

HOUSE BILL NO. 36

INTRODUCED BY ADDY, KEATING, MENAHAN, RAPP-SVRCEK,
REGAN, STEPHENS, VINCENT, MONTAYNE, DONALDSON,
DRISCOLL, NEUMAN, BRADLEY

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE HOUSE

June 19, 1986	Introduced and referred to Committee on Appropriations.
June 25, 1986	Committee recommend bill do pass as amended. Report adopted.
June 26, 1986	Bill printed and placed on members' desks.
	Second reading, do pass as amended.
	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

June 26, 1986	Introduced and referred to Committee on Finance and Claims.
June 27, 1986	Committee recommend bill be concurrent in. Report adopted.
	Second reading, concurred in.
	Third reading, concurred in. Ayes, 46; Noes, 2.
	Returned to House.

IN THE HOUSE

June 28, 1986	Received from Senate.
	Sent to enrolling.
	Reported correctly enrolled.

1 *House* BILL NO. *36*
2 INTRODUCED BY *Adley* *Feating* *Menahan* *Repp* *Smith*
3 *Repp* BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS *STEPHENS*
4 *VINCENT*
5 *Ed. D. Montgomery* *Donnell* *A. J. Jurnan* *Brink*
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO DISCONTINUE STATE

7 OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; TO
8 AUTHORIZE THE SALE OF THE FACILITY BY THE BOARD OF LAND
9 COMMISSIONERS; TO GENERALLY REVISE THE LAWS RELATING TO
10 OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; AMENDING
11 SECTIONS 41-5-207, 41-5-403, 41-5-523, 53-1-104, 53-1-202,
12 53-1-402, 53-21-112, AND 53-30-211, MCA; REPEALING SECTIONS
13 53-21-164, 53-21-501, 53-21-502, AND 53-21-505, MCA; AND
14 PROVIDING EFFECTIVE DATES."

15 WHEREAS, it is the desire of the State of Montana to
16 provide effective treatment for appropriate seriously
17 mentally ill adolescents in inpatient hospital settings; and

18 WHEREAS, the State of Montana desires to sell the
19 Montana Youth Treatment Center to a private health care
20 provider specializing in adolescent psychiatric treatment.

21 THEREFORE, the Legislature of the State of Montana
22 finds it appropriate to discontinue the state operation of
23 the Montana Youth Treatment Center and hereby authorizes the
24 Board of Land Commissioners to sell the facility.
25

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

2 NEW SECTION. Section 1. Authority to discontinue
3 operation. Pursuant to 53-1-202, the legislature authorizes
4 the department of institutions to discontinue operation of
5 the Montana youth treatment center located in Billings,
6 Montana.

7 NEW SECTION. Section 2. Sale of youth treatment
8 center. (1) Pursuant to 77-2-302, the board of land
9 commissioners may sell the Montana youth treatment center to
10 a private health care provider that specializes in
11 adolescent psychiatric treatment.

12 (2) For 30 days following passage and approval of
13 [this act], the board of land commissioners may receive
14 proposals for purchase from interested private health care
15 providers. Each proposal must contain an agreement to
16 purchase the facility for cash at a sale price of no less
17 than the appraised value of \$3,275,000, plus reimbursement
18 of \$103,000 to the state for a prepaid special improvement
19 district assessment.

20 (3) The directors of the departments of institutions,
21 health and environmental sciences, and social and
22 rehabilitation services shall review the proposals for
23 purchase and recommend a purchaser to the board before a
24 sale is made.

25 (4) Any sale of furnishings and movable equipment is

1 in addition to the amounts stated for the land and facility.

2 (5) Proceeds of the sale must be deposited in the
3 general fund.

4 NEW SECTION. Section 3. Exempt from certificate of
5 need review. The sale of the Montana youth treatment center
6 and subsequent transfer of ownership to a private health
7 care provider is exempt from the certificate of need review
8 provisions of Title 50, chapter 5, part 3.

9 NEW SECTION. Section 4. Treatment of mentally ill
10 youth. The operation of the Montana youth treatment center
11 by the buyer is subject to the laws of Montana, including
12 the provisions of Title 53, chapter 21, regarding the
13 treatment of mentally ill youth, and the provisions of the
14 Montana Youth Court Act, Title 41, chapter 5.

15 NEW SECTION. Section 5. Conditions of sale. The sale
16 of the Montana youth treatment center is subject to the
17 following conditions:

18 (1) The buyer shall agree that as long as it holds
19 title to the Montana youth treatment center it will accept
20 those youth who are committed to the facility by the
21 district courts pursuant to the Montana Youth Court Act,
22 Title 41, chapter 5, and Title 53, chapter 21. The buyer
23 shall agree to make available a minimum of 40 beds for
24 treatment of such youth. If the buyer fails to comply with
25 the provisions of [this act], it may lose its hospital

1 license.

