counties, municipalities, school districts, or state 6 institutions of higher learning, are authorized, at their 7 own expense, to provide funds, materials, facilities, and 8 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

15 shall be charged for such license."

Section 21. Section 41-3-503, MCA, is amended to read: 15 17 =41-3-503. Issuance of license -- authority of issuing 18 agency. The department of-social-end-rehobilitation-scrvices 19 is hereby authorized to issue licenses to persons conducting 20 boording-or-foster-homes operating youth_care_facilities and 21 to prescribe the conditions upon which such licenses shall 22 be issued and to make such rules as it may deem advisable for the operation and regulation of foster--and--boarding 23 24 homes such facilities for minor children consistent with the welfare of such children. Such licensing agency shall have 25

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1 the power and authority to inspect all such licensed foster 2 and--boording--homes facilities through its duly authorized 3 representatives and to cancel licenses theretofore issued for the failure to observe such rules. The person operating 4 5 such homes shall give to such representative such 6 information as may be required and afford him every 7 reasonable facility opportunity for observing the operation 8 of such homes."

9 Section 22. Section 41-3-504, MCA, is amended to read: 10 #41-3-504. Penalty. Any person who maintains or 11 conducts operates a foster--or--boarding--home youth__care 12 facility or assists in conducting operating or maintaining 13 such home facility without having first obtained a license 14 in writing as hereto provided shall be quilty of a 15 aisdemeanor and-upon-conviction-be-punished-by-a-fina-not-to 16 exceed-\$100.*

17 Section-24---Section-41-5-882--MCAy-is-smended-to-read+ 18 *41-5-002v--Shelter--care--and---detention---Detention facilitiess-flt-tai-In-sll-eounties-the-county-commissioners 19 may-providey-by-purchasey-leasey-or-otherwisey-a-place-to-be 20 21 known-as-the-vouth-detention-facilityv-which--shall--not--be 22 used--for--the--confinement--of--adult--persons-charged-with 23 criminal-offensesy-where-delinguent--youths--and--youths--in 24 need-of-supervision-may-be-detained-until-finsl-dispositionv 25 which--nlace--shall--be-maintained-by-the-county-as-in-other

| 1 | ł†ke-czsesv |
|----|--|
| 2 | tb) <u>t21</u> The-judge-having-jurisdiction-may-appointsuch |
| 3 | personnetasrequiredywhoshallhavechargeofsaid |
| 4 | facility-and-of-the-youths-datained-therein+ |
| 5 | {c <u>}</u> |
| 6 | Fixedbythecourtyandsuchcompensationandthe |
| 7 | maintaining-of-such-facility-shall-be-paid-out-of-the-county |
| 8 | treasury-which-may-be-supplementedbystateappropriation |
| 9 | and-federal-funds. |
| 10 | {2}taj-fouthcourtsandnonprofit-corporations-may |
| 11 | provide-by-purchasev-leasev-orotherwisevaplacetobe |
| 12 | known-as-e-shetter-care-facitity# |
| 13 | tb }Suchfacilityshallbe- physically-unrestricting |
| 14 | and-may-be-used-to-provide-sheiter-care-for-youth-aileged-or |
| 15 | adjudicated-delinquenty-in-need-of-supervisiony-orinneed |
| 16 | of-cores |
| 17 | {c}Such-facitity-shall-be-separate-and-apart-from-any |
| 18 | facility-housing-adults-charged-with-criainsl-offenses. |
| 19 | {d}Stateappropriationsandfederalfundsmay-be |
| 20 | receivedbytheyouthcourtorprivatenonprofit |
| 21 | corporations-for-establishmenty-maintenancey-or-operation-of |
| 22 | such-fscifftys |
| 23 | te)5uchfacility-shall-be-furnished-in-e-comfortable |
| 24 | manner-and-be-as-nearty-as-possible-like-a-family-homew [#] |
| 25 | <u>NEW_SECTION</u> Section 23. Petition for placement in |
HB 24

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 YEM_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 MEM_SECIIONA 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
 YEM_SECTION: Section 26. Aftercare facilities. (1)

 21
 The department of institutions may establish, maintain, and

 22
 administer
 YOUTH_____CORRECTION___EACTLITIES: ____EVALUATION

 23
 EACTLITIES: MENTAL HEALTH EACTLITIES AND SERVICES: AETERCARE

 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 the following sections outside of Title 20, the term В 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, 11 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, 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18 19 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, 20 39-31-103, 39-31-304, 39-71-116, 39-71-117, 21 39-4-107. 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 4D(2)(0) and 15(c), M.R.Civ.P., as amended.

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1 (2) When the term "school district" appears in a 2 section outside of Title 20 but the section is not listed in 3 subsection (1), the school district provision does not apply 4 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:

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

(2) a district youth guidance group home established
 pursuant-to-42-5+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

18 (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 grovisions 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 1 purposes of zoning if the home provides care on a 2 24-hour-a-day basis.

3 (2) The homes are a permitted use in all residential zones, including but not limited to residential zones for 4 5 single-family dwellings. Any safety or sanitary regulation of the department or any other agency of the state or 6 political subdivision thereof which is not applicable to 7 residential occupancies in general may not be applied to a 8 9 community residential facility serving eight or fewer 10 persons.

11 (3) Nothing in this section shall be construed to 12 prohibit a city or county from requiring a conditional use 13 permit in order to maintain a home pursuant to the 14 provisions of this section provided such home is licensed by 15 the department of health and environmental sciences and the 16 department of social and rehabilitation services."

17YEM_SECTION.Section 30. Administration.The18provisions of Title 41, chapter 3, part 11, govern the19administration of this chapter.

20 <u>NEW_SECTION</u> Section 31. Codification and code 21 commissioner instructions. (1) Section 32 30 is intended to 22 be codified as an integral part of Title 41. chapter 5, and 23 the provisions of Title 41. chapter 5. apply to section 32 24 30.

25 (2) Sections 6: 7: 8: 9: 22 17: 18: 19: 20: and 25 23

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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.

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.

NEW_SECTION: Section 32. Repeater. Sections 41-5-803
 and 41-5-901 through 41-5-924, HCA, are repeated.

24 <u>MEM_SECTIONs</u> Section 33. Effective date. This act is 25 effective on July 1, 1983.

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HB 24

STATEMENT OF INTENT

HOUSE BILL 24

House Human Services Committee

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.

2. Consideration of standards for facilities housing
 youth in need of care, youth in need of supervision, and
 delinquent youth. Such standards should be considered in
 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.

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

25

a. the total population of the judicial district;

b. the total youth population of the judicial
 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.

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

-2- THIRD

READING

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HB 0024/02

HB 0024/02

/ proved by Comm. On Human Services

HOUSE BILL NG. 24 INTRODUCED BY KEYSER, MENAHAN, NORMAN, HEMSTAD, MAZUREK, HAGER BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE ON HUMAN SERVICES

7 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH: PLACING THE R AUTHORITY FOR 9 COMMUNITY-BASED RESIDENTIAL SERVICES FOR YOUTH UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING 10 11 SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 12 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 13 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313. 14 AND 76-2-314, HCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 15 THROUGH 41-5-924, NCA; 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;

25 (b) administer or supervise all child welfare

1 activities, including:

2 (i) importation and exportation of children;
3 (ii) licensing of all children's foster family homes,
4 group homes, child-care agencies and child-placing agencies;
5 (iii) the care of dependent and neglected children in
6 substitute care placement and children who are free for
7 adoption; end

8 (iv) the maintenance of supplemental day care for
9 children; <u>AND</u>

10 ixi=_theseare_of_youth_in_nesd=of=supervision-placed_by

11 the=yquth-court=updar=tbe=supervision=of=tbe=deportment1=md

12 trit(r)_all_state_and_federal_funds_allocated_to_the 13 department_for_routh_foster_bomess_routh_group_homess 14 child=care_agenciess_and_state_programs_for_routh_in_need_of

15 <u>Cares youth in need of supervisions and delinquent youth:</u>

16 (c) give consultant service to private institutions
17 providing care for the needy, indigent, handicapped, or
18 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

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| | 1 | be provided to recipients of public assistance." |
|-----|-----|--|
| | 2 | Section 2. Section 41-5-103, MCA, is amanded 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-institution;" |
| | 9 | department-of-social-ond-rehabilitationservicesyandany |
| | 10 | divisionordepartmentofeither any antity of state of |
| | 11 | local government outbocking by law to be responsible for the |
| | 12 | care_or_rehabilitation_of_routh- |
| | 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 | t5}#Fosterhoge#means-s-private-rosidence-approved |
| | 17 | by-the-court-for-placement-af-a-youthe |
| | 18 | 111_ "FOSTER-HONE" DEANS & PREVATE RESIDENCE ARCENTER |
| | 19 | BY THE COUNT FOR PLACEMENT OF & YOUTHA |
| | 20 | tot <u>tstic</u> "Guardianship" means the status created and |
| | 21 | defined by law between a youth and an adult with the |
| | 22 | reciprocal rights, dutles, and responsibilities. |
| , · | 23 | {??!£61[7] "Judge", when used without further |
| | 24 | qualification. means the judge of the youth court. |
| | 25 | f 0;[]][[] (a) "Legal custody" means the legal status |
| · | | |
| | | -4 H8 24. |

boards of public welfare in the administation 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;

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

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

(2) The department may:

13

14 (a) purchase, exchange, condemn, or receive by gift 15 either real or personal property which is mecessary 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 apoint, scope, and duration of services to

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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;

3

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4 (ii) determine with whom the youth shall live and for 5 what period;

6 (iii) protect, train, and discipline the youth; and
7 (iv) provide the youth with food, shelter, education,
8 and ordinary medical care.

9 (b) An individual granted legal custody of a youth 10 shall personally exercise his rights and duties as guardian 11 unless otherwise authorized by the court entering the order. 12 (?))101(9) "Parent" means the natural or adoptive 13 parent but does not include a person whose parental rights 14 have been judicially terminated, nor does it include the 15 putative father of an illegitimate youth unless his 16 paternity is established by an adjudication or by other 17 clear and convincing proof.

18 (10)(21)(10) "Youth" means an individual who is less 19 than 18 years of age without regard to sex or emancipation. 20 (11)(12)(11) "Youth court" means the court established 21 pursuant to this chapter to hear all proceedings in which a 22 youth is alleged to be a delinquent youth, a youth in need 23 of supervision, or a youth in need of care and includes the 24 youth court, the judge, and probation officers.

++2+ftttlll "Delinguent youth" means a youth:

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(b) whoy having been placed on probation as a 3 delinguent youth or a youth in need of supervision, violates 4 5 any condition of his probation. fl3ffl2f(13) "Youth in need of supervision" means a 6 youth who commits an offense prohibited by law which, if 7 committed by an adult, would not constitute a criminal 8 offense, including but not limited to a youth who: 9 10 (a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors; 11 (b) habitually disobeys the reasonable and lawful 12 demands of his parents or quardian or is ungovernable and 13 beyond their control; 14 (c) being subject to compulsory school attendance, is 15 16 habitually truant from school; or 17 (d) has committed any of the acts of a delinquent youth but whom the youth court in its discretion chooses to 18 regard as a youth in need of supervision. 19

by an adult, would constitute a criminal offense;

(a) who has committed an offense which, if committed

20 (124)(121) "Youth in need of care" means a youth as 21 defined in 41-3-102.

22 <u>(15)(15)</u> "Custodian" means a person other than a 23 parent or guardian to whom legal custody of the youth has 24 been given but does not include a person who has only 25 physical custody.

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| 1 | f16]1151[16] "Necessary parties" include the youth, his | 1 | withouttbecareandsupervisionoftbeirparentsor |
|----|---|-----|---|
| Ż | parents, guardlan, custodian, or spouse. | 2 | guardian. NOTHING_IN_THIS_DEFINITION_IS_INTENDED_TO_INCLUDE |
| 3 | <pre>####################################</pre> | Ċ, | JUVENILE_CORRECTIONAL_FACILITIES:EVALUATION_FACILITIES: |
| 4 | a residential facility for the rehabilitation of delinquent | 4 | MENTAL_HEALTH_FACILITIES_AND_SERVICESAND_AFTERCARE |
| 5 | youth such as Pine Hills school in Miles City, and Mountain | 5 | PROGRAMS_DREBATED_BY_THE_DEPARTMENT_DE_INSTITUTIONS." |
| 6 | View school in Helena, and Swan River youth forest camp. | 6 | Section 3. Section 41-5-306, MEA, is amended to read: |
| 7 | (19)1111181 "Shelter care" means the temporary | 7 | M41-5-306. Place of shelter care or detention. (1) A |
| 8 | substitute care of youth in physically unrestricting | 8 | youth alleged to be a delinquent youth or youth in need of |
| 9 | facilities. | . 9 | supervision may be sheltered only in: |
| 10 | (19)11121121 "Detention" means the temporary <u>substitute</u> | 10 | (a) a licensed <u>youth</u> Foster home or-a-home-approved-by |
| 11 | care of youth in physically restricting facilities. | 11 | the-court-for-the-provision-ofsheltercare-ofyouth as |
| 12 | t20)-=Districtyouthguidoncohome=maansa | 12 | defloed ID Liection 71: |
| 13 | family-oriented-residence-established-in-o-judicial-district | 13 | (b) a facility operated by a licensed child welfare |
| 14 | of-the-state-of-Hontana-os-an-alternative-to-existingstate | 14 | agency; <u>or</u> |
| 15 | youth-corrections)factittess-the-function-of-which-is-to | 15 | (c) a licensed attention youth group home orsheiter |
| 16 | provide-a-home-and-gutdance-throughaduttsupervisionfor | 16 | facility-which-is-aperated-by-a-nonprofit-corporation-er-the |
| 17 | delinquent-youths-and-youths-in-naid-of-supervision- | 17 | youth-courtfor-the-provision-of-shelter-care-of-youth; as |
| 18 | TRESTING "Restitution" means payments in cash to | 18 | defined_io_[section_7]a |
| 19 | the victim or with services to the victim or the general | 19 | tdjany-other-suitable-place-or-facility-designoted-or |
| 20 | community when these payments are made under the | 20 | operstad-by-thecourtforthesupervisionofyouthin |
| 21 | jurisdiction of a youth court proceeding. | 21 | shetter-care. |
| 22 | traticli "Substitute care" mans full-time care of | 22 | (2) The youth may be detained in a jail or other |
| 23 | youth_lo_d residential_setting_for_tos_purpose_of_providing | 23 | facility for the detention of adults only if: |
| 24 | foods shelters security and safetys guidances directions and | 24 | (a) the facilities in subsection (1) are not available |
| 25 | if necessary, treatment to youth who are removed from or | 25 | or do not provide adequate security; |
| | -7- HB 24 | | |
| | -7 HB 24 | | -8- HB 24 |

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

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

(d) the court so orders.

