

SENATE BILL NO. 168

INTRODUCED BY VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE SENATE

January 17, 1983	Introduced and referred to Committee on Judiciary.
February 4, 1983	Committee recommend bill do pass as amended. Report adopted.
February 7, 1983	Bill printed and placed on members' desks.
February 8, 1983	Second reading, do pass.
February 9, 1983	Correctly engrossed.
February 10, 1983	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

February 11, 1983	Introduced and referred to Committee on Judiciary.
March 5, 1983	Committee recommend bill be concurred in. Report adopted.
March 7, 1983	Second reading, concurred in.
March 8, 1983	Third reading, concurred in.

IN THE SENATE

March 9, 1983

Returned to Senate.

Sent to enrolling.

Reported correctly
enrolled.

1 *Senate* BILL NO. *168*
2 INTRODUCED BY *Sen. Volkmar*
3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA
6 YOUTH COURT ACT CONCERNING 6-MONTH COMMITMENTS TO THE
7 DEPARTMENT OF INSTITUTIONS AND THE COMMITMENT REVOCATION
8 PROCESS; AMENDING SECTIONS 41-5-403 AND 41-5-523, MCA."
9

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

11 Section 1. Section 41-5-403, MCA, is amended to read:

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

15 (a) probation;
16 (b) placement of the youth in a licensed foster home
17 or other home approved by the court;

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

21 (d) transfer of legal custody of the youth to the
22 department of institutions; ~~provided that such commitment~~
23 ~~does not authorize the department of institutions to place~~
24 ~~the youth in a state youth correctional facility, and such~~
25 ~~commitment may not exceed for a period of 6 months without a~~

1 ~~subsequent order of the court, after notice and hearing;~~

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

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

7 (a) age of the youth;
8 (b) ability of the youth to pay;
9 (c) ability of the parents or legal guardian to pay;
10 (d) amount of damage to the victim; and
11 (e) legal remedies of the victim, however the ability
12 of the victim or his insurer to stand any loss may not be
13 considered in any case.

14 ~~(3) If the youth violates his aftercare agreement as~~
15 ~~provided for in 53-30-226, he must be returned to the court~~
16 ~~by his aftercare counselor for further disposition. No youth~~
17 ~~may be placed in a state youth correctional facility under~~
18 ~~informal adjustment."~~

19 Section 2. Section 41-5-523, MCA, is amended to read:

20 "41-5-523. Disposition of delinquent youth and youth
21 in need of supervision. (1) If a youth is found to be
22 delinquent or in need of supervision, the court may enter
23 its judgment making the following disposition:

24 (a) place the youth on probation;
25 (b) place in a licensed foster home or a home approved

by the court;

(c) place the youth in a private agency responsible for the care and rehabilitation of such a youth, including but not limited to a district youth guidance home;

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

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

(f) order restitution by the youth.

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

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

or

(b) in the case of a delinquent youth 16 years or

older whom the court considers a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the department of institutions for a period not to exceed 45 days for the purpose of evaluation as to the youth's suitability for placement and order the youth delivered for evaluation to the youth facility designated by the director. If after the evaluation the department of institutions reports to the court that such child is suitable for placement in a youth forest camp and if there is space available at a camp, the court may then commit such child directly to the youth forest camp under the terms of commitment of this chapter. If the department of institutions reports and states the reasons to the court why the youth is not suitable for placement, the youth shall be returned to the court for such further disposition as the court may consider advisable under the provisions of this chapter. The costs of transporting the youth to the designated youth facility for evaluation and cost of returning the youth to the court shall be borne by the county of residence of the youth.

(3) No youth may be committed or transferred to a

penal institution or other facility used for the execution of sentence of adult persons convicted of crimes except as provided by subsection (2)(b).

~~(4) Any order of the court may be modified at any time. In the case of a delinquent youth directly committed to aftercare supervision and subsequently in violation of his aftercare agreement, the youth may be placed in a state youth correctional facility only upon further order of the court after notice and hearing.~~

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

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

ORDER OF COMMITMENT

State of Montana)

) ss.

County of)

In the district court for the Judicial District.

On the day of, 19...,, a minor of this county, years of age, was brought before me charged with, Upon due proof I find that is a suitable

person to be committed to the department of institutions.

It is ordered that be committed to the department of institutions until ~~xxxx~~ age 21 or discharge by the department, whichever occurs first.

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

Name	Address	Occupation
.....
.....

The names and addresses of their nearest relatives are:

.....
.....

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

.....

Judge

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 168

INTRODUCED BY VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA YOUTH COURT ACT CONCERNING 6-MONTH COMMITMENTS TO THE DEPARTMENT OF INSTITUTIONS AND THE COMMITMENT REVOCATION PROCESS; AMENDING SECTIONS 41-5-403 AND 41-5-523, MCA."

