

SENATE BILL NO. 268

INTRODUCED BY HALLIGAN

BY REQUEST OF THE BOARD OF CRIME CONTROL

IN THE SENATE

January 29, 1985	Introduced and referred to Committee on Judiciary.
February 11, 1985	Committee recommend bill do pass as amended. Report adopted.
February 12, 1985	Bill printed and placed on members' desks.
February 13, 1985	Second reading, do pass.
February 14, 1985	Considered correctly engrossed.
February 15, 1985	Third reading, passed. Ayes, 49; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Judiciary.
March 26, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in.
	Returned to Senate with amendments.

IN THE SENATE

April 1, 1985	Received from House.
---------------	----------------------

April 3, 1985	Second reading, amendments concurred in.
April 5, 1985	Third reading, amendments concurred in. Ayes, 45; Noes, 0. Sent to enrolling.
April 12, 1985	Reported correctly enrolled. Signed by President.
April 15, 1985	Signed by Speaker. Delivered to Governor.
April 19, 1985	Returned from Governor with recommended amendments.
April 22, 1985	Second reading, Governor's amendments concurred in.
April 23, 1985	Third reading, Governor's amendments concurred in. Transmitted to House.

IN THE HOUSE

April 23, 1985	Second reading, Governor's amendments concurred in. Third reading, Governor's amendments concurred in. Returned to Senate.
----------------	--

IN THE SENATE

April 23, 1985	Received from House.
April 24, 1985	Sent to enrolling. Reported correctly enrolled.

1 Senate BILL NO. 268
 2 INTRODUCED BY Wallyja
 3 BY REQUEST OF THE BOARD OF CRIME CONTROL

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA
 6 FOR DETENTION OF YOUTHS; PROVIDING THAT A DETAINED YOUTH
 7 MUST HAVE ALLEGEDLY COMMITTED AN ACT WHICH IF COMMITTED BY
 8 AN ADULT WOULD CONSTITUTE A CRIME; AMENDING SECTION
 9 41-5-305, MCA."

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

12 Section 1. Section 41-5-305, MCA, is amended to read:

13 "41-5-305. Detention and shelter care of youth. (1) A
 14 youth taken into custody may not be detained ~~prior--to--the~~
 15 ~~hearing-on-the-petition-except-when:~~

16 ~~(a)--his-detention-is-required-to-protect-the-person-or~~
 17 ~~the-property-of-others-or-of-the-youth;~~

18 ~~(b)--he--has--pending-court-or-administrative-action-or~~
 19 ~~is-awaiting-a--transfer--to--another--jurisdiction--and--may~~
 20 ~~abscond-or-be-removed-from-the-jurisdiction-of-the-court;~~

21 ~~(c)--there--are--not-adequate-assurances-that-the-youth~~
 22 ~~will-appear-for-court-when-required;-or~~

23 ~~(d)--an-order-for-his-detention-has-been--made--by--the~~
 24 ~~court- in a jail or other facility for detention purposes~~
 25 ~~unless he has allegedly committed an act which if committed~~

1 by an adult would constitute a criminal offense, and:

2 (a) the alleged act is one of those enumerated in
 3 41-5-206(1)(a); or

4 (b) he has escaped from a correctional facility; or

5 (c) he has violated a valid court order; or

6 (d) he meets the criteria for detention established by
 7 the youth court.

8 (2) A youth taken into custody may not be sheltered
 9 prior to the hearing on the petition except when:

10 (a) the youth and his family need shelter care to
 11 address their problematic situation when it is not possible
 12 for the youth to remain at home;

13 (b) the youth needs to be protected from physical or
 14 emotional harm;

15 (c) the youth needs to be deterred or prevented from
 16 immediate repetition of his troubling behavior;

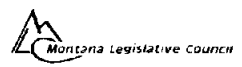
17 (d) shelter care is necessary to assess the youth and
 18 his environment;

19 (e) shelter care is necessary to provide adequate time
 20 for case planning and disposition; or

21 (f) shelter care is necessary to intervene in a crisis
 22 situation and provide intensive services or attention that
 23 might alleviate the problem and reunite the family."