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7 (3) The official in charge of a jail or other facility 8 for the detention of adult offenders or persons charged with 9 crime shall inform the court immediately if a person who is 10 or appears to be under the age of 18 years is received at 11 the facility. Such official shall bring the person before 12 the court upon request or deliver him to a detention 13 facility designated by the court.

14 (4) A youth alleged to be in meed of care shall be 15 placed only in the facilities stated in subsection (1) of 16 this section and shall not be detained in a jail or other 17 facility intended or used for the detention of adults 18 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:

23 (a) probation;

24 (b) placement of the youth in-a-licensed-foster-home
 25 or-other-home-opproved-by-the-court for_substitute_care_into

a_vouth_care_facility_as_defined_in_[section_1];

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2 (c) placement of the youth in a private agency 3 responsible for the care and rehabilitation of such a youthy including-but-not-ligited-to-s-district-youth-suidence-home: 4 5 fdf--transfer--of--tegal--custody--of--the-youth-to-the 6 departsent-of-institutionsy-provided--that--such--commitment 7 dees--not--authorize-the-department-of-institutions-to-place 8 the-youth-in-a-state-youth-correctional-facilityy--and--such 9 commitment---mey---net---exceed---e-period-of-6-months-without-e 10 subsequent-order-of-the-courty-after-notice-and-hearing (D) TRANSFER OF LEGAL CUSTODY OF THE YOUTH TO THE 11 DEPARTMENT_OF_INSTITUTIONS+_PROVIDED_THAT_SUCH_COMMITMENT 12 DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO PLACE 13 THE YOUTH IN A STATE CORRECTIONAL EACILITY. AND SUCH 14 CONNITMENT MAY NOT EXCEED A PERIOD OF 6 HONTHS WITHOUL A 15 SUBSEQUENT_ORDER_OF_THE_COURTA_AFTER_NOTICE_AND_HEARING: 16 tettdt[E] restitution upon approval of the youth court 17 18 judge. (2) In determining whether restitution is appropriate 19 in a particular case, the following factors may be 20 considered in addition to any other evidence: 21 22 (a) age of the youth; (b) ability of the youth to pay; 23 ability of the parents or legal guardian to pay; 24 {c}

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amount of damage to the victim; and

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| 14 for the care and rehabilitation of such a youthy-including 15 but-not-limited-to-a-district youth-guidance-home; 16 (d) in-the-case of a district youth-guidance-home; 16 (d) in-the-case of a district youth-guidance-home; 17 custody to the department of Institutions; providedy 18 howevery-that-in-the-case-of-a-youth-in-need-of supervision; 19 such-transfer-of-custody-does-not-authorize-the-department 20 ofinstitutions-toplace-the-youthin-a-state-youth 21 correctional-facility-and-such-custody-may-nat-continue-for 22 aperiodofmore-then-5-months-without-a-subsequent-court 23 order-after-notice-und-hearingsROKIDED_ HOKEVER. THAT_IN | 15 of institutions for a period not to exceed 45 days of 16 evaluation at a reception and evaluation center for youths; 17 or 18 (b) in the case of a delinquent youth 16 years or 19 older whom the court considers a suitable person for 20 placement at a youth forest camp, notify the director of the 21 department of institutions of the finding. The director of 22 the department of institutions shall then designate to the 23 court the facility to which the youth shall be delivered for 24 evaluation. The court may then commit the youth to the |
|--|---|
| 24 THE_CASE_DE_A_YOUTH_IN_NEED_DE_SUPERVISIONS_SUCH_TRANSFER_DE | |
| 25 CUSTODY DOES NOT AUTHORIZE THE DEPARTMENT OF INSTITUTIONS TO | 25 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

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

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

ORDER OF CONMITMENT

State of Montana } 8

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- } \$5.
- 10 County of)

11 In the district court for the Judicial District. In the day of, 19...,, a minor of this 12 county, years of age, was brought before we charged 13 with Upon due proof I find that is a suitable 14 person to be committed to the department of institutions. 15

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

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

. . .

| 20 | Name | Address | Uccupation |
|----|-------------------------------|-------------------------|----------------------------|
| 21 | | | |
| 22 | • • • • • • • • • • • • • • • | •••• | |
| 23 | The name | es and addresses of the | air nearest relatives are: |
| 24 | | | •••••• |
| | | -14- | HB 24 |

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| | | | dr. north or |
|------|---|----|--|
| | | | |
| | _ | | |
| . 1 | | 1 | fb7diagnostic-servicest |
| 2 | Witness my hand this day of, A.D. 19 | 2 | {c}treatment-servicest |
| 3 | 1. Sec. | 3 | td)training-servicest |
| | | 4 | teteducation-servicast |
| | | 5 | tf7courseling-servicest |
| 5, 1 | YEW_SECIION. Section 6. Establishment of substitute | - | |
| 6 | care for youth. The legislature, in recognition of the wide | 6 | {g}~+information-and-roferral-services; |
| 7 | and varied needs of youth in need of care, delinquent youth, | 7 | {h}protective-and-other-social-services} |
| 8 | and youth in need of supervision of this state and of the | 8 | {i}-residential-services* |
| - 9 | desirability of meeting these needs on a community level to | 9 | <pre>f3/121 "Department" means the department of social and</pre> |
| 10 | the fullest extent possible, establishes by this part a | 10 | rehabilitation services. |
| 11 | system of substitute care to provide facilities and services | 11 | <pre>{47_13] "Substitute care" means full-time care of youth</pre> |
| 12 | for youth placed out of their homes and establishes a | 17 | in a residential setting for the purpose of providing food, |
| 13 | program to provide such facilities and services through | 13 | shelter, security and safety, guidance, direction, and if |
| 14 | local nonprofit corporations and the department of social | 14 | necessary, treatment to youth who are removed from or |
| 15 | and rehabilitation services. | 15 | without the care and supervision of their parents or |
| 16 | <u>NEW SECTION.</u> Section 7. Definitions. For the purposes | 16 | guardian. |
| 17 | of this part the following definitions apply: | 17 | <pre>t57141 "Treatment facility" is a child-care agency</pre> |
| 18 | (1) "Child-care agency" means a youth care facility in | 18 | providing the appropriate level of care. |
| 19 | which substitute care is provided to 13 or more children or | 19 | (6)[5] "Youth care facility" means a facility. |
| 20 | youthe second second National second secon | 20 | licensed in accordance with 41-3-502 through 41-3-504, in |
| 21 | {2 ; | 21 | which substitute care is provided to youth in need of care, |
| 22 | of-services-provided-to-youth-in-need-of-cerey-youth-in-need | 22 | youth in need of supervision, or delinquent youth and |
| 23 | ofsupervisionyanddetinguentyouthoutsideofen | 23 | includes youth foster homes, youth group homes, and |
| 24 | institutiony including but-not-limited-to-the-following- | 24 | child-care agencies. |
| 25 | tat | 25 | t∛ງ<u>/6)</u> "Youth foster home" means a youth care facility |
| | -13- HB 24 | | -16- HB 24 |
| | | | |
| | | | |

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.

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t0;121 "Youth group home" means a youth care facility
 in which substitute care is provided to 7 to 12 children or
 youth.

7 <u>NEW_SECIION.</u> Section 8. Powers and duties of 8 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 agenciesy-and--community-based--programs for
youth in need of care, youth in need of supervision, and
delinguent youth;

(b) exercise licensing authority over all youth foster
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;

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

21 (a)--provide---by---rule--for--the--evaluation--of--oli
 22 community-based-services-to-youth;

tfill in cooperation with the department of
 institutions and youth care facility providers, develop and
 implement standards for youth care facilities;

1 tetlE1 apportion and allocate placement budgets to all 2 judicial districts: 3 tht--develop--an--annual--comprehensive--plan--for--the 4 initiotion--and--maintenance--of-community-based-services-to voutht-and 5 6 fif(G) 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 EOLLOWING: 11 (1)_THE_BREAKOONN_OF_YOUTH_IN_NEED_OF_CARE+_YOUTH_IN 12 NEED OF SUPERVISION, AND DELINQUENT, YOUTH BY CATEGORY IN 13 DUT-DE-HOME_CARE_EACILITIES: 14 (11)_THE_COST_PER_FACILITY_FOR_SERVICES_RENDERED: 15 (III)_THE__TYPE__AND_LEVEL_OF_CARE_OF_SERVICES_PROVIDED 16 BY EACH EACILITY: 17 (IY) A PROFILE OF OUT-OF-HOME CARE PLACEMENTS BY ... LEVEL 18 DE CARE: AND 19 1Y1__A_PROFILE_DE_PUBLIC_INSTITUTIONAL_PLACEMENTS. 20 (2) The department mav: 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

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-18-

| 1 | property from public and private sources to initiate and | |
|----|--|--|
| 2 | maintain community-based services to youth- | |
| 3 | L31_THE_DEPARTMENT_SHALL_PAY_EORBOOMsBOARD+ | |
| 4 | CLOTHING. PERSONAL NEEDS. TRANSPORTATION. AND TREATMENT IN | |
| 5 | DISTRICT YOUTH GUIDANCE HOMES, SHELTER CARE PROGRAMS, AND | |
| 6 | EDSTERCARE_HOMES_FOR_YOUTHS_COMMITTED_TO_INE_DEPARTMENT_OF | |
| 7 | INSTITUTIONS WHO NEED TO BE PLACED IN SUCH FACILITIES. | |
| 8 | YOUTHSCONNITTED_TOIMEDEPARTMENT_GE_INSTITUTIONS_AND | |
| 9 | PLACED IN RESIDENTIAL FACILITIES OTHER THAN THOSE DESCRIBED | |
| 10 | ABOYE SHALL NOT BE THE EINANCIAL BESPONSIBILITY OF THE | |
| 11 | DEPARTMENT_DE_SOCIAL_AND_REHABILITATION_SERVICES_UNLESS_SUCH | |
| 12 | PLACEMENTS HAVE BEEN APPROVED IN ADVANCE BY THE DEPARTMENT | |
| 13 | QE_SQCIAL_AND_BEHADILIIATION_SEBVICES. | |
| 14 | NEW_SECTION: Section 9. Apport-onment ALLOCATION of | |
| 15 | money to judicial districts. (1) The department shall | |
| 16 | apportionand allocate placement budgets, based upon | |
| 17 | historical placement patterns and current placement trends, | |
| 18 | to the judicial districts for the substitute care of youth | |
| 19 | in need of supervision or delinquent youth. | |
| 20 | (2) The placement budgets may be monitored by a youth | |
| 21 | court committee as provided for in 41-5-105 or a foster care | |
| 22 | review committee as provided for in 41-5-807. | |
| 23 | Section 10. Section 41-5-801, MCA, is amended to read: | |
| 24 | M41-5-801. Sheltercareand-foster-homes Eoster_care | |
| 25 | payments for routh court placements. (1)-The-youth-court-may | |
| | -19- HB 24 | |

| 1 | establishproceduresforfindingymaintainingyand |
|----|---|
| 2 | edsinistering-sheiter-care-and-foster-homes-orotherhomes |
| 3 | approvedbythecourtfor-youth-within-the-provisions-of |
| 4 | this-chapters (1) THE YOUTH COURT MAY _ESTABLISH _ PROCEDURES |
| 5 | EDR_EINDINGMAINTAININGAND_ADMINISTERING_SHELIER_CABE_AND |
| 6 | EDSTER_HOMES_ARPROVED_BY_IKE_COURT_FOR_YOUTH_WITHIN_THE |
| 7 | PROVISIONS_DE_THIS_CHAPTER. |
| 8 | (2)12) Pursuant to 41-3-104, the department ofsocial |
| 9 | andrehabilitationservices shall financefosterhomes |
| 10 | established make a foster care payment for a child placed by |
| 11 | the youth court if: |
| 12 | faithial the foster-home child is placed in a youth |
| 13 | care facility licensed by the department or by an |
| 14 | appropriate licensing_authority_from_apother_state; |
| 15 | <pre>fbft2t(B) the youth court enters into an agreement</pre> |
| 16 | according to federal regulations with the department for the |
| 17 | placement of children; |
| 18 | tettatici the placement of the child is reviewed as |
| 19 | required by 41-5-807; and |
| 20 | (d)(st(D) the youth court retains supervision of the |
| 21 | child in placement. |
| 22 | {3}TheTicensedsheitercareandfosterhomes |
| 23 | established-under-this-section-shall-befundedatorote |
| 24 | consistentwithathersheitercareandfosterhoues |
| 25 | established-for-other-parpases-under-lawShelter-coress |

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1 defined---by--this--chooter--way--be--funded--through--etate 2 sppropristion-to-the-vouth-courts--and--the--departments--of 3 institutions-and-social-and-rehabilication-services-" Section 11. Section 41-3-104. MCA. is amended to read: 5 #41-3-104. Payment for support of youth in need of 6 care, youth in need of supervision, or delinguent, youth ---7 reimbursement by county. (1) Whenever agreements are entered 8 into by the department of-social-and-rehabilitation-services 9 or_the_court for placing a youth in need of cargo a youth in 10 need_of_supervisions_or_a_delinguent_youth in a treensed 11 femity-foster--homey--child-core--agencyy--group--homey--or 12 treatment youth care facility, the department shall pay by 13 its check or draft each month from any funds appropriated 14 for that purpose the entire amount agreed upon for board, 15 clothing, personal needs, treatment, and room of the 16 children. 17 (?) On or before the 20th of each month the department

18 shall present a claim to the county of residence of the 19 children for no more than one-half the payments so made 20 during the month. The county must make reimbursement to the 21 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
 Heensed-family-foster-homey-child-care-agencyy-group--homey
 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."