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

Section 1. Section 41-5-403, MCA, is amended to read:

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

(a) probation;

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

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

(d) transfer of legal custody of--the-youth to the department of institutions;--provided--that--such--commitment does--not--authorize-the-department-of-institutions-to-place the-youth-in-a-state-youth-correctional-facility;--and--such commitment-may-not-exceed for a period of 6 months without-a

subsequent--order--of--the--court--after-notice-and-hearing, WHICH PERIOD MAY BE EXTENDED FOR 6 MONTHS UPON FURTHER ORDER OF THE COURT AFTER NOTICE AND HEARING;

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

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

(a) age of the youth;

(b) ability of the youth to pay;

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

(d) amount of damage to the victim; and

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

~~(3) If the youth violates his aftercare agreement as provided for in 53-20-226, he must be returned to the court by his aftercare counselor for further disposition. No youth may be placed in a state youth correctional facility under informal adjustment."~~

Section 2. Section 41-5-523, MCA, is amended to read:

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

(a) place the youth on probation;

(b) place in a licensed foster home or a home approved by the court;

(c) place the youth in a private agency responsible for the care and rehabilitation of such a youth, including but not limited to a district youth guidance home;

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

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

(f) order restitution by the youth.

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

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

or

(b) in the case of a delinquent youth 16 years or older whom the court considers a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the department of institutions for a period not to exceed 45 days for the purpose of evaluation as to the youth's suitability for placement and order the youth delivered for evaluation to the youth facility designated by the director. If after the evaluation the department of institutions reports to the court that such child is suitable for placement in a youth forest camp and if there is space available at a camp, the court may then commit such child directly to the youth forest camp under the terms of commitment of this chapter. If the department of institutions reports and states the reasons to the court why the youth is not suitable for placement, the youth shall be returned to the court for such further disposition as the court may consider advisable under the provisions of this chapter. The costs of transporting the youth to the designated youth facility for evaluation and cost of returning the youth to the court shall be borne by the

1 county of residence of the youth.

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

6 (4) ~~Any order of the court may be modified at any~~
7 ~~time in the case of a delinquent youth directly committed~~
8 ~~to aftercare supervision and subsequently in violation of~~
9 ~~his aftercare agreement, the youth may be placed in a state~~
10 ~~youth correctional facility only upon further order of the~~
11 ~~court after notice and hearing.~~ ANY ORDER OF THE COURT MAY
12 BE MODIFIED AT ANY TIME. IN THE CASE OF A YOUTH COMMITTED TO
13 THE DEPARTMENT OF INSTITUTIONS, AN ORDER PERTAINING TO THE
14 YOUTH MAY BE MODIFIED ONLY UPON NOTICE TO THE DEPARTMENT AND
15 SUBSEQUENT HEARING.

16 (5) Whenever the court vests legal custody in an
17 agency, institution, or department, it must transmit with
18 the dispositional judgment copies of a medical report and
19 such other clinical, predisposition, or other reports and
20 information pertinent to the care and treatment of the
21 youth.

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

24 ORDER OF COMMITMENT

25 State of Montana)

1) ss.

2 County of)

3 In the district court for the Judicial District.

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

8 It is ordered that be committed to the department
9 of institutions until age 21 or discharge by the
10 department, whichever occurs first.

11 The names, addresses, and occupations of the parents
12 are:

13	Name	Address	Occupation
14
15

16 The names and addresses of their nearest relatives are:
17
18

19 Witness my hand this day of, A.D. 19...
20
21 Judge"

-End-

1 SENATE BILL NO. 168

2 INTRODUCED BY VAN VALKENBURG

3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA
6 YOUTH COURT ACT CONCERNING 6-MONTH COMMITMENTS TO THE
7 DEPARTMENT OF INSTITUTIONS AND THE COMMITMENT REVOCATION
8 PROCESS; AMENDING SECTIONS 41-5-403 AND 41-5-523, MCA."

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

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

15 (a) probation;

16 (b) placement of the youth in a licensed foster home
17 or other home approved by the court;

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

21 (d) transfer of legal custody of--the-youth to the
22 department of institutions--provided--that--such--commitment
23 does--not--authorize-the-department-of-institutions-to-place
24 the-youth-in-a-state-youth-correctional-facility--and--such
25 commitment-may-not-exceed for a period of 6 months without-a

1 subsequent--order--of--the--court--after--notice--and--hearing,
2 WHICH PERIOD MAY BE EXTENDED FOR 6 MONTHS UPON FURTHER ORDER
3 OF THE COURT AFTER NOTICE AND HEARING;

4 (a) restitution upon approval of the youth court
5 judge.