-End-

INTRODUCED BILL
 SB 268



APPROVED BY COMMITTEE
ON JUDICIARY

1 SENATE BILL NO. 268
2 INTRODUCED BY HALLIGAN
3 BY REQUEST OF THE BOARD OF CRIME CONTROL
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA
6 FOR DETENTION OF YOUTHS; PROVIDING THAT A DETAINED YOUTH
7 MUST HAVE ALLEGEDLY COMMITTED AN ACT WHICH IF COMMITTED BY
8 AN ADULT WOULD CONSTITUTE A CRIME; AMENDING SECTION
9 41-5-305, MCA."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 41-5-305, MCA, is amended to read:
13 "41-5-305. Detention and shelter care of youth. (1) A
14 youth taken into custody may not be detained prior--to--the
15 hearing-on-the-petition-except-when:
16 {a)--his-detention-is-required-to-protect-the-person-or
17 the-property-of-others-or-of-the-youth;
18 {b)--he--has--pending-court-or-administrative-action-or
19 is-awaiting-a--transfer--to--another--jurisdiction--and--may
20 abscond-or-be-removed-from-the-jurisdiction-of-the-court;
21 {c)--there--are--not-adequate-assurances-that-the-youth
22 will-appear-for-court-when-required;-or
23 {d)--an-order-for-his-detention-has-been--made--by--the
24 court- in a jail or other facility for detention purposes
25 unless he has allegedly committed an act which if committed

1 by an adult would constitute a criminal offense, and:
2 (a) the alleged act is one of those enumerated in
3 41-5-206(1)(a); or
4 (b) he has escaped from a correctional facility; or
5 (c) he has violated a valid court order OR AN
6 AFTERCARE AGREEMENT; or
7 (d) he meets the criteria for detention established by
8 the youth court.
9 (2) A youth taken into custody may not be sheltered
10 prior to the hearing on the petition except when:
11 (a) the youth and his family need shelter care to
12 address their problematic situation when it is not possible
13 for the youth to remain at home;
14 (b) the youth needs to be protected from physical or
15 emotional harm;
16 (c) the youth needs to be deterred or prevented from
17 immediate repetition of his troubling behavior;
18 (d) shelter care is necessary to assess the youth and
19 his environment;
20 (e) shelter care is necessary to provide adequate time
21 for case planning and disposition; or
22 (f) shelter care is necessary to intervene in a crisis
23 situation and provide intensive services or attention that
24 might alleviate the problem and reunite the family."

-End-

-2-

SENATE BILL NO. 268

INTRODUCED BY HALLIGAN

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA FOR DETENTION OF YOUTHS; PROVIDING THAT A DETAINED YOUTH MUST HAVE ALLEGEDLY COMMITTED AN ACT WHICH IF COMMITTED BY AN ADULT WOULD CONSTITUTE A CRIME; AMENDING SECTION 41-5-305, MCA."

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

Section 1. Section 41-5-305, MCA, is amended to read:

"41-5-305. Detention and shelter care of youth. (1) A youth taken into custody may not be detained prior--to--the hearing-on-the-petition-except-when:

~~(a)--his-detention-is-required-to-protect-the-person-or the-property-of-others-or-of-the-youth;~~

~~(b)--he--has--pending-court-or-administrative-action-or is-awaiting-a--transfer--to--another--jurisdiction--and--may abscond-or-be-removed-from-the-jurisdiction-of-the-court;~~

~~(c)--there--are--not-adequate-assurances-that-the-youth will-appear-for-court-when-required;-or~~

~~(d)--an-order-for-his-detention-has-been--made--by--the court; in a jail or other facility for detention purposes unless he has allegedly committed an act which if committed~~

by an adult would constitute a criminal offense, and:

(a) the alleged act is one of those enumerated in 41-5-206(1)(a); or

(b) he has escaped from a correctional facility; or

(c) he has violated a valid court order OR AN AFTERCARE AGREEMENT; or

(d) he meets the criteria for detention established by the youth court.

(2) A youth taken into custody may not be sheltered prior to the hearing on the petition except when:

(a) the youth and his family need shelter care to address their problematic situation when it is not possible for the youth to remain at home;

(b) the youth needs to be protected from physical or emotional harm;

(c) the youth needs to be deterred or prevented from immediate repetition of his troubling behavior;

(d) shelter care is necessary to assess the youth and his environment;

(e) shelter care is necessary to provide adequate time for case planning and disposition; or

(f) shelter care is necessary to intervene in a crisis situation and provide intensive services or attention that might alleviate the problem and reunite the family."