4 464-566778N+--5002+60-12+--7+#2---}+#1012615003--00--*042h 5 youth-be--placed--in--a--licensed--youth--care--facility--as 6 provided--in-41-5-483-or-41-5-522-and-the-youth-hos-not-been 7 8 płoced-within-10-working-days--of--such--determinationy--the 9 probation-officery-a-representative-of-the-departmenty-and-a representative--of-the-olementary-or-high-school-district-in 10 which--the--voith--resides--must--meet--to--determine--three 11 12 appropriate-placement-alternatives. 13 +2+--The---three---stacement---sternstives---shalt--be presented-to-the-youth-court--judge--for--his--consideration 14 within--15--working--days--of--the--informal--adjustment--or 15 16 disnositional-hearing. +31--If-the-judge-then--orders--tha--placement--of--the 17 vouth-in-o-facility-other-then-one-of-the-three-ofternetives 18 presented-to-himy-he-must-state-the-reason-for-ordering-such 19 20 placements 21 +++--Belavs--resulting-from-court-ordered-eveluation-of the-vouth-are-not-included-in-the-15-day-time-limitation+ 22 23 Section 12. Section 41-3-405, MCA, is amended to read: 24 #41-3-405. Investigation of parents' or guardian's financial ability. (1) Whenever a court determines a youth 25

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1 to be an abused, neglected, or dependent child pursuant to 2 41-3-404, the court shall issue an order directing the 3 county welfare department of the county in which the 4 petition was filed to conduct an investigation of the 5 financial status of the child's parents or the extent of 6 quardianship assets.

7 (2) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of 8 ascertaining the residence of the parents or guardian of the 9 child and the financial ability of the parents or the 10 11 adequacy of the quardianship assets to pay the cost of supporting the child in a foster-homey-child-core-sceneyy 12 group Apagy-or-private treatment with cars facility. A 13 14 written report of the investigation shall be filed with the clerk of court before the time fixed for the dispositional 15 16 hearing.

17 (3) A copy of the written report shall be provided to 18 all partles to the proceeding before the time set for the 19 dispositional hearing."

20 Section 13. Section 41-5-805, MCA, is amended to read: 21 "41-5-805. Financial investigation by county welfare 22 department. (1) Whenever a disposition under 41-5-403, 23 41-5-523, or 41-5-524 involves placement in a foster-homey 24 ehild-core-agency, group-homey-or-private-treatment youth 25 cars facility and the department of---social--and

1 renabilitation-services is responsible for all or part of Z the cost of such placement, the probation officer or the -3 court shall notify the department of---social---and 4. rehabilitation---services and order the county welfare department in the youth's county of residence to conduct an 5 investigation of the financial status of the youth's parents ۸ 7 or quardianship assets. Following an adjudicatory hearing in which a youth is determined to be a delinquent youth or a 8 9 youth in need of supervision, the court may order the county 10 welfare department to conduct a financial status

12 (Z) Upon receipt of the order, the county welfare 13 department shall make an investigation for the purpose of 14 ascertaining the residence of the parents or quardian of the youth and the financial ability of the parents of the 15 16 adequacy of the quardianship assets to pay the cost of 17 supporting the youth in the foster home, child care adency, 18 group home, or private treatment facility. A written report 19 of the investigation shall be filed with the court naving 20 jurisdiction, the department of social and rehabilitation 21 services, and the department of institutions, and a copy 22 shall be sent to the parents or quardian of the youth or to 23 any other party to the proceeding."

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

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

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investigation.

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1 youth is placed in a foster-homey-child-core-agency-group homey--private--treatment youth care facility under 2 3 41-3-406, the court shall determine the ability of the youth's parents or quardian 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 evidence concerning financial status may be introduced. In 8 9 determining financial ability the court shall consider the 10 report prepared pursuant to 41-3-405 and any other evidence introduced at the dispositional hearing. 11

12 (2) If the court determines that the parents are able to contribute to the support of the youth or that the 13 14 quardianship 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 social and rehabilitation services to the extent considered 17 18 appropriate under the circumstances. Payments required of a 19 quardian 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."

Section 15. Section 41-3-105. MCA. is amended to read:
 #41-3-105. Recovery from parents or guardianship
 assets -- division between state and county. (1) In the
 event any recovery is made from the parent or parents or

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

(2) Any amount collected from the parents or б 7 guardianship assets when a child is placed in a foster-homey 8 care facility shall be transmitted to the department of 9 social and rehabilitation services. The department shall 10 then pay to the county one-half of the amount so collected." 11 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 vouth 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 "foster--home-or-boording-home" "youth_care_facility" within 20 21 the meaning of this chapter, except that this chapter shall 22 not apply when any person accepts such care and custody of **Z**3 such child on a temporary basis and simply as a temporary 24 accommodation for the parent or parents, quardian, or 25 relative of such child.

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1 (2) The word "person" where used in this chapter shall 2 include any individualy partnershipy woluntary, association, 3 or corporation."

<u>NEW_SECTION</u> Section 17. Rules. The department may.
 adopt rules to carry out the administration and purposes of
 this parts.

NEW SECTION, Section 18. Power 7 of nonprofit ٨ corporations to establish homes and to receive facilities 9 and funds. Nonprofit corporations or associations may be formed or organized for the purpose of establishing youth 10 11 care facilities or to provide compunity-based services and to receive from the department and other governmental units 12 13 such services, facilities, IRAINING, and funds as the 14 department or other governmental upits may be authorized by 15 law to provide.

NEW_SECTION. Section 19. Governmental contracts with 16 17 nonprofit organizations. (1) The department may contract 18 with nonprofit corporations or associations to provide facilities and services for youth in meed of care, youth in 19 20 need of supervision, and delinquent youth in youth care facilities and is authorized to expend such money as is 21 22 appropriated or available therefore SUCH_CONTRACTS_SHALL_BE 23 BASED ON THE FOLLOWING CONSIDERATIONS:

24 (A1__BUDGETS__SUBMITTED_BY_FHE_NONPROFIT_CORPORATION_OR 25__ASSOCIATION_IDENTIEXING_FIXED_AND_YARIABLE_COSIS:

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| 1 | (B)BEASONABLE_COSTS_DE_SERVICE: |
|------------|---|
| z | (C)APPROPRIATION_LEVEL:_AND |
| 3 | LD1_AXAILABILITY DE EUNDS. |
| 4 | (2) Governmental units, including but not limited to |
| 5 | counties, municipalities, school districts, or state |
| 6 | institutions of higher learning, are authorized, at their |
| 7 | own expense, to provide funds, materials, facilities, and |
| 8 | services for community-based services. |
| 9 | Section 20. Section 41-3-502, MCA, is amended to read: |
| 10 | *41-3-502. License required. No person shall maintain |
| 11 | or operate a foster-or-boarding-home youth care facility for |
| 12 | any child or children within the meaning of this chapter |
| 13 | without first securing a license in writing from the |
| 14 | department ofsociolandrehabilitation-services. No fee |
| 15 | shall be charged for such license." |
| 16 | Section 21. Section 41-3-503, MCA, is amended to read: |
| 17 | 41-3-503. Issuance of license authority of issuing |
| 18 | agency. The department of-social and rehabilitation-services |
| 19 | is hereby authorized to issue licenses to persons conductions |
| 20 | boerding-or-foster-homes operating youth care facilities and |
| 21 | to prescribe the conditions upon which such licenses shall |
| 2 2 | be issued and to make such rules as it may deem advisable |
| 23 | for the operation and regulation of fosterandboarding |

welfare of such children. Such licensing agency shall have

homes such facilities for minor children consistent with the

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Ł the power and authority to inspect all such licensed foster 2 and--bearding--homes facilities through its duly authorized 3 representatives and to cancel licenses theretofore issued 4 for the failure to observe such rules. The person operating 5 such homes shall give to such representative such 6 information as may be required and afford him every 7 reasonable facility opportunity for observing the operation 8 of such homes."

9 Section 22. Section 41-3-504, MCA, is amended to read: 10 "41-3-504. Penalty. Any person who maintains or 11 conducts operates a foster-or-boording-home youth care 12 facility or assists in conducting operating or maintaining 13 such home facility without having first obtained a license 14 writing as hereto provided shall be quilty of a in i 15 misdemeanor and-upon-conviction-be-punished-by-a-fine-not-to 16 exceed-\$186.*

17 Section-24---Section-41-5-882y-MEAy-is-smended-to-read+ 18 *41-5-882v--Shelter--core--ond---detention---Betention facilities-tip-tap-In-all-counties-the-county-commissioners 19 20 moy-providey-by-purchasey-leasey-or-otherwisey-a-place-to-be 21 known-as-the-youth-detention-facilityy-which--shall--not--be used--for--the--confinement--of--adult--persons-charged-with 22 23 criminal-offenses,-where-delinquent--youths--and--youths--in 24 need-of-supervision-may-be-detained-until-final-dispositiony 25 which--place--shall--be-maintained-by-the-county-as-in-other

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| 1 | ttke-cosesv |
| 2 | tb} <u>t</u> # <u>1</u> The-judge-hoving-jurisdiction-may-appointsuch |
| 3 | personnetesrequiredywhoshatthevechorgoofsoid |
| 4 | fac itity-and-of-the-yauths-detained-thereine |
| 5 | tc <u>jill</u> The-compensation-ofsuchpersonnelshellbe |
| 6 | fixedbythecourtyandsuchcompensationandthe |
| 7 | maintaining-of-such-facility-shall-be-paid-out-of-the-county |
| 8 | treasury-which-may-be-supplementedbystateappropriation |
| 9 | and-faderal-funds- |
| 10 | {2}{a}- Youthcourtsandnonprofit-corporations-may |
| 11 | provide-by-parchasey-tensay-or-otherwisey-aplacetobe |
| 12 | known-as-a-shaiter-care-faciiity. |
| 13 | {b }Such fac ilityshallbe- physically-unrestricting |
| 14 | and-way-be-used-to-provide-sheiter-care-for-youth-aileged-or |
| 15 | adjudicated-delinquenty-in-naed-of-supervisiony-orinneed |
| 16 | of-cares |
| 17 | tc;Such-facitity-shall-be-separate-and-apart-from-any |
| 18 | facitity-housing-oduits-charged-with-criwinoi-offenses. |
| 19 | (d)5tateappropriationsandfederalfundsmay-be |
| 20 | receivedbytheyouthcourtprivatenonprofit |
| 21 | corporations-for-establishmenty-maintenancey-or-operation-of |
| 22 | such-facility. |
| 23 | tetSachfacitity-shall-ba-furnished-in-a-comfortable |
| 24 | manner-and-be-as- nearly-as-passible-like-a-family-home= |
| 25 | <u>NEW_SECTION</u> , Section 23. Petition for placement in |

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department.

read:

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15-55-106+

22-1-309+

39-4-107,

49-3-101.

authority of the department.

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1 facility or home. Any person between the ages of 18 and 21 and the second 2 years, who is still within the jurisdiction of the youth 13 14 19 29 29 2 And the state of the second second state of the 3 court, or any person under the age of 18 years may petition والالتقارية والمتعارية والمتعارية والمتعارية والمتعارية والمتعارية والمتعارية والمتعارية والمتعادية والمتعادية 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 Charles and Lard and man and the Alastan and any other home approved by the court for any period of time 6 up to the person's 21st birthday. 7 e de falles d'Assacht (all de la classical et e YEN_SECTION. Section 24. Authority of judge to commit B and the second 1. youth. A youth court judge may in his discretion place a 9 Republic to a test of the second to the second s delinquent youth or a youth in need of supervision in a 10 ·我们说到这些你,你就能让你吃了了,你能够不少的?" 19 Carmente de 1.25 11 youth care facility for any period of time up to the child's 医磺酸酸 医输行 化氨基苯化氨基 花式 网络带达额行 医囊 建化合物超分 人名贝尔林 化晶体 化热增生物 12 21st birthday, subject to the approval of the facility's 13 sponsoring nonprofit corporation or association. 1.1 网络纳尔德国法的名词 网络纳姆尔尔美尔 网络普通路城市 门口路,硼酸一合物香料水石,就不同的头 NEW SECTION. Section 25. Continuing jurisdiction of 14 A CONTRACTOR OF THE REAL OF 15 youth court. The youth court placing a delinquent youth or a 944 - 1913 child in need of supervision in a youth care facility 16 12. Nak magni (11) an maint shekar (2) 17 retains continuing jurisdiction over the youth until the na tala sa kalakara ng sang talapang sa ka 18 youth becomes 21 years of age or is otherwise discharged by and a second to second as a second to the statement of the second second second second second second second sec order of the court. 19 小小小山 读出 小枕角 法 <u>YEW_SECTION</u>. Section 26. Aftercare facilities. (1) 20 . . . Carl Markes Markes - Colore Colores -21 The department of institutions may establish, maintain, and Sector Contractor YOUTH. CORRECTION EACILITIES. EVALUATION 22 admi ni ster States and the second states and 23 FACILITIES. HENTAL HEALTH FACILITIES AND SERVICES. AFTERCARE a second a second s 24 PROGRAMS. AND aftercare facilities for the care, custody, and treatment of youth who have been committed to the 25 1. 1. 9 Bet 19 AND AND A. . . 108 5 4 1.1.2.3.1.1.1.

4.5

"20-15-403. Applications of other school district provisions. (1) When the term "school district" appears in 一般的新建制度 网络 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, 、進き習慣的たち 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103, 1.11 0123 10-1-703, 7-13-110, 7-13-210+ 7-15-4206+ 1 10 1. 15-6-204+ 15-16-101+ 15-16-601. 15-18-108+ 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, 11 2 3 4 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-602, 19-1-811, 25-1-402+ 27-18-406+ 33-20-1104, 39-3-104. 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], 49-3-102 53-20-304. 77-3-321, 82-10-201,

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

(2) Aftercare facilities are under the

82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules 25 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

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(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:

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

12 (2) a district youth guidance group home established
 13 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

18 (4) a licensed adult foster family care home." 19 Section 29. Section 76-2-314, MCA, is amended to read: 20 *76-2-314. Relationship of foster homes, boording 21 Youth group homes, and community residential facilities to 22 zoning. (1) A foster or boarding youth group home operated 23 under the provisions of 41-3-501 through 41-3-504 24 or community residential facility serving eight or fewer 25 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 3 zones, including but not limited to residential zones for 4 5 single-family dwellings. Any safety or sanitary regulation of the department or any other agency of the state or 6 7 political subdivision thereof which is not applicable to residential occupancies in general may not be applied to a A 9 community residential facility serving eight or fewer 10 per sons .

11 (3) Nothing in this section shall be construed to 12 prohibit a city or county from requiring a conditional use 13 permit in order to maintain a home pursuant to the 14 provisions of this section provided such home is licensed by 15 the department of health and environmental sciences and the 16 department of social and rehabilitation services."

17NEM_SECTION: Section 30. Administration.The18provisions of Title 41, chapter 3, part 11, govern the19administration of this chapter.