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

9 (a) age of the youth;

10 (b) ability of the youth to pay;

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

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

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

16 ~~(3) If the youth violates his aftercare agreement as~~
17 ~~provided for in 53-30-226, he must be returned to the court~~
18 ~~by his aftercare counselor for further disposition. No youth~~
19 ~~may be placed in a state youth correctional facility under~~
20 ~~informal adjustment."~~

21 Section 2. Section 41-5-523, MCA, is amended to read:

22 "41-5-523. Disposition of delinquent youth and youth
23 in need of supervision. (1) If a youth is found to be
24 delinquent or in need of supervision, the court may enter
25 its judgment making the following disposition:

1 (a) place the youth on probation;

2 (b) place in a licensed foster home or a home approved
3 by the court;

4 (c) place the youth in a private agency responsible
5 for the care and rehabilitation of such a youth, including
6 but not limited to a district youth guidance home;

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

14 (e) such further care and treatment or evaluation that
15 the court considers beneficial to the youth, consistent with
16 subsection (1)(d) of this section; or

17 (f) order restitution by the youth.

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

23 (a) order the youth to be evaluated by the department
24 of institutions for a period not to exceed 45 days of
25 evaluation at a reception and evaluation center for youths;

1 or

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

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county of residence of the youth.

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

~~(4) Any order of the court may be modified at any time in the case of a delinquent youth directly committed to aftercare supervision and subsequently in violation of his aftercare agreement, the youth may be placed in a state youth correctional facility only upon further order of the court after notice and hearing. ANY ORDER OF THE COURT MAY BE MODIFIED AT ANY TIME, IN THE CASE OF A YOUTH COMMITTED TO THE DEPARTMENT OF INSTITUTIONS, AN ORDER PERTAINING TO THE YOUTH MAY BE MODIFIED ONLY UPON NOTICE TO THE DEPARTMENT AND SUBSEQUENT HEARING.~~

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

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

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State of Montana)

) ss.

County of)

In the district court for the Judicial District.

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

It is ordered that be committed to the department of institutions until age-21-or-discharge-by-the department, whichever occurs first.

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

Name	Address	Occupation
.....
.....

The names and addresses of their nearest relatives are:

.....
.....

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

Judge"

-End-

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(a) probation;

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

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

(d) transfer of legal custody of the youth to the department of institutions; ~~provided that such commitment does not authorize the department of institutions to place the youth in a state youth correctional facility and such commitment may not exceed for a period of 6 months without a~~

~~subsequent order of the court after notice and hearing, which period may be extended for 6 months upon further order of the court after notice and hearing;~~

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

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

(a) age of the youth;

(b) ability of the youth to pay;

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

(d) amount of damage to the victim; and

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

~~(1) If the youth violates his aftercare agreement as provided for in 53-30-226, he must be returned to the court by his aftercare counselor for further disposition. No youth may be placed in a state youth correctional facility under informal adjustment."~~

Section 2. Section 41-5-523, MCA, is amended to read:

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

(a) place the youth on probation;

(b) place in a licensed foster home or a home approved by the court;

(c) place the youth in a private agency responsible for the care and rehabilitation of such a youth, including but not limited to a district youth guidance home;

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

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

(f) order restitution by the youth.

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

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

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(b) in the case of a delinquent youth 16 years or older whom the court considers a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the department of institutions for a period not to exceed 45 days for the purpose of evaluation as to the youth's suitability for placement and order the youth delivered for evaluation to the youth facility designated by the director. If after the evaluation the department of institutions reports to the court that such child is suitable for placement in a youth forest camp and if there is space available at a camp, the court may then commit such child directly to the youth forest camp under the terms of commitment of this chapter. If the department of institutions reports and states the reasons to the court why the youth is not suitable for placement, the youth shall be returned to the court for such further disposition as the court may consider advisable under the provisions of this chapter. The costs of transporting the youth to the designated youth facility for evaluation and cost of returning the youth to the court shall be borne by the

county of residence of the youth.

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

~~(4) Any order of the court may be modified at any time in the case of a delinquent youth directly committed to aftercare supervision and subsequently in violation of his aftercare agreement the youth may be placed in a state youth correctional facility only upon further order of the court after notice and hearing. ANY ORDER OF THE COURT MAY BE MODIFIED AT ANY TIME, IN THE CASE OF A YOUTH COMMITTED TO THE DEPARTMENT OF INSTITUTIONS, AN ORDER PERTAINING TO THE YOUTH MAY BE MODIFIED ONLY UPON NOTICE TO THE DEPARTMENT AND SUBSEQUENT HEARING.~~

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

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

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) ss.

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In the district court for the Judicial District.

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

It is ordered that be committed to the department of institutions until ~~age 21 or discharge by the department whichever occurs first~~

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

Name	Address	Occupation
.....
.....

The names and addresses of their nearest relatives are:

.....
.....

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

.....

Judge"

-End-