2 (2) The buyer shall agree to maintain a hospital
3 license pursuant to Title 50, chapter 5, part 2, and to
4 operate the facility as a mental health treatment facility.
5 The buyer shall also agree to comply with state requirements
6 relating to review and recommendations by the mental
7 disabilities board of visitors.

8 (3) The buyer shall enter a written contract with the
9 board of land commissioners providing that the buyer will
10 bind by written agreement any purchaser or successor to its
11 interest by transfer of the property to the conditions
12 contained in [this act]. The board of land commissioners
13 shall approve any exception to these conditions.

14 (4) If the buyer of the facility proposes to sell the
15 facility at any time, the state of Montana has the first
16 option to repurchase the facility and land at its appraised
17 value at the time of such sale.

18 (5) The buyer shall demonstrate that it is able to
19 meet, at the time it proposes to purchase, the standards of
20 the joint commission on accreditation of hospitals for
21 adolescent psychiatric facilities and the certification
22 standards of the health care financing administration of the
23 United States department of health and human services for
24 inpatient psychiatric services for individuals under age 21.
25 The buyer shall demonstrate successful participation in the

1 early survey option program of the joint commission on
2 accreditation of hospitals.

3 (6) The buyer shall provide services to
4 medicaid-eligible and indigent patients.

5 (7) The buyer shall accept emergency psychiatric
6 admissions pursuant to 53-21-129 regardless of ability to
7 pay and subject only to its licensure limitations.

8 Section 6. Section 41-5-207, MCA, is amended to read:

9 "41-5-207. Court costs and expenses. ~~(1)~~ The following
10 expenses shall be a charge upon the funds of the court or
11 other appropriate agency when applicable, upon their
12 certification by the court:

13 ~~(a)~~(1) the costs of medical and other examinations and
14 treatment of a youth ordered by the court;

15 ~~(b)~~(2) reasonable compensation for services and
16 related expenses for counsel appointed by the court for a
17 party;

18 ~~(c)~~(3) the expenses of service of summons, notices,
19 subpoenas, traveling expenses of witnesses, and other like
20 expenses incurred in any proceeding under the Montana Youth
21 Court Act as provided for by law;

22 ~~(d)~~(4) reasonable compensation of a guardian ad litem
23 appointed by the court;

24 ~~(e)~~(5) cost of transcripts and printing briefs on
25 appeal; and

1 ~~(f)~~(6) cost of detention as provided for in
2 41-5-306(4).

3 ~~(2)--If--treatment--pursuant--to--subsection--(1)(a)--is~~
4 ~~ordered-to-be-given-at-the-Montana-youth--treatment--center,~~
5 ~~costs--shall--be--subject-to-reimbursement-pursuant-to-Fitle~~
6 ~~53,--chapter--17,--part--4; (Subsection (1)(f) (now (6))~~
7 ~~terminates July 1, 1987--sec. 5, Ch. 737, L. 1985.)"~~

8 Section 7. Section 41-5-403, MCA, is amended to read:

9 "41-5-403. Disposition permitted under informal
10 adjustment. (1) The following dispositions may be imposed by
11 informal adjustment:

12 (a) probation;

13 (b) placement of the youth for substitute care into a
14 youth care facility as defined in 41-3-1102 or into a home
15 approved by the court;

16 (c) placement of the youth in a private agency
17 responsible for the care and rehabilitation of such a youth;

18 (d) transfer of legal custody to the department of
19 institutions for a period of 6 months, which period may be
20 extended for 6 months upon further order of the court after
21 notice and hearing;

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

24 (2) In determining whether restitution is appropriate
25 in a particular case, the following factors may be

1 considered in addition to any other evidence:

- 2 (a) age of the youth;
- 3 (b) ability of the youth to pay;
- 4 (c) ability of the parents or legal guardian to pay;
- 5 (d) amount of damage to the victim; and
- 6 (e) legal remedies of the victim; however, the ability
- 7 of the victim or his insurer to stand any loss may not be
- 8 considered in any case.

9 (3) If the court finds that placement in a youth care

10 facility other than a youth group home or youth foster home

11 is necessary and in the best interests of the youth and the

12 community, the court shall determine if the youth can

13 receive appropriate treatment in a youth care facility

14 located in Montana as follows:

15 (a) If the court finds the youth can receive

16 appropriate treatment in a youth care facility located in

17 Montana that will accept the youth, the court may not place

18 the youth in a youth care facility located outside this

19 state unless an out-of-state facility can provide

20 appropriate treatment that:

21 (i) can be obtained at a cost less than that offered

22 by any available facility in this state; and

23 (ii) is available in closer proximity to the youth's

24 place of residence than any facility located in this state.

25 (b) When the department of social and rehabilitation

1 services is ordered to pay the costs of caring for the child

2 in a youth care facility other than a youth foster home or

3 youth group home, the court shall provide the department

4 with at least 5 days' written notice and opportunity to be

5 heard before ordering the placement of the youth.