20 <u>NEW_SECTION</u> Section 31. Codification and code 21 commissioner instructions. (1) Section 32 30 is intended to 22 be codified as an integral part of Title 41, chapter 5, and 23 the provisions of Title 41, chapter 5, apply to section 32 24 30.

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

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through 20 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.

4 (3) (a) Sections 41-3-405 and 41-5-805, HCA, 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.

22NEW_SECTION:Section 32.Repeater.Sections 41-5-80323and 41-5-901 through 41-5-924.MCA. are repeated.

24 <u>NEW_SECTION</u> Section 33. Effective date. This act is 25 effective on July 1, 1983.

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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"

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| 1 | STATEMENT OF INTENI | 1 | b. the total youth population of the judicial |
|----|---|----|--|
| 2 | HOUSE BILL 24 | 2 | district; |
| 3 | House Human Services Committee | 3 | c. the total number and costs of placements in public |
| 4 | | 4 | facilities and out-of-home care facilities; |
| 5 | House Bill 24 requires a statement of intent because it | 5 | d. trends in population, placements, and local |
| 6 | authorizes the Department of Social and Rehabilitation | 6 | economics. |
| 7 | Services to adopt rules to implement statutory changes in | 7 | 5. Consideration of measures to investigate parental |
| 8 | the delivery of services to youths. | 8 | contributions. |
| 9 | The Legislature contemplates that the rules should | 9 | 6. Consideration of specific measures for licensing |
| 10 | address the following, among other things: | 10 | the various youth facilities, including: facility |
| 11 | Consideration of aftercare programs for youth under | 11 | acquisition, facility design, group home staffing, staff |
| 12 | the department's supervision. | 12 | training, service goals and design, quality of services, |
| 13 | 2. Consideration of standards for facilities housing | 13 | client placement procedure, client rights and privileges, |
| 14 | youth in need of care, youth in need of supervision, and | 14 | client grievance procedure, provider grievance procedure, |
| 15 | delinquent youth. Such standards should be considered in | 15 | accounting procedures including accounting of client |
| 16 | licensing and delivery of service. | 16 | financial resources, health and safety standards including |
| 17 | 3. Consideration of measures associated with the | 17 | water and waste disposaly food service, and laundry. |
| 18 | allocation of placement budgets to judicial districts, with | 18 | THE DEPARTMENT SHOULD ALSO DEVELOP PLANS THAT INFORM |
| 19 | such measures including data on placement history and | 19 | YOUTH_COURTS_ABOUT_BUDGETED_AMOUNTS_AVAILABLE_FOR_PLACEMENTS |
| 20 | placement trends. | 20 | DURING_THE_EISCAL_YEAR_WITHIN_THE_LIMITS_DE_APPROPRIATIONS. |
| 21 | 4. Consideration of the proper allocation of annual | 21 | THE DEPARTMENT WILL ON A REGULAR BASIS ADVISE THE YOUTH |
| 22 | budgets for the out-of-home care of youth in need of | 22 | COURIS_ON_INE_STATUS_OE_SUCH_BUDGETED_AMOUNISPAYMENT_EDB |
| 23 | supervision and delinquent youth. The funding formula used | 23 | PLACEMENIS_WILL_BE_IN_ACCOBDANCE_WITH_41=3=104a |
| 24 | in budget allocations should include: | | |
| 25 | a. the total population of the judicial district; | | |

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--- REFERENCE BILL

HR 24

| 1 | HOUSE BILL NO. 24 |
|---|--|
| 2 | INTRODUCED BY KEYSER, MENAHAN, |
| 3 | NORMAN, HEMSTAD, MAZUREK, HAGER |
| 4 | BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE |
| 5 | ON HUMAN SERVICES |

6

7 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO YOUTH: PLACING THE AUTHORITY FOR 8 COMMUNITY-BASED RESIDENTIAL SERVICES FOR YOUTH UNDER THE 9 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING 10 SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, 11 12 41-3-501 THRCUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, 13 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, AND 76-2-314+ HCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 14 15 THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE."

16

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

18 Section 1. Section 53-2-201, MCA, is amended to read: 19 *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;

25 (b) administer or supervise all child welfare

1 activities, including: (i) importation and exportation of children; 2 3 (ii) licensing of all children's foster family homes, 4 group homes, child-care agencies and child-placing agencies; 5 (ili) the care of dependent and neglected children in substitute care placement and children who are free for 6 7 adoption; and 8 (iv) the maintenance of supplemental day care for 9 children; AND 10 <u>fyt--the-carg-of-youth-in-accd-of-supervision_blaccd-by</u> 11 the-youth-court-under-the-supervision-of-the-departments-and 12 trit(V)_all_state_and_federal_funds_allocated_to_the 13 <u>department_for_youth_foster_pomes+_youth_proup_bomes+</u> child-care agencies, and state programs for youth in need of 14 15 care: youth in need of supervision: and delinquent youth: (c) give consultant service to private institutions 16 17 providing care for the needy, indigent, handicapped, or 18 dependent adults; (d) cooperate with other state agencies and develop 19 20 provisions for services to the blind, including the 21 prevention of blindness, the location of blind persons, 22 medical services for eye conditions, and vocational guidance and training of the blind; 23 24 (e) provide services in respect to organization and

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supervise county departments of public welfare and county

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| boards of public welfare in the administation of public | 1 be provided to recipients of public assistance." |
|--|---|
| assistance functions and for efficiency and economy; | Section 2. Section 41-5-103, MCA, is amended to read: |
| | |
| (f) assist and cooperate with other state and federal | 3 "41-5-103. Definitions. For the purposes of the |
| departments, bureaus, agencies, and institutions, when so | 4 Montana Youth Court Act, unless otherwise stated the |
| requested, by performing services in conformity with public | 5 following definitions apply: |
| assistance purposes; | 6 (1) "Adult" means an individual who is 18 years of age |
| (g) administer all state and federal funds allocated | 7 or older. |
| to the department for public assistance and do all things | 8 (2) "Agency" means the deportment of institutions, the |
| necessary, in conformity with federal and state law, for the | 9 department-of-social-and-rehabilitationservicesyandany |
| proper fulfillment of public assistance purposes; and | 10 divisionordepartmentofeither <u>any entity of state or</u> |
| (h) make rules governing payment for services and | 11 local_sovernment_authorized_by_law_to_be_responsible_for_rbe |
| supplies provided to recipients of public assistance. | 12 <u>care_or_rebabilitation_of_youth</u> . |
| (2) The department may: | 13 (3) "Commit" means to transfer to legal custody. |
| (a) purchase, exchange, condemn, or receive by gift | 14 (4) "Court", when used without further qualification, |
| either real or personal property which is necessary to carry | 15 means the youth court of the district court. |
| out its public assistance functions. Title to property | 16 (5)*Fosterhome*means-a-privata-residence-approved |
| obtained under this subsection shall be taken in the name of | 17 by-the-court-for-placement-of-s-youthw |
| the state of Montana for the use and benefit of the | 18 [5]TEDSTER_HONET_MEANS_A_PRIVATERESIDENCEAPPPOVED |
| department. | 19 BY_THE_COURT_EOR_PLACEMENT_DE_A_YOUTH. |
| (b) contract with the federal government to carry out | 20 f67<u>t52(6)</u> "Guardianship" m eans the status created and |
| its public assistance functions. The department may do all | 21 defined by law between a youth and an adult with the |
| things necessary in order to avail itself of federal aid and | 22 reciprocal rights, dutles, and responsibilities. |
| assi stance. | 23 <u>†?†±±±t/l</u> "Judge", when used without further |
| (c) make rules, consistent with state and federal law, | 24 qualification, means the judge of the youth court. |
| establishing the amount, scope, and duration of services to | 25 {0};[]][]] (a) "Legal custody" means the legal status |
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1 created by order of a court of competent jurisdiction that 2 gives a person the right and duty to: 3 (i) have physical custody of the youth; 4 (ii) determine with whom the youth shall live and for 5 what period: 6 (iii) protect, train, and discipline the youth; and 7 (iv) provide the youth with food, shelter, education, 8 and ordinary medical care. 9 (b) An individual granted legal custody of a youth 10 shall personally exercise his rights and duties as guardian 11 unless otherwise authorized by the court entering the order. 12 f?)tdt(9) "Parent" means the natural or adoptive 13 parent but does not include a person whose parental rights 14 have been judicially terminated, nor does it include the 15 putative father of an illegitimate youth unless his 16 paternity is established by an adjudication or by other 17 clear and convincing proof. 18 flog_flog_ "Youth" means an individual who is less 19 than 18 years of age without regard to sex or emancipation.

20 <u>fillfilli</u> "Youth court" means the court established 21 pursuant to this chapter to hear all proceedings in which a 22 youth is alleged to be a delinquent youth, a youth in need 23 of supervision, or a youth in need of care and includes the 24 youth court, the judge, and probation officers.

25 ft2ft121 "Delinquent youth" means a youth:

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

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

6 (13)(12)(12) "Youth in need of supervision" means a
7 youth who commits an offense prohibited by law which, if
8 committed by an adult, would not constitute a criminal
9 offense, including but not limited to a youth who:

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

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

15 (c) being subject to compulsory school attendance, is 16 habitually truant from school; or

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

20 <u>ti4jfi3i(14)</u> "Youth in need of care" means a youth as
21 defined in 41-3-102.

22 (15)11141(15) "Custodian" means a person other than a 23 parent or guardian to whom legal custody of the youth has 24 been given but does not include a person who has only 25 physical custody.

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| 1 | <pre>ti6;fife(16) =Necessary parties= include the youth, his</pre> | 1 | without_the_care_and_supervision_of_their_parents_or |
|----|---|----|--|
| 2 | parents, guardian, custodian, or spouse. | 2 | guardian. NOIHING IN THIS DEFINITION IS INTENDED TO INCLUDE |
| 3 | <pre> th?fildf(17) "State youth correctional facility" means </pre> | 3 | JUVENILECOBRECIIONALEACILITIESEVALUATIONFACILITIES. |
| 4 | a residential facility for the rehabilitation of delinquent | 4 | MENTAL_HEALTH_EACTLITTES_AND_SEBVICES+ANDAFTERCABE |
| 5 | youth such as Pine Hills school in Miles City, and Mountain | 5 | PROGRAMS_OPERAIED_BY_THE_DEPARTMENT_DE_INSTITUTIONS.* |
| 6 | View school in Helena, and Swan River youth forest camp. | 6 | Section 3. Section 41-5-306, MCA, is amended to read: |
| 7 | <u> t≠0;tt?;[18]</u> "Shelter care" means the temporary | 7 | "41~5-306. Place of shelter care or detention. (1) A |
| 8 | substitute care of youth in physically unrestricting | 8 | youth alleged to be a delinquent youth or youth in need of |
| 9 | facilitles. | 9 | supervision may be sheltered only in: |
| 10 | <pre>titition "Detention" means the temporary substitute</pre> | 10 | (a) a licensed <u>youth</u> foster home or-a-home-approved-by |
| 11 | care of youth in physically restricting facilities. | 11 | the-court-for-the-provision-ofsheitereareofyouth as |
| 12 | f20;- =Bistrictyouth guidancehome =m eansa | 12 | defined_in_[section_7]; |
| 13 | fomily-oriented-residence-established-in-a-judicial-district | 13 | (b) a facility operated by a licensed child welfare |
| 14 | of-the-state-of-Montana-as-an-alt&rnative-to-existingstate | 14 | adeuch: TT |
| 15 | youthcorrectionalfacilitiesy-the-function-of-which-is-to | 15 | [c] a licensed ettention <u>youth</u> group home orsheiter |
| 16 | provide-a-home-and-guidance-throughadultsupervisionfor | 16 | facility-which-is-operated-by-a-nonprofit-corparation-or-the |
| 17 | delinquent-youths-and-youths-in-need-of-supervision. | 17 | youthcourtfor-thm -provision-of-shelter-care-of-youth ; <u>as</u> |
| 18 | f21/ <u>f19+(20)</u> "Restitution" means payments in cash to | 18 | defined_ip_[section_7]. |
| 19 | the victim or with services to the victim or the general | 19 | td;any-other-suitable-place-or-facility-designated-or |
| 20 | community when these payments are made under the | 20 | operated-by-thecourtforthesupervisionofyouthin |
| 21 | jurisdiction of a youth court proceeding. | 21 | she lte r-care. |
| 22 | <u>tigt1211_"Substitute_care"_means_full-time_care_of</u> | 22 | (2) The youth may be detained in a jail or other |
| 23 | <u>youth_io_a_residential_setting_for_the_purpose_of_providing</u> | 23 | facility for the detention of adults only if: |
| 24 | foods_shelters_security_and_safetys_guidances_directions_and | 24 | (a) the facilitles in subsection (1) are not available |
| 25 | if_pecessary.treatment_to_youth_whoareremovedfrom_or | 25 | or do not provide adequate security; |
| | -7- HB 24 | | -8- HB 24 |

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

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

(d) the court so orders.

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7 (3) The official in charge of a jail or other facility 8 for the detention of adult offenders or persons charged with 9 crime shall inform the court immediately if a person who is 10 or appears to be under the age of 18 years is received at 11 the facility. Such official shall bring the person before 12 the court upon request or deliver him to a detention 13 facility designated by the court.