-End-



STANDING COMMITTEE REPORT

HOUSE

March 26 1985

Page 1 of 2

March 26 1985

Page 2 of 2 (SB 268)

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 268

Third reading copy (Blue color)

REVISE CRITERIA FOR DETENTION OF YOUTH

2. Page 2, line 4. Following: "facility;" Strike: "or"

Respectfully report as follows: That Senate Bill No. 268

be amended as follows:

1. Page 2, line 2.

Following: "one of"

Strike: "those" through "or" on line 3.

Insert: "The following:

- (i) criminal homicide as defined in 45-5-101; (ii) arson as defined in 45-6-103; (iii) aggravated assault as defined in 45-5-202; (iv) robbery as defined in 45-5-401; (v) burglary or aggravated burglary as defined in 45-5-204; (vi) sexual intercourse without consent as defined in 45-5-503; (vii) aggravated kidnapping as defined in 45-5-303; (viii) possession of explosives as defined in 45-8-335; (ix) criminal sale of dangerous drugs for profit as included in 45-9-101; (x) attempt as defined in 45-4-103 of any of the acts enumerated in subsections (1)(a)(i) through (1)(a)(ix);

Handwritten initials

Handwritten initials

AND AS AMENDED, BE CONCURRED IN

Chairman

Tom Hannah REP. TOM HANNAH Chairman

SB 268

1 SENATE BILL NO. 268
 2 INTRODUCED BY HALLIGAN
 3 BY REQUEST OF THE BOARD OF CRIME CONTROL
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA
 6 FOR DETENTION OF YOUTHS; PROVIDING THAT A DETAINED YOUTH
 7 MUST HAVE ALLEGEDLY COMMITTED AN ACT WHICH IF COMMITTED BY
 8 AN ADULT WOULD CONSTITUTE A CRIME; AMENDING SECTION
 9 41-5-305, MCA."

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

12 Section 1. Section 41-5-305, MCA, is amended to read:

13 "41-5-305. Detention and shelter care of youth. (1) A
 14 youth taken into custody may not be detained prior--to--the
 15 hearing-on-the-petition-except-when:

16 (a)--his-detention-is-required-to-protect-the-person-or
 17 the-property-of-others-or-of-the-youth;

18 (b)--he--has--pending-court-or-administrative-action-or
 19 is-awaiting-a-transfer--to--another--jurisdiction--and--may
 20 abscond-or-be-removed-from-the-jurisdiction-of-the-court;

21 (c)--there--are--not-adequate-assurances-that-the-youth
 22 will-appear-for-court-when-required;-or

23 (d)--an-order-for-his-detention-has-been--made--by--the
 24 court: in a jail or other facility for detention purposes
 25 unless he has allegedly committed an act which if committed

1 by an adult would constitute a criminal offense, and:

2 (a) the alleged act is one of those enumerated in
 3 41-5-206(1)(a);-or THE FOLLOWING:

4 (I) CRIMINAL HOMICIDE AS DEFINED IN 45-5-101;

5 (II) ARSON AS DEFINED IN 45-6-103;

6 (III) AGGRAVATED ASSAULT AS DEFINED IN 45-5-202;

7 (IV) ROBBERY AS DEFINED IN 45-5-401;

8 (V) BURGLARY OR AGGRAVATED BURGLARY AS DEFINED IN
 9 45-6-204;

10 (VI) SEXUAL INTERCOURSE WITHOUT CONSENT AS DEFINED IN
 11 45-5-503;

12 (VII) AGGRAVATED KIDNAPPING AS DEFINED IN 45-5-303;

13 (VIII) POSSESSION OF EXPLOSIVES AS DEFINED IN 45-8-335;

14 (IX) CRIMINAL SALE OF DANGEROUS DRUGS FOR PROFIT AS
 15 INCLUDED IN 45-9-101;

16 (X) ATTEMPT AS DEFINED IN 45-4-103 OF ANY OF THE ACTS
 17 ENUMERATED IN SUBSECTIONS (1)(A)(I) THROUGH (1)(A)(IX);

18 (b) he has escaped from a correctional facility; or

19 (c) he has violated a valid court order OR AN
 20 AFTERCARE AGREEMENT; or

21 (d) he meets the criteria for detention established by
 22 the youth court.