14 (4) A youth alleged to be in need of care shall be 15 placed only in the facilities stated in subsection (1) of 16 this section and shall not be detained in a jail or other 17 facility intended or used for the detention of adults 18 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:

23 (a) probation;

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

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| 1 | a_youth_care_facility_as_defined_in_[section_7] OR INIO_A |
|----|--|
| 2 | HOME_APPROVED_BY_THE_COURT; |
| 3 | (c) placement of the youth in a private agency |
| 4 | responsible for the care and rehabilitation of such a youth y |
| 5 | including-but-not-limited-to-a-district-youth-guidance-home; |
| 6 | td;transfer-of-legal-custodyoftheyouthtothe |
| 7 | departmentofinstitutionsyprovided-that-such-commitment |
| 8 | does-not-authorize-the-department-of-institutionstoplace |
| 9 | theyouth in-a-state-youth-correction al-fac ilityv-a nd-such |
| 10 | commitment-may-not-exceed-s-period-of6monthswithouta |
| 11 | subsequent-order-of-the-courty-after-notice-and-hearing; |
| 12 | (D)_TRANSFER_OF_LEGAL_CUSTODY_DE_THE_YOUTH_TO_THE |
| 13 | DEPARTMENT_DE_INSTITUTIONSPROVIDEDIHATSUCHCONNITMENT |
| 14 | DOESNOT_AUTHORIZE_THE_DEPARIMENT_DE_INSTITUTIONS_TO_PLACE |
| 15 | THE_YOUTH_IN_A_STATE_CORRECTIONAL_EAGILITY, AND SUCH |
| 16 | CONNITHENT_NAY_NOT_EXCEED_A_PERIOD_OF_6_MONTHS_HITHOUT_A |
| 17 | SUBSEQUENT_DRDER_DE_IHE_COURT.AFTER_NDIICE_AND_HEARING: |
| 18 | <pre>tetitic: restitution upon approval of the youth court</pre> |
| 19 | judge. |
| 20 | (2) In determining whether restitution is appropriate |
| 21 | in a particular case, the following factors may be |
| 22 | considered in addition to any other evidence: |
| 23 | (a) age of the youth; |
| 24 | (b) ability of the youth to pay; |
| 25 | (c) ability of the parents or legal guardian to pay; |

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| 1 | (d) amount of damage to the victim; and | 1 | CUSION_DOES_NOT_AUTHORIZE_THE_DEPARTMENT_OF_INSTITUTIONS_TO |
|----|---|----|--|
| z | (e) legal remedies of the victim, however the ability | Z | PLACE_IHE_YOUTH_IN_A_STATE_YOUTH_CORRECTIONALEACTLITYAND |
| 3 | of the victim or his insurer to stand any loss may not be | 3 | SUCH_CUSIODY_MAY_NOI_CONTINUE_FOR_A_PERIOD_DE_MORE_IHAN_6 |
| 4 | considered in any case." | 4 | MONTHS_WITHOUT_A_SUBSEQUENT_COURIOBDERAFTERNOTICEAND |
| 5 | Section 5. Section 41-5-523, MCA, is amended to read: | 5 | HEARINGL |
| 6 | "41~5-523. Disposition of delinquent youth and youth | 6 | (e) such further care and treatment or evaluation that |
| 7 | in need of supervision. (1) If a youth is found to be | 7 | the court considers beneficial to the youth y-consistent-with |
| 8 | delinquent or in need of supervision, the court may enter | 8 | subsection-f } (d}-of-this-section; |
| 9 | its judgment making the following disposition: | 9 | (f) order restitution by the youth- |
| 10 | (a) place the youth on probation; | 10 | (2) At any time after the youth has been taken into |
| 11 | (b) place inmlicensedfosterhome <u>the kouth for</u> | 11 | custody, the court may, with the consent of the youth in the |
| 12 | substitute_care_into_a_youtb_carefacility_asdefined_in | 12 | manner provided in 41+5-303 for consent by a youth to waiver |
| 13 | <pre>[section_7] or a home approved by the court;</pre> | 13 | of his constitutional rights or after the youth has been |
| 14 | (c) place the youth in a private agency responsible | 14 | adjudicated delinquent or in need of supervision: |
| 15 | for the care and rehabilitation of such a youth y-~including | 15 | (a) order the youth to be evaluated by the department |
| 16 | but-not-limited-to-a-district-youth-guidance-home; | 16 | of institutions for a period not to exceed 45 days of |
| 17 | (d) <u>incohecosecofordelinguintopy</u> outhy transfer legal | 17 | evaluation at a reception and evaluation center for youths; |
| 18 | custody to the department of institutions# providedy | 18 | or |
| 19 | howevery-that-in-the-case-of-a-youth-in-need-of-supervisiony | 19 | (b) in the case of a delinquent youth 16 years or |
| 20 | suchtransferof-custody-does-not-authorize-the-department | 20 | older whom the court considers a suitable person for |
| 21 | of institutionstoplacetheyouthinastate youth | 21 | placement at a youth forest camp, notify the director of the |
| 22 | correction e}fe ci iity-and-such-custody-may-not-continue-for | 22 | department of institutions of the finding. The director of |
| 23 | a-period-of-more-than-6-monthe-withoutasubsequentcourt | 23 | the department of institutions shall then designate to the |
| 24 | orderafter-notice-and-hearingt <u>PROVIDEDHOWEVERs_IHAT_IN</u> | 24 | court the facility to which the youth shall be delivered for |
| 25 | INE_CASE_DE_A_YDUIN_IN_NEED_DE_SUPERVISION&_SUCH_IRANSFER_DE | 25 | evaluation. The court may then commit the youth to the |
| | | | |
| | -11- HB 24 | | -12- HB 24 |

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 available at a camp, the court may then commit such child 8 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 court way consider advisable under the provisions of this 14 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 |
|----|---|
| Z | 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 |] \$5. |
| 11 | County of |
| | To the distance cause from the second second |
| 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: |
| | -14- HB 24 |

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1 .

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| | <i>.</i> | | |
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| 1 | ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, | ĩ | to ; evaluation-services; |
| Ž | | 2 | tö)d∔agnost∔c-servÿcest |
| 3 | Witness my hand this day of, A.D. 19 | 3 | to)treatment-services; |
| 4 | ************** | 4 | (d)training-servicest |
| 5 | Judge | 5 | to)education-services; |
| 6 | <u>NEW_SECTION</u> : Section 6. Establishment of substitute | 6 | tf)counseling-servicest |
| 7 | care for youth. The legislature, in recognition of the wide | 7 | {g}information-and-referral-services; |
| 8 | and varied needs of youth in need of care, delinquent youth, | 8 | th?protective-and-other-sacial-servicest |
| 9 | and youth in need of supervision of this state and of the | 9 | tijresidentisi-services. |
| 10 | desirability of meeting these needs on a community level to | 10 | <pre>t3f(2) "Department" means the department of social and</pre> |
| 11 | the fullest extent possible, establishes by this part a | 11 | rehabilitation services. |
| 12 | system of substitute care to provide facilities and services | 12 | <pre>thttl://www.setitute.care# means full-time care of youth</pre> |
| 13 | for youth placed out of their homes and establishes a | 13 | in a residential setting for the purpose of providing foods |
| 14 | program to provide such facilities and services through | 14 | shelter, security and safety, guidance, direction, and if |
| 15 | local nonprofit corporations and the department of social | 15 | necessary, treatment to youth who are removed from or |
| 16 | and rahabilitation services. | 16 | without the care and supervision of their parents or |
| 17 | NEW_SECTION, Section 7. Definitions. For the purposes | 17 | guardian. |
| 18 | of this part the following definitions apply: | 18 | f5 <u>f(4)</u> "Treatment facility" is a child-care agency |
| 19 | (1) "Child-care agency" means a youth care facility in | 19 | providing the appropriate level of care. |
| 20 | which substitute care is provided to 13 or more children or | · 20 | f67[5] "Youth care facility" means a facility, |
| 21 | youth. | 21 | licensed in accordance with 41-3-502 through 41-3-504, in |
| 22 | t2}≖Community-based-services-to-youth≖-means-a-system | 22 | which substitute care is provided to youth in need of care, |
| 23 | of-services-provided-to-youth-in-need-of-carey-youth-in-need | 23 | youth in need of supervision, or delinquent youth and |
| 24 | ofsupervisionsanddeliñquentyouthoutsideofan | 24 | includes youth foster homes, youth group homes, and |
| 25 | institutions-including-but-not-limited-to-the-following+ | 25 | child-care agencies. |
| | | | |
| | -15- HB 24 | | ~16 → H8 ⁻ Z4 ⁻ |

t77161 "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,

5 t0ft[1] "Youth group home" means a youth care facility
6 In which substitute care is provided to 7 to 12 children or
7 youth.

8 <u>NEW_SECTIONs</u> 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 <u>AND</u> child-care agenciesy-and--community-based--programs for 13 youth in need of care, youth in need of supervision, and 14 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;

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

22 tet--provide---by---rule--for--the--evoluation--of--all 23 community-based-services-to-youtht

24 tfile1 in cooperation with the department of 25 institutions and youth care facility providers, develop and

1 implement standards for youth care facilities; tation and allocate placement budgets to all 2 3 judicial districts; th}--develop--an--annual--comprehensive--plan--for--the 4 5 youth:-and 6 7 title) seek public input on the plan prior to its adoption and implementationvi AND 8 9 (H) MAINTAIN ADEQUATE DATA ON PLACEMENTS IT EUNDS IN ORDER TO KEEP THE LEGISLATURE PROPERLY INFORMED OF THE 10 11 EOLLOWING: 12 111_THE_BREAKDOWN_OF_YOUTH_IN_NEED_DF_CARE. YOUTH_IN NEED OF SUPERVISION. AND DELINGUENT YOUTH BY CATEGORY ... IN 13 DUI-DE-HOME_CARE_FACILITIES: 14 15 -(11) THE COST PER FACILITY FOR SERVICES RENDERED: 16 (III)_THE__TYPE__AND_LEVEL_OF_CARE_OF_SERVICES_PROVIDED 17 BY_EACH_EACILITY: 18 (IV) A PROFILE OF OUT-OF-HONE CARE PLACEMENTS BY LEVEL 19 DE_CAREL_AND 20 IVI_A_PROFILE_DE_PUBLIC_INSTITUTIONAL_PLACEMENTS. 21 (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;

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-18-

| and donations of money and | . 1 | payments_for_routh_court_placements. (%)-The-youth-court-moy |
|---------------------------------|-----|---|
| sources to initiate and | 2 | establishproceduresforfindingymaintainingyand |
| to youth. | 3 | administering-sheiter-care-and-foster-homes-oratherhomes |
| PAYEORROOMBOARD. | 4 | approvedbythecourtfor-yoath-within-the-provisions-of |
| IALLEN&_ANDIREALMENTIN | 5 | this-chapters (1)_IHE_YOUTH_COURL_MAY_ESTABLISH_PROCEDURES |
| SHELTER_CARE_PROGRAMS.AND | 6 | EDB_EINDING. MAINTAINING. AND ADMINISTERING SHELTER CARE AND |
| TIED_TO_THE_DEPARTMENTDE | 7 | EQSIER_HOMES_APPROVED_BY_THE_COURT_FOR YOUTH WITHIN THE |
| LACED IN SUCH EACILITIES. | 8 | PROVISIONS_OF_IHIS_CHAPIER. |
| ENIOEINSTITUTIONSAND | 9 | f2 <u>f(2)</u> Pursuant to 41-3-104, the department ofsoctat |
| OTHER_THAN_THOSE_DESCRIBED | 10 | andrehabititationservices shall financefosterhowes |
| L_RESPONSIBILITY_OE_THE | 11 | established make_a_foster_care_payment_for_a_child_placed by |
| ATION_SERVICES_UNLESS_SUCH | 12 | the youth court if: |
| ADVANCE BY THE DEPARTMENT | 13 | tetilal the foster-home child is placed in a youth |
| CESa | 14 | <u>care facility</u> licensed by the department or by an |
| ortionment ALLOCATION of | 15 | appropriate licensing authority from another state; |
| 1) The department shall | 16 | tb <u>jf2t[8]</u> the youth court enters into an agreement |
| t budgets, based upon | 17 | according to federal regulations with the department for the |
| current placement trends, | 18 | placement of children; |
| substitute care of youth | 19 | te <u>)tatic</u> the placement of the child is reviewed as |
| nt youth. | 20 | required by 41-5-8D7; and |
| ay be monitored by a youth | 21 | <pre>fdffff[D] the youth court retains supervision of the</pre> |
| 41-5-105 or a foster care | 22 | child in placement. |
| n 41-5-807. | 23 | {}}The}icensedsheitercoreandfosterhones |
| • ACA, is amended to read: | 24 | estoblished-under-this-section-shall-befundedatorate |
| foster-homes <u>Eqster_care</u> | 25 | consistentwithothersheitercareandfostarhomes |
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2 property from public and private 3 maintain community-based services

(b) accept gifts, grants,

1

4 (3)__IHE___DEPARTMENT___SHALL 5 CLOTHING. PERSONAL NEEDS. TRANSPOR DISTRICT_YOUTH_GUIDANCE_HOMES. 6 7 EOSTER_CARE_HOMES_EOR_YOUTHS_COMMI INSTITUTIONS WHO NEED TO BE P 8 9 YOUTHS COMMITTED TO THE DEPARTM 10 PLACED_IN_RESIDENTIAL_EACILITIES_ 11 ABOVE SHALL NOT BE THE EINANCIA DEPARTMENT OF SOCIAL AND BEHABILII 12 PLACEMENTS_HAVE_BEEN_APPROVED_IN 13 14 DE SOCIAL AND BEHABILITATION SERVI

15 NEW_SECIIONA Section 9. App 16 money to judicial districts. { 17 apportion--ond allocate placemen historical placement patterns and 18 to the judicial districts for the 19 in need of supervision or delinque 20

(2) The placement budgets m 21 court committee as provided for in 22 23 review committee as provided for i

Section 10. Section 41-5-801 24 #41-5-801. Shetter-care-and-25

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1 established-for-other-purposes-under-law---Shelter--care--as 2 deftned---by--this--ehupter--may--be--funded--through--state 3 appropriation-to-the-youth-courts--and--the--departments--of 4 5 Section 11. Section 41-3-104, MCA, is amended to read: 6 #41-3-104. Payment for support of youth in need of 7 cares youth in need of supervisions of delinguent youth --8 reimbursement by county. (1) Whenever agreements are entered 9 into by the department of-social-and-rehabilitation-services 10 or the court for placing a youth in need of cares a youth in 11 need_of_supervision. or a delinquent_youth in a treensed 12 fomity-foster--homey--child--cara--agencyy--group--homey--or 13 treatment youth care facility, the department shall pay by 14 its check or draft each month from any funds appropriated 15 for that purpose the entire amount agreed upon for board, 16 clothing, personal needs, treatment, and room of the 17 children.

•

18 (2) On or before the 20th of each month the department 19 shall present a claim to the county of residence of the 20 children for no more than one-half the payments so made 21 during the month. The county must make reimbursement to the 22 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
 theensed-family-foster-homey-child-care-agencyy-group--homey

or--treatment <u>youth_care</u> 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 REPAIRS - Residen 10 - File - Mathematican and weather

| 5 | <u>NEW_SECTION_</u> Section-l2vTimelinitationsonyouth |
|----|--|
| 6 | courtplacementsw (l) if-the-court-hos-determined-thet-a |
| 7 | youth-beplacadinalicensedyouthcarefacilityas |
| 8 | providedin-41-5-403-or-41-5-522-and-the-youth-has-not-been |
| 9 | płaced-within-18-working-daysofsuchdeterminationythe |
| 10 | probation-officery-o-representative-of-the-departmenty-and-a |
| 11 | representativeof-the-eiementary-or-high-school-district-in |
| 12 | whichtheyouthresidesmustmeettodeterminethree |
| 13 | appropriate-placement-alternatives. |
| 14 | f2}Thethreep}acementa}ternativesshallbe |
| 15 | presented-to-the-youth-courtjudgeforhisconsideration |
| 16 | within15workingdaysoftheinformalodjustmentor |
| 17 | dispositional-hearing= |
| 18 | {3}If-the-judge-thenordersthep}acementofthe |
| 19 | youth-in-a-facility-other-thon-one-of-the-three-alternatives |
| 20 | presented-to-himy-he-must-state-the-reason-for-ordering-such |
| 21 | placement |
| 22 | {4}Betaysresulting-from-court-ordered-evaluation-of |
| 23 | the-youth-ore-not-included-in-the-is-doy-time-iimitation. |
| 24 | Section 12. Section 41-3-405, MCA, is amended to read: |
| 25 | "41-3-405. Investigation of parents" or guardian's |
| | |

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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 ascertaining the residence of the parents or quardian of the 10 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-core-agency, group-homey-or-private--treatment youth care facility. A 14 written report of the investigation shall be filed with the 15 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-core-agency-group-homey-or--private--treatment youth

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25

1 facility and the department of---social---ond care 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---sociol---and 5 rehabilitation---services and order the county welfare 6 department in the youth's county of residence to conduct an investigation of the financial status of the youth's parents 7 8 or guardianship assets. Following an adjudicatory hearing in 9 which a youth is determined to be a delinquent youth or a youth in need of supervision, the court may order the county 10 walfare department to conduct a financial status 11 investigation. 12

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 supporting the youth in the foster home, child care agency, 18 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."

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

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1 "41-3-407. Order for financial support. (1) Whenever a 2 youth is placed in a foster-homey-child-care-agencyy-group 3 nomey--of--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 quardianship assets to 7 provide a contribution. This guestion 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 quardian 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 quardianship assets. Upon a showing of change in financial 21 22 ability, the court may modify the order."

Section 15. Section 41-3-105, MCA, is amended to read:
 #41-3-105. Recovery from parents or guardianship
 assets -- division between state and county. (1) In the

event any recovery is made from the parent or parents or
 guardianship assets of children for whom board, clothing,
 personal needs, and room have been paid by the state and
 county, any amount so recovered shall be divided equally
 between the department and the county of residence of such
 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-cere-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, daughter, nor ward shall be deemed to be an "operator" of a 20 21 "foster--home-or-boording-home" "youth_care_facility" within the meaning of this chapter, except that this chapter shall 22 not apply when any person accepts such care and custody of 23 24 such child on a temporary basis and simply as a temporary 25 accommodation for the parent or parents, guardian, or

~25~

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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 formed or organized for the purpose of establishing youth 11 12 care facilities or to provide community-based services and 13 to receive from the department and other governmental units such services, facilities, <u>IRAINING</u>, and funds as the 14 15 department or other governmental units may be authorized by 16 law to provide.

17 NEW_SECTION. Section 19. Governmental contracts with nonprofit organizations. (1) The department may contract 18 19 with nonprofit corporations or associations to provide facilities and services for youth in need of care, youth in 20 need of supervision, and delinguent youth in youth care 21 facilities and is authorized to expend such money as is 22 appropriated or available therefor. SUCH CONTRACTS SHALL BE 23 24 BASED ON THE FOLLOWING CONSIDERATIONS:

23 <u>(A) BUOGETS SUBNITIED BY THE NONPROFIT CORPORATION OR</u>

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- 2 (B)__REASONABLE_COSIS_DE_SERVICE:
- 3 ICI__APPROPRIATION_LEVEL: AND
 - 101 AVAILABILITY DE EUNDS.

4

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.

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."

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 Z1 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

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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 hoaes 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 writing as hereto provided shall be quilty of a in 16 misdemeanor and-upon-conviction-be-punished-by-a-fine-not-to 17 exceed-#100."

18 Section-24---Section-41-5-802--HEAy-is-emended-te-read+ 19 #41-5-802v--Shelter--care--and---detention---Betention 20 21 may-providey-by-purchasey-leasey-or-otherwisey-a-place-to-be 22 known-ss-the-youth-detention-facilityy-which--shall--net--be 23 used--for--the--confinement--of--adult--persons-charged-with **Z**4 criminal-offensesy-where-delinguent--youths--and--youths--in 25 need-of-supervision-may-be-detained-until-final-disposition+

| 1 | #hichplaceshallbe-maintained-by-the-county-as-in-other |
|----|---|
| z | tike-caseso |
| 3 | {b} <u>t</u> <u>f</u> t T he-judge-having-jurisdiction-may-appointsuch |
| 4 | personnelasrequiredywhoshallhavechargeofsaid |
| 5 | facility-and-of-the-youths-detained-thereing |
| 6 | {c <u>}</u> |
| 7 | fixedbythecourtyondsuchcompensationandthe |
| 8 | mointaining-of-such-facility-shall-be-paid-out-of-the-county |
| 9 | treasury-which-may-be-supplementedbystateappropriation |
| 10 | and-federal-funda- |
| 11 | t2}taj-Youthcourtsandnonprofit-corporations-may |
| 12 | provide-by-purchasey-ieasey-orotherwyseyapiacetobe |
| 13 | known-as-a-shetter-care-facility. |
| 14 | {b} Such-+facil+tyshallbe-physically-unrestricting |
| 15 | and-may-be-used-to-provide-sheitar-care-for-youth-aileged-or |
| 16 | adjudicated-delinquenty-in-need-of-supervisiony-orinneed |
| 17 | of-care. |
| 18 | tcjSuch-facility-shall-be-separate-and-apart-from-any |
| 19 | facility-housing-adults-charged-with-criminal-offensesw |
| 20 | {d}Stateappropriationsandfederalfundsmay-be |
| 21 | receivedbytheyouthcourtorprivatenonprofit |
| 22 | corporations-for-establishmenty-maintenancey-or-operation-of |
| 23 | SUCh-facility: |
| 24 | tetSuchfacttity-shait-be-furnished-in-a-comfortable |
| 25 | manner-and-be-as-nearty-as-possible-tike-a-famity-homev= |
| | |

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1 NEW SECTION. Section 23. Petition for placement in 2 facility or home. Any person between the ages of 18 and 21 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 8 up to the person's 21st birthday.

9 <u>YEW_SECTIONs</u> 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 <u>NEW_SECTION</u>. 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
 YEW_SECTION: Section 26. Aftercare facilities. (1)

 22
 The department of institutions may establish, maintain, and

 23
 administer YOUTH ____CORRECTION___EACILITIES: ____EYALUATION

 24
 EACILITIES: MENTAL HEALTH_EACILITIES AND SERVICES: AFTERCARE

 23
 PROGRAMS: AND aftercare facilities for the care, custody.

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and treatment of youth who have been committed to the
 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 the following sections outside of Title 20, the term 9 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

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1 4D(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."

Section 28. Section 76-2-313, MCA, is amended to read:
 "76-2-313. Definition of community residential
 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."20Section 29. Section 76-2-314. NCA, is amended to read:21"76-2-314. Relationship of foster homes, boording

22 <u>youth_group</u> homes, and community residential facilities to 23 zoning. (1) A foster or boording 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 persons is considered a residential use of property for
 purposes of zoning if the home provides care on a
 24-hour-a-day basis+

4 (2) The homes are a permitted use in all residential zones, including but not limited to residential zones for 5 single-family dwellings. Any safety or sanitary regulation 6 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 community residential facility serving eight or fewer 10 11 personse

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 <u>NEW_SECTION_</u> Section 30. Administration. The
 19 provisions of Title 41, chapter 3, part 11, govern the
 20 administration of this chapter.

21 <u>MEM_SECTION</u> 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, NCA, 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.

(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.

23<u>VEH_SECTION</u>Section 32. Repeater.Sections 41-5-80324and 41-5-901 through 41-5-924, MCA, are repeated.

25 NEW SECTION. Section 33. Effective date. This act is

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1 effective on July 1, 1983.

-End-

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48th Legislature

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CORRECTED REFERENCE

| 1 | HOUSE BILL NO. 24 | 1 |
|-----|---|---------|
| 2 | INTRODUCED BY KEYSER, MENAHAN, | 2 |
| 3 | NORMAN, HEMSTAD, MAZUREK, HAGER | 3 |
| 4 | BY REQUEST OF THE INTERIM JOINT SUBCOMMITTEE | 4 |
| 5 | ON HUMAN SERVICES | 5 |
| 6 | | 6 |
| 7 | A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE | 7 |
| 8 | LAWS RELATING TO YOUTH; PLACING THE AUTHORITY FOR | 8 |
| 9 | COMMUNITY-BASED RESIDENTIAL SERVICES FOR YOUTH UNDER THE | 9 |
| 10 | DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; AMENDING | , 10 |
| 11 | SECTIONS 20-15-403, 41-3-104, 41-3-105, 41-3-405, 41-3-407, | |
| • - | | 11 |
| 12 | 41-3-501 THROUGH 41-3-504, 41-5-103, 41-5-306, 41-5-403, | 12 |
| 13 | 41-5-523, 41-5-801, 41-5-802, 41-5-805, 53-2-201, 76-2-313, | 13 |
| 14 | AND 76-2-314, NCA; REPEALING SECTIONS 41-5-803 AND 41-5-901 | 14 |
| 15 | THROUGH 41-5-924, MCA; AND PROVIDING AN EFFECTIVE DATE." | 15 |
| 16 | | 16 |
| 17 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: | 17 |
| 18 | Section 1. Section 53-2-201, NCA, is amended to read: | 18 |
| 19 | #53-2-201. Powers and dutles of department. (1) The | 19 |
| 20 | department shall: | 20 |
| 21 | (a) administer or supervise all forms of public | 21 |
| 22 | assistance, child protection, and child welfare, including | 22 |
| 23 | the provision of medical care payments in behalf of | 23 |
| 24 | recipients of public assistance; | 24 |
| 25 | (b) administer or supervise all child welfare | 25 |

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| 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; end |
| (iv) the maintenance of supplemental day care for |
| children; AND |
| fyizztbecerecefzyogtbzipzeedzofzygpervizioozpłecedzby |
| the youth court indec the supervision of the departmenticond |
| <pre>frit(V)_all_state_and_frederal_funds_allocated_to_the</pre> |
| <u>department_for_youtb_foster_bomess_youtb_group_bomess</u> |
| <u>child-care agencies, and state programs for youth in need of</u> |
| <u>care, youth in need of supervision, and delinquent youth:</u> |
| (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 |
| |

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supervise county departments of public welfare and county

| n the administation of publ | lic 1 | be provided to recipients of public assistance." |
|---------------------------------|--------|--|
| r efficiency and economy; | 2 | Section 2. Section 41~5~103, MCA, is amended to read: |
| rate with other state and fede | ral 3 | #41~5~103. Definitions. For the purposes of the |
| ies, and institutions, when | 50 4 | Nontana Youth Court Act, unless otherwise stated the |
| ervices in conformity with publ | lic 5 | following definitions apply: |
| | 6 | (1) "Adult" means an individual who is 18 years of age |
| ate and federal funds allocat | ted 7 | or older. |
| blic assistance and do all this | ngs 8 | {2} "Agency" means the department of institutions, the |
| th federal and state law, for t | the 9 | deportment-of-social-and-rehabilitationservicesyandony |
| c assistance purposes; and | 10 | divisionordepartmentofeither <u>any_entity_of_state_or</u> |
| ning payment for services a | and 11 | local_government_aufborlzed_by_law_to_be_responsible_for_the |
| ents of public assistance. | 12 | care_or_rehabilitation_of_xouth. |
| y: | 13 | (3) "Commit" means to transfer to legal custody. |
| ge, condemn, or receive by g | ift 14 | (4) "Court", when used without further qualification, |
| perty which is necessary to ca | rry 15 | means the youth court of the district court. |
| functions. Title to prope | rty 16 | t5}≡Fosterhome#means-a-private-residence-approved |
| ion shall be taken in the name | of 17 | by-tha-court-for-placement-of-a-youthe |
| r the use and benefit of | the 18 | 151 FOSTER HOMET NEANS & PRIVATE BESIDENCE APPROVED |
| | 19 | BY THE COURT EOR PLACEMENT OF A YOUTH. |
| federal government to carry | out 20 | (6):5:16) "Guardianship" means the status created and |
| ctions. The department may do a | all 21 | defined by law between a youth and an adult with the |
| o avail itself of federal aid a | and 22 | reciprocal rights, duties, and responsibilities. |
| | 23 | . (7)<u>fát(7)</u> "Judge", when used without further |
| stent with state and federal la | 8w+ 24 | qualification, means the judge of the youth court. |
| ope+ and duration of services | to 25 | (87 11116) (a) "Legal custody" means the legal status |
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| | | |

boards of public welfare in 1 Z assistance functions and for

3 (f) assist and cooper 4 departments, bureaus, agenci requested, by performing se 5 assistance purposes; 6

7 (g) administer all sta 8 to the department for pub 9 necessary, in conformity with 10 proper fulfillment of public

(h) make rules govern 11 supplies provided to recipie 12

13 (2) The department may

14 (a) purchase, exchang either real or personal prop 15 16 out its public assistance 17 obtained under this subsecti 18 the state of Nontana for 19 department.

(b) contract with the 20 21 its public assistance func 22 things necessary in order to 23 assistance.