23 (2) A youth taken into custody may not be sheltered
 24 prior to the hearing on the petition except when:

25 (a) the youth and his family need shelter care to

REFERENCE BILL



1 address their problematic situation when it is not possible
2 for the youth to remain at home;

3 (b) the youth needs to be protected from physical or
4 emotional harm;

5 (c) the youth needs to be deterred or prevented from
6 immediate repetition of his troubling behavior;

7 (d) shelter care is necessary to assess the youth and
8 his environment;

9 (e) shelter care is necessary to provide adequate time
10 for case planning and disposition; or

11 (f) shelter care is necessary to intervene in a crisis
12 situation and provide intensive services or attention that
13 might alleviate the problem and reunite the family."

-End-

GOVERNOR'S PROPOSED AMENDMENT
TO SENATE BILL NO. 268
REFERENCE COPY
April 19, 1985

..

1. Page 2, line 6.
Following: "AGGRAVATED"
Insert: "or felony"

-END-

SENATE BILL NO. 268

INTRODUCED BY HALLIGAN

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA FOR DETENTION OF YOUTHS; PROVIDING THAT A DETAINED YOUTH MUST HAVE ALLEGEDLY COMMITTED AN ACT WHICH IF COMMITTED BY AN ADULT WOULD CONSTITUTE A CRIME; AMENDING SECTION 41-5-305, MCA."

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

Section 1. Section 41-5-305, MCA, is amended to read:

"41-5-305. Detention and shelter care of youth. (1) A youth taken into custody may not be detained prior--to--the hearing-on-the-petition-except-when:

(a)--his-detention-is-required-to-protect-the-person-or the-property-of-others-or-of-the-youth;

(b)--he--has--pending-court-or-administrative-action-or is-awaiting-a--transfer--to--another--jurisdiction--and--may abscond-or-be-removed-from-the-jurisdiction-of-the-court;

(c)--there--are--not-adequate-assurances-that-the-youth will-appear-for-court-when-required;-or

(d)--an-order-for-his-detention-has-been--made--by--the court- in a jail or other facility for detention purposes unless he has allegedly committed an act which if committed

by an adult would constitute a criminal offense, and:

(a) the alleged act is one of those enumerated in 41-5-206(a);-or THE FOLLOWING:

(I) CRIMINAL HOMICIDE AS DEFINED IN 45-5-101;

(II) ARSON AS DEFINED IN 45-6-103;

(III) AGGRAVATED OR FELONY ASSAULT AS DEFINED IN 45-5-202;

(IV) ROBBERY AS DEFINED IN 45-5-401;

(V) BURGLARY OR AGGRAVATED BURGLARY AS DEFINED IN 45-6-204;

(VI) SEXUAL INTERCOURSE WITHOUT CONSENT AS DEFINED IN 45-5-503;

(VII) AGGRAVATED KIDNAPPING AS DEFINED IN 45-5-303;

(VIII) POSSESSION OF EXPLOSIVES AS DEFINED IN 45-8-335;

(IX) CRIMINAL SALE OF DANGEROUS DRUGS FOR PROFIT AS INCLUDED IN 45-9-101;

(X) ATTEMPT AS DEFINED IN 45-4-103 OF ANY OF THE ACTS ENUMERATED IN SUBSECTIONS (1)(A)(I) THROUGH (1)(A)(IX);

(b) he has escaped from a correctional facility; or

(c) he has violated a valid court order OR AN AFTERCARE AGREEMENT; or

(d) he meets the criteria for detention established by the youth court.

(2) A youth taken into custody may not be sheltered prior to the hearing on the petition except when:

1 (a) the youth and his family need shelter care to
2 address their problematic situation when it is not possible
3 for the youth to remain at home;

4 (b) the youth needs to be protected from physical or
5 emotional harm;

6 (c) the youth needs to be deterred or prevented from
7 immediate repetition of his troubling behavior;

8 (d) shelter care is necessary to assess the youth and
9 his environment;

10 (e) shelter care is necessary to provide adequate time
11 for case planning and disposition; or

12 (f) shelter care is necessary to intervene in a crisis
13 situation and provide intensive services or attention that
14 might alleviate the problem and reunite the family."

-End-