(c) make rules, consis 24 25 establishing the amount, sco

2 gives a person the right and duty to: 3 (i) have physical custody of the youth; 4 (ii) determine with whom the youth shall live and for 5 what period: 6 (ili) protect, train, and discipline the youth; and 7 (iv) provide the youth with food, shelter, education, 8 and ordinary medical care. 9 (b) An individual granted legal custody of a youth 10 shall personally exercise his rights and dutles as guardian 11 unless otherwise authorized by the court entering the order. 12 191111191 "Parent" means the natural or adoptive 13 parent but does not include a person whose parental rights have been judicially terminated, nor does it include the 14 putative father of an illegitimate youth unless his 15 paternity is established by an adjudication or by other 16 17 clear and convincing proof. 18 19 than 18 years of age without regard to sex or emancipation. 20 **{}** pursuant to this chapter to hear all proceedings in which a 21 22 youth is alleged to be a delinguent youth, a youth in need 23 of supervision, or a youth in need of care and includes the 24 youth court+ the judge+ and probation officers. 25 ff2ff1111121 "Delinguent youth" means a youth:

created by order of a court of competent jurisdiction that

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| 1 | (a) who has committed an offense which, if committed |
|----|--|
| z | by an adult, would constitute a criminal offense; |
| 3 | (b) who, having been placed on probation as a |
| 4 | delinguent youth or a youth in need of supervision, violates |
| 5 | any condition of his probation. |
| 6 | [13][12][13] "Youth in need of supervision" means a |
| 7 | youth who commits an offense prohibited by law which, if |
| 8 | committed by an adult, would not constitute a criminal |
| 9 | offense, including but not limited to a youth who: |
| 10 | (a) violates any Montana municipal or state law |
| 11 | regarding use of alcoholic beverages by minors; |
| 12 | (b) habitually disobeys the reasonable and lawful |
| 13 | demands of his parents or guardian or is ungovernable and |
| 14 | beyond their control; |
| 15 | (c) being subject to compulsory school attendance, is |
| 16 | habitually truant from school; or |
| 17 | (d) has committed any of the acts of a delinquent |
| 18 | youth but whom the youth court in its discretion chooses to |
| 19 | regard as a youth in need of supervision. |
| 20 | <code>fi4)fill(14) "Youth in need of care" means a youth as</code> |
| 21 | defined in 41-3-102. |
| 22 | <pre>tification == the state of the state of</pre> |
| 23 | parent or guardian to whom legal custody of the youth has |
| 24 | been given but does not include a person who has only |
| 25 | physical custody. |

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| 1 | [16]<u>[15+[16]</u> "Necessary parties" include the youth, his | 1 | without the care and supervision of their parents or |
|------|--|----|---|
| 2 | parents, guardian, custodian, or spouse. | 2 | guardiana MOTHING_IN_IUIS_DEFINITION_IS_INTENDED_TO_INCLUDE |
| 3 | <pre>fiffitifill "State youth correctional facility" means</pre> | 3 | JUVENILE_CORRECTIONAL_EACILITIESEVALUATION_EACILITIES. |
| 4 | a residential facility for the rehabilitation of delinquent | 4 | HENIAL_HEALIH_FACILITIES_AND_SERVICESANDAFIERCARE |
| 5 | youth such as Pine Hills school in Hiles City, and Mountain | 5 | PROGRAMS_OPERATED_BY_THE_DEPARTMENT_OF_INSTITUTIONS." |
| 6 | View school in Helena+ and Swan River youth forest camp. | 6 | Section 3. Section 41-5-306, MCA, is amended to read: |
| 7 | {}}0;<u>f</u>{}<u>7</u><u>f</u>{}<u>18</u>] "Sheltar care" means the temporary | 7 | <pre>"41-5-306. Place of shelter care or detention. (1) A</pre> |
| 8 | <u>substitute</u> care of youth in physically unrestricting | 8 | youth alleged to be a delinquent youth or youth in need of |
| 9 | facilities. | 9 | supervision may be sheltered only in: |
| 10 | †19<u>†110</u>1121 "Detention" means the temporary <u>substitute</u> | 10 | (a) a licensed <u>youth</u> foster home or a home-approved by |
| 11 | care of youth in physically restricting facilities. | 11 | the-court-for-the-provision-ofsheitereareofyouth as |
| 12 | t28j-=Districtyouthguidancehome=meansa | 12 | defined_in_[section_7]; |
| 13 | fa nity-ori ented -residence-established-in-n-judicial -dist rict | 13 | (b) a facility operated by a licensed child welfare |
| 14 | of-the-state-of-Hontana-as-an-aiternative-to-existingstate | 14 | agency; or |
| 15 | youthcorrectionalfacilitiesy-the-function-of-which-is-to | 15 | (c) a licensed attention youth group home orshelter |
| 16 | provide-a-home-and-guidance-throughaduitsupervisionfor | 16 | facility-which-is-operated-by-e-nonprofit-corporation-er-the |
| 17 | delinquent-youths-and-youths-in-need-of-supervisions | 17 | youthcourtfor-the-provision-of-shelter-care-of-youtht as |
| 18 | <pre>f2tf<u>ft9t(20)</u> "Restitution" means payments in cash to</pre> | 18 | defined_in_(section_7). |
| 19 | the victim or with services to the victim or the general | 19 | {d}any-ather-suitable-place-or-facility -des ignated-or |
| 20 | community when these payments are made under the | 20 | operated-by-thecourtforthesupervisionofyouthin |
| 21 | jurisdiction of a youth court proceeding. | 21 | shelter-cares |
| 22 | <u>tretizi) "Substitute care" means full-time care of</u> | 22 | (2) The youth may be detained in a jail or other |
| 23 | xouth_in_a_residential_setting_for_the_purpose_of_providing | 23 | facility for the detention of adults only if: |
| 24-3 | food, shetter, security and safety, guidance, direction, and | 24 | (a) the facilities in subsection (1) are not available |
| 25 | <u>if necessary, treatment to youth who are removed from or</u> | 25 | or do not provide adequate security; |
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(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

4 public safety and protection reasonably require detention; 5 and

(d) the court so orders.

6

7 (3) The official in charge of a jail or other facility 8 for the detention of adult offenders or persons charged with 9 crime shall inform the court immediately if a person who is 10 or appears to be under the age of 18 years is received at 11 the facility. Such official shall bring the person before 12 the court upon request or deliver him to a detention 13 facility designated by the court.

14 (4) A youth alleged to be in need of care shall be 15 placed only in the facilities stated in subsection (1) of 16 this section and shall not be detained in a jail or other 17 facility intended or used for the detention of adults 18 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:

23 (a) probation;

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

| 1 | a_vouto_care_facility_as_defined_io_[section_7] OB_INIOA |
|----|---|
| 2 | HOHE_APPROXED_BY_IHE_COURI; |
| 3 | (c) placement of the youth in a private agency |
| 4 | responsible for the care and rehabilitation of such a youthy |
| 5 | including-but-not-limited-to-a-district-youth-guidance-home; |
| 6 | fd }transfer-of-legal-custodyofthe youthtothe |
| 7 | departmentofinstitutionsyprovided-that-such-commitment |
| 8 | does-not-suthorize-the-department-of-institutionstoplace |
| 9 | theyouthin-o-state-youth-correctional-facilityand-such |
| 10 | commitment-may-not-exceed-a-period-of6monthswithouta |
| 11 | subsequent-order-of-the-courty-after-notice-and-hearing; |
| 12 | (D]IRANSEEROELEGALCUSTODYDETHE_YOUTH_TO_THE |
| 13 | DEPARIMENT OF INSTITUTIONS, PROVIDED THAT SUCH COMMITMENT |
| 14 | QOESNOIAUTHORIZE_THE_DEPARIMENT_OF_INSTITUTIONS_TO_PLACE |
| 15 | THE YOUTH IN A STATE CORRECTIONAL EACILITY. AND SUCH |
| 16 | COMMITHENIHAYNOTEXCEEDA_PERIDD_DE_6_HONIHS_WITHOUT_A |
| 17 | SUBSEQUENT_ORDER_OF_THE_COURTAFTER_NOTICE_AND_HEARING: |
| 18 | <pre>tettities restitution upon approval of the youth court</pre> |
| 19 | judge. |
| 20 | (2) In determining whether restitution is appropriate |
| 21 | in a particular case, the following factors may be |
| 22 | considered in addition to any other evidence: |
| 23 | (a) age of the youth; |
| 24 | {b} ability of the youth to pay; |
| 25 | (c) ability of the parents or legal guardian to pay; |

| 1 | (d) amount of damage to the victim; and | 1 | CUSIODY_DDES_NOI_AUTHOBIZE_THE_DEPARTMENT_OF_INSTITUTIONS_ID |
|---------------|---|----|--|
| 2 | (e) legal remedies of the victim, however the ability | 2 | PLACE_IHE_YOUTH_IN_A_STATE_YOUTH_CORRECTIONALFACILITYAND |
| 3 | of the victim or his insurer to stand any loss may not be | 3 | SUCHCUSIDDY_MAY_NOT_CONTINUE_FOR_A_PERIOD_OF_NORE_THAN_6 |
| 4 | considered in any case." | 4 | HONTHS_WITHOUT_A_SUBSEQUENT_COURT_ORDER_AFTER_NOTICE_AND |
| 5 | Section 5. Section 41-5-523, MCA, is amended to read: | 5 | HEABING: |
| 6 | #41-5-523• Disposition of delinquent youth and youth | 6 | (e) such further care and treatment or evaluation that |
| ד | in meed of supervision. (1) If a youth is found to be | 7 | the court considers beneficial to the youth , consistent with |
| 8 | delinquent or in need of supervision, the court may enter | 8 | subsection-{1}(d)-of-this-section; |
| 9 | its judgment making the following disposition: | 9 | (f) order restitution by the youth. |
| 10 | (a) place the youth on probation; | 10 | (2) At any time after the youth has been taken into |
| 11 | {b} place inalicensedfostorhome <u>the routh for</u> | 11 | custody, the court may, with the consent of the youth in the |
| 12 | <u>substitute_care_into_a_youth_carefacility_asdefined_in</u> | 12 | manner provided in 41-5-303 for consent by a youth to waiver |
| 13 | [section_7] or a home approved by the court; | 13 | of his constitutional rights or after the youth has been |
| 14 | (c) place the youth in a private agency responsible | 14 | adjudicated delinquent or in need of supervision: |
| 15 | for the care and rehabilitation of such a youth yincluding | 15 | (a) order the youth to be evaluated by the department |
| . 16 | but-not-limited-to-a-district-youth-guidance-home; | 16 | of institutions for a period not to exceed 45 days of |
| 17 | (d) in <u>==the=coaccofracdelinquent=routh</u> transfer legal | 17 | evaluation at a reception and evaluation center for youths; |
| 18 | custody to the department of institutions y providedy | 18 | or |
| 19 | howevery-that-in-the-case-af-a-youth-in-need-of-supervisiony | 19 | (b) in the case of a delinquent youth 16 years or |
| 20 | such-transfer-of-custody-does-not-authorfie-the-department | 20 | older whom the court considers a suitable person for |
| 21 | ofinstitutionstoplacetheyouthinastateyouth | 21 | placement at a youth forest camp, notify the director of the |
| 22 | corrections }facility-and-such -custody-may-not-continue-for | 22 | department of institutions of the finding. The director of |
| 23 | a-period-of-more-than-6-months-withoutasubsequentcourt | 23 | the department of institutions shall then designate to the |
| ∞ 24 e | order-master-notice-and-hearings152PROVIDED1_HOWEVER1_THAT_IN | 24 | court the facility to which the youth shall be delivered for |
| 25 | THE CASE DE A YOUTH IN NEED OF SUPERVISION, SUCH TRANSFER OF | 25 | evaluation. The court may then commit the youth to the |
| | -11- HB 24 | | |
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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 designated youth facility for evaluation and cost of 16 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 any24 time.

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

1 agency. institution, or department, it must transmit with the dispositional judgment copies of a medical report and z such other clinical, predisposition, or other reports and 3 information pertinent to the care and treatment of the 4 5 youth-(6) The order of commitment to the department of 6 institutions shall read as follows; 7 ORDER OF COMMITMENT 8 State of Montana) 9 10) 55+ 11 County of) In the district court for the Judicial District. 12 On the day of 19... a minor of this 13 14 county. years of age, was brought before me charged 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 19 The names, addresses, and occupations of the parents 20 are: Occupation 21 Name Address 22 23 The names and addresses of their nearest relatives are: 24

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|---|--|
| 2 | |
| 3 | Witness my hand this day of A.D. 19 |
| 4 | *************** |
| 5 | Judge |
| 6 | YEW_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 desirability of meeting these needs on a community level to 10 11 the fullest extent possible, establishes by this part a system of substitute care to provide facilities and services 12 13 for youth placed out of their homes and establishes a 14 program to provide such facilities and services through local nonprofit corporations and the department of social 15 16 and rehabilitation services.

17 <u>NEW_SECTIONs</u> 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-

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| {b}diagnostic-services; |
| {c}treatment-services; |
| td;training-services; |
| te)education-services; |
| tftcounseling-servicest |
| tgjinformation-and-referral-services; |
| th)protective-and-other-social-servicest |
| titresidential-services. |

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10 (3)(12) "Department" means the department of social and 11 rehabilitation services.

12 <u>(4)(3)</u> "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 (57(4) "Treatment facility" is a child-care agency
19 providing the appropriate level of care.

20 f6f121 "Youth care facility" means a facility, 21 Dicensed 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 incluies youth foster homes, youth group homes, and 25 child-care agencies.

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t77161 "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.

5 t03(21) "Youth group home" means a youth care facility
6 In which substitute care is provided to 7 to 12 children or
7 youth-

B <u>NEW_SECTION</u> 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 <u>AND</u> child-care agenciesy-end-community-based--programs for
13 youth in need of care, youth in need of supervision, and
14 delinguent youth;

(b) exercise licensing authority over all youth foster
 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)(E) in cooperation with the department of 25 institutions and youth care facility providers, develop and

| implement standards for youth care facilities; | | | | | | |
|---|--|--|--|--|--|--|
| <pre>tgtffl apportion and allocate placement budgets to all</pre> | | | | | | |
| judicial districts; | | | | | | |
| {h}developanannualcomprehensiveplanforthe | | | | | | |
| initiationandmaintenanceof-community-based-services-to | | | | | | |
| youth;-and | | | | | | |
| (i)(G) seek public input on the plan prior to its | | | | | | |
| adoption and implementation s<u>: AND</u> | | | | | | |
| (H)MAINTAINADEQUATEDATA_ON_PLACEMENTS_IT_EUNDS_IN | | | | | | |
| ORDER ID_KEEPIHELEGISLATUREPROPERLY_INFORMED_OFIHE | | | | | | |
| EDLLONINGI | | | | | | |
| LIL_IHE_BREAKDOWN_OF_YOUTH_IN_NEED_OF_CARE+_YOUTH_IN | | | | | | |
| NEED_DE_SUPERVISION+_AND_DELINQUENIYQUIHBYCATEGORYIN | | | | | | |
| OUT=DE=HOME_CARE_FACILITIES: | | | | | | |
| (III)_IHE_COST_PER_EACILITY_FOR_SERVICES_RENDERED: | | | | | | |
| (111)_IHEIYPEAND_LEVEL_DE_CARE_DE_SERVICES_PROVIDED | | | | | | |
| BY_EACH_EACHLIY: | | | | | | |
| (IY)_A_PROFILE_OF_OUT=OF=HOME_CARE_PLACEMENTS_BYLEVEL | | | | | | |
| QE_CABEL_AND | | | | | | |
| IV1_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; | | | | | | |
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| (b) accept gifts, grants, and donations of | of money and | 1 | payments_for_youth_court_placements. {t}-The-youth-court-mo | Y |
|--|---------------|----|--|----|
| property from public and private sources to in | nitiate and | 2 | establishproceduresforfindingymointainingyan | đ |
| maintain community-based services to youth. | | 3 | admini stering-sheiter-care-and-foster-homes-oratherhome | 9 |
| (3)INEDEPARTNENTSHALLPAYEDBR | DOM. BOARD. | 4 | approvedbythecourtfor-youth-within-the-provisions-o | f |
| CLOTHING: PERSONAL NEEDS: TRANSPORTATION: AND IS | REATMENT_IN | 5 | this-chapters (1)_THE_YOUTH_COURI_BAYESTABLISHPROCEDURE | s |
| DISTRICTYOUTHGUIDANCEHOMES+_SHELTER_CARE_PE | ROGRAMS . AND | 6 | EOR_EINDINGMAINIAININGAND_ADMINISIERING_SHELIER_CARE_AN | D |
| EDSTER_CARE_HONES_EDB_YOUTHS_COMMITTED_TO_INE_DE | PARTMENT_OF | 7 | EDSTERHOMESAPPROVEDBYTHECOURT_EOR_YOUTH_WITHIN_TH | E |
| INSTITUTIONSWHONEEDIOBEPLACED_IN_SUCH. | FACILITIES | 8 | PROVISIONS_DE_THIS_CHAPTER. | |
| YOUTHS_COMMITTEDIOIHEDEPARTMENTOFINSIL | TUTIONS AND | 9 | f27121 Pursuant to 41-3-104+ the department ofsocie | Ŧ |
| PLACED IN RESIDENTIAL FACILITIES OTHER THAN THO | SE_DESCRIBED | 10 | andrehobilitationservices shall financefosterhome | -9 |
| ABOYE SHALL NOT BE THE EINANCIAL RESPONSIBIL | ITY OF THE | 11 | established make a foster care payment for a child placed b | 'Y |
| DEPARTBENT_DE_SOCIAL_AND_REHABLLITATION_SERVICES. | UNLESS_SUCH | 12 | the youth court if: | |
| PLACEMENTSHAVEBEEN_APPROVED_IN_ADVANCE_BY_TH | E_DEPARTMENT | 13 | (a)tit(A) the foster-home child is placed in _a yout | Ъ |
| DE_SOCIAL_AND_REHABILITATION_SERVICES. | | 14 | care facility licensed by the department or by | n |
| NEW SECTION: Section 9. Apportionment AL | LOCATION of | 15 | appropriate_licensing_authority_from_another_state; | |
| money to judicial districts. (1) The depart | tment shall | 16 | {b}121(B) the youth court enters into an agreemen | t |
| apportionand allocate placement budgets, (| based upon | 17 | according to federal regulations with the department for th | e |
| historical placement patterns and current place | ment trends, | 18 | placement of children; | |
| to the judicial districts for the substitute car | e of youth | 19 | {c}<u>t</u>at(C) the plac ement of the child is reviewed a | 5 |
| in need of supervision or delinquent youth. | | 20 | required by 41-5-807; and | |
| (2) The placement budgets may be monitore | d by a youth | 21 | tdtttlD the youth court retains supervision of th | e |
| court committee as provided for in 41-5-105 or a | foster care | 22 | child in placement. | |
| review committee as provided for in 41-5-807. | | 23 | t3} The };censedshe}tercareandfostar home | 3 |
| Section 10. Section 41+5-801, MCA, is amen | ded to read: | 24 | established-under-this-section-shall-befunded-atarat | e |
| =41-5-801. Shei ter-care-and-foster-homes j | Fostercace | 25 | consistentwithothersheitercareandfosterhome | 5 |
| -19 | HB 24 | | -20- HB 24 | 4 |

1 established-for-other-purposes-under-law--Shelter--care--os Z defined---by--this--chapter--may--be--funded--through--state 3 appropriation-to-the-youth-courts--and--the--departments--of 4 institutions-and-social-and-rehabilitation-services." 5 Section 11. Section 41-3-104, MCA, is amended to read: 6 "41-3-104. Payment for support of youth in need of 7 cares, youth in need of supervisions or delinguent youth --8 reimbursement by county. (1) Whenever agreements are entered 9 into by the department of-social-and-rehabilitation-services 10 or the court for placing a youth in need of care, a youth in 11 need of supervisions or a delinquent youth in a Heensed 12 femily-fester-homey--child-cesre--sgencyy--group-homey--or 13 treatment youth__care facility, the department shall pay by 14 its check or draft each month from any funds appropriated 15 for that purpose the entire amount agreed upon for boards 16 clothing, personal needs, treatment, and room of the 17 children. 16 (2) On or before the 20th of each month the department 19 shall present a claim to the county of residence of the 20 children for no more than one-half the payments so made 21 during the month. The county must make reimbursement to the 2 Z department within 20 days after the claim is presented. 23 (3) The department shall conduct or arrange for the

25 Hicensed-family-foster-homey-child-care-agencyy-group--homey

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| 1 | ortreatment youth care facility if the child is placed |
|----|---|
| 2 | under the supervision of the department or placed by the |
| 3 | department or the department pays for the care of the child |
| 4 | as set forth in this section." |
| 5 | <u>NEW_SEETERN</u> Section-l2+Timelimitationsonyouth |
| 6 | courtplacements{}}If-the-court-has-datermined-thet-a |
| 7 | youth-beplacedin-alicensedyouthcarefacility-as |
| 8 | providedin-41-5-403-or-41-5-522-and-the-youth-hos-not-been |
| 9 | placed-within-10-working-daysofsuchdaterminstianthe |
| 10 | probation-officery-s-representstive-of-the-departmenty-and-a |
| 11 | representativeof-the-elementary-or-high-school-district-in |
| 12 | whichtheyouthresidesmustmeettodeterminethree |
| 13 | appropriate-placement-alternatives. |
| 14 | t2}Thethreeplacemantalternativesshellbe |
| 15 | presented-to-the-youth-courtjudgeforhisconsideration |
| 15 | within15workingdaysoftheinformaladjustmentor |
| 17 | dispositional-hearing. |
| 18 | {3}If-the-judge-thenorderstheplacementofthe |
| 19 | youth-in-o-facifity-other-th an-one-of-the-three-afternativ es |
| 20 | presented-to-himhe-must-state-the-reason-for-ordering-such |
| 21 | placementy |
| Z2 | {4}Belaysresulting-from-court-ordered-evaluation-of |
| 23 | the-youth-are-not-included-in-the-15-day-time-limitations |
| 24 | Section 12. Section 41-3-405, MCA, is amended to read: |
| 25 | *41-3-405. Investigation of parents! or guardian's |
| | |

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review required under 41-5-807 of a child placed in a

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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 8 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 adequacy of the quardianship assets to pay the cost of 12 supporting the child in a foster-homey-child-care-agencyy 13 proup-homey-or-private--treatment youth care facility. A 14 15 written report of the investigation shall be filed with the clerk of court before the time fixed for the dispositional 16 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."

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-homey
 child-care-agencyy-group-homey-or--private--treatment youth

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facility and the department of---social---and 1 care 2 rehabilitation-services is responsible for all or part of the cost of such placement, the probation officer or the 3 4 court shall notify the department of---social---and rehabilitation---services and order the county welfare 5 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 delinguent youth or a 10 youth in need of supervision, the court may order the county 11 wel far e 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 quardian of the 16 youth and the financial ability of the parents or the 17 adequacy of the quardianship 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:

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1 "41-3-407. Order for financial support. (1) Whenever a 2 youth is placed in a foster-homey-child-core-agencyy-group З homey--or--private--treatment youth care facility under 4 41-3-406, the court shall determine the ability of the youth's parents or guardian to contribute to the support of 5 the youth or the adequacy of the guardianship assets to 6 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 abliity 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."

Section 15. Section 41-3-105. MCA, is amended to read:
 "41-3-105. Recovery from parents or guardianship
 assets -- division between state and county. (1) In the

event any recovery is made from the parent or parents or
 guardianship assets of children for whom board, clothing,
 personal needs, and room have been paid by the state and
 county, any amount so recovered shall be divided equally
 between the department and the county of residence of such
 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

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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 such services, facilities, IRAINING: and funds as the 14 department or other governmental units may be authorized by 15 law to provide. 16

NEW_SECTION. Section 19. Governmental contracts with 17 nonprofit organizations. (1) The department may contract 18 with nonprofit corporations or associations to provide 19 facilities and services for youth in need of care, youth in **ZO** need of supervision, and delinquent youth in youth care 21 22 facilities and is authorized to expend such money as is appropriated or available therefor. SUCH CONTRACTS SHALL BE 23 BASED ON THE FOLLOWING CONSIDERATIONS: 24

25 IAL BUDGETS_SUBMITTED_BY_THE NONPROFIT_CORPORATION_OR

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(C)__APPROPRIATION_LEVEL:_AND

4 IDI_AVAILABILITY_OE_EUNDS_

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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 compunity-based services.

ASSOCIATION_IDENTIFYING_EIXED_AND_VARIABLE_COSTS:

(8) _REASONABLE_COSTS_DE_SERVICE:

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--ond--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 boording-or-faster-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

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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--boording--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 misdemeanor and-upon-conviction-be-punished-by-a-fine-nat-to 16 17 exceed-\$100."

Section-24---Section-41-5-882y-MCAy-is-amended-to-read+ 18 19 #41-5-802v--Shetter--care--and---detention---Betention 20 facilities-the-countres-the-county-commissioners 21 mov-provide-by-purchase-iease-procherwise-a-piace-to-be 22 known-as-the-youth-datention-facilityy-which--shall--not--be 23 used--for--the--confinement--of--adult--persons-charged-with criminal-offensesy-where-delinguent--youths--and--youths--in 24 25 need-of-supervision-may-be-detained-until-final-dispositiony HB 0024/03

| 1 | whichplaceshallbe-maintained-by-the-county-as-in-other |
|----|---|
| Z | tike-casas# |
| 3 | fb} <u>t</u> 21 The-j udge-heving-jurisdiction-moy-oppointsuch |
| 4 | personnelasrequiredywhoshellhavechargeofsaid |
| 5 | facility-and-of-the-youths-datained-therein+ |
| 6 | {c} <u>j</u>]]The-compensation-ofsuchpersonnelshallbe |
| 7 | fixedbythecourtyandsuchcompansationandthe |
| 8 | maintaining-of-such-facility-shall-ba-paid-out-of-the-county |
| 9 | treasury-which-may-be-supplementedbystateeppropriation |
| 10 | and-federal-funds= |
| 11 | {2}{a } - fouchcourts andnonprofit-corporations-may |
| 12 | provide-by-purchasey-leasey-orotherwiseyaplacetobe |
| 13 | known-as-a-she lter-care-facilityv |
| 14 | {b}5uchfaciittyshailba-physically-unrastricting |
| 15 | and-may-be-used-to-prov ide-sheiter-care-for-yo uth-ai legod-or |
| 16 | adjudicated-detinquents-in-need-of-supervisions-orinneed |
| 17 | of-corev |
| 18 | {c}Such-Facility-shall-be-separate-and-apart-from-any |
| 19 | facility-housing-adults-charged-with-criminal-offenses. |
| 20 | {d}5tateoppropr at}onsand federa}fundsmay-be |
| 21 | receivedbythayouthcourtorprivatenonprofit |
| 22 | corporations-for-establi shmenty-maintenancay-or-operation-of |
| 23 | such-facility. |
| 24 | {c}Suchfac+++ty-sha++-ba-furn+shad-tn-a-comfortobte |
| 25 | monner-and-be-as-nearty-as-postible-like-a-family-homes ^m |

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 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 8 up to the person's 21st birthday.

9 <u>NEW SECTION</u> 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 <u>NEW_SECTION</u> 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.

 NEW_SECTION
 Section 26.
 Aftercare facilities. (1)

 The department of institutions may establish, maintain, and
 administer
 YDUTH____COBBECTION___FACILITIES.___EVALUATION

 24
 EACILITIES.__MENTAL_HEALTH_FACILITIES.AND_SERVICES._AETERCARE
 25
 PROGRAMS._AND aftercare facilities for the care, custody,

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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 provisions. (1) When the term "school district" appears in R the following sections outside of Title 20. the term 9 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, 18-1-112+ 18-1-201, 18-2-101+ 18-2-103+ 18-2-113+ 18-2-114+ 19 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, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 22 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

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(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 12 care: 13 (2) a district youth guidance group home established pursuant-to-41-5-903 as defined in [section 7]: 15 (3) a halfway house operated in accordance with regulations of the department of health and environmental sciences for the rehabilitation of alcoholics or drug

40(2)(g) and 15(c), M.R.Civ.P., as amended.

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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 vouth_group homes, and community residential facilities to 23 zoning. (1) A foster or boarding youth orbug home operated 24 under the provision provisions of 41-3-501 through 41-3-504 25 or community residential facility serving eight or fewer

persons is considered a residential use of property for 1 2 purposes of zoning if the home provides care on a 3 24-hour-a-day basis.

(2) The homes are a permitted use in all residential 4 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 political subdivision thereof which is not applicable to 8 residential occupancies in general way not be applied to a 9 10 community residential facility serving eight or fewer 11 DEFSONS

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 provisions of this section provided such home is licensed by 15 the department of health and environmental sciences and the 16 17 department of social and rehabilitation services."

18 <u>NEW_SECTION</u>. Section 30. Administration. The 19 provisions of Title 41, chapter 3, part 11, govern the 20 administration of this chapter.

21 YEW_SECIION. Section 31. Codification and code commissioner instructions. (1) Section 32 30 is intended to 22 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+

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(2) Sections 6, 7, 8, 9, t2 11, 18, 19, 20, and 25 23 through 20 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.

5 (3) (a) Sections 41-3-405 and 41-5-805, NCA, 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.

(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.

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 <u>NEW_SECTION:</u> Section 32. Repeater. Sections:41-5-803. 240///and 41-5-901: through:41-5-924# MCA: are repeated.

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NEW_SECTION. Section 33. Effective date. This act is

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1 effective on July 1, 1983.

-End-

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