6 (4) If the youth violates his aftercare agreement as

7 provided for in 53-30-226, he must be returned to the court

8 for further disposition. No youth may be placed in a state

9 youth correctional facility under informal adjustment.

10 ~~{5}--If--custody--is--given--to--the--department--of~~

11 ~~institutions--under--subsection-(1)(d),--the--youth--may--not--be~~

12 ~~committed--to--the--Montana--youth--treatment--center--unless--the~~

13 ~~commitment--provisions--of--53-21-505--are--followed:-"~~

14 Section 8. Section 41-5-523, MCA, is amended to read:

15 "41-5-523. Disposition of delinquent youth and youth

16 in need of supervision. (1) If a youth is found to be

17 delinquent or in need of supervision, the court may enter

18 its judgment making the following disposition:

19 (a) place the youth on probation;

20 (b) place the youth for substitute care into a youth

21 care facility as defined in 41-3-1102 or a home approved by

22 the court;

23 (c) place the youth in a private agency responsible

24 for the care and rehabilitation of such a youth;

25 (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; 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, 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.

~~{3}--At any time after a youth has been taken into custody, the court may request that the youth be evaluated at the Montana youth treatment center, for a period not to exceed 60 days, for the sole purpose of advising the court as to whether the youth is seriously mentally ill, as defined in 53-21-102, but the court must first find that reasonable grounds exist to believe that the youth is suffering from a mental disorder as defined in 53-21-102.~~

~~{4}{3}~~ No evaluation of a youth may be performed at the Montana state hospital unless such youth is transferred to the district court under 41-5-206.

~~{5}--If the court determines that a delinquent youth or youth in need of supervision is in need of treatment at the Montana youth treatment center, the court must first determine, based on testimony of a professional person, as defined in 53-21-102, that the youth is seriously mentally ill as defined in 53-21-102. The youth is entitled to all rights provided by 53-21-114 through 53-21-119.~~

~~{6}--Upon a finding of serious mental illness, the court may commit a delinquent youth to the department of institutions and recommend that the youth be placed at the Montana youth treatment center. Upon release or discharge from the center, if the court order has not expired or if the youth is less than 21 years of age, he must be retained under the supervision of the department until the expiration of the court order or until he attains the age of 21.~~

~~{7}{4}~~ If the court finds that placement in a youth care facility other than a youth group home or youth foster home is necessary and in the best interests of the youth and the community, the court shall determine if the youth can receive appropriate treatment in a youth care facility located in Montana as follows:

(a) If the court finds the youth can receive

1 appropriate treatment in a youth care facility located in
2 Montana that will accept the youth, the court may not place
3 the youth in a youth care facility located outside this
4 state unless an out-of-state facility can provide
5 appropriate treatment that:

6 (i) can be obtained at a cost less than that offered
7 by any available facility in this state; and

8 (ii) is available in closer proximity to the youth's
9 place of residence than any facility located in this state.

10 (b) When the department of social and rehabilitation
11 services is ordered to pay the costs of caring for the child
12 in a youth care facility other than a youth foster home or
13 youth group home, the court shall provide the department at
14 least 5 days' written notice and opportunity to be heard
15 before ordering the placement of the youth.

16 ~~(8)~~(5) No youth may be committed or transferred to a
17 penal institution or other facility used for the execution
18 of sentence of adult persons convicted of crimes.

19 ~~(9)~~(6) Any order of the court may be modified at any
20 time. In the case of a youth committed to the department of
21 institutions, an order pertaining to the youth may be
22 modified only upon notice to the department and subsequent
23 hearing.

24 ~~(10)~~(7) Whenever the court vests legal custody in an
25 agency, institution, or department, it must transmit with

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

5 ~~(11)~~(8) The order of commitment to the department of
6 institutions shall read as follows:

7 ORDER OF COMMITMENT

8 State of Montana)

9) ss.

10 County of)

11 In the district court for the Judicial District.

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

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

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

20 Name	Address	Occupation
21		
22		

23 The names and addresses of their nearest relatives are:

24
25

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

Judge"

Section 9. Section 53-1-104, MCA, is amended to read:

"53-1-104. Release of arsonist -- notification of department of justice. (1) Each of the following institutions or facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written notification to the department of justice whenever such a person is admitted or released by it:

- (a) Montana state hospital;
- (b) State prison;
- (c) Mountain View school;
- (d) Pine Hills school;
- (e) Swan River youth forest camp; or
- (f) Any county or city detention facility; or
- ~~(g) --Montana-youth-treatment-center.~~

(2) The notification shall disclose:

- (a) the name of the person;
- (b) where the person is or will be located; and
- (c) the type of fire the person was involved in."

Section 10. Section 53-1-202, MCA, is amended to read:

"53-1-202. Institutions in department. (1) The following institutions are in the department:

- (a) Montana state hospital;
- (b) Montana veterans' home;
- (c) State prison;
- (d) Mountain View school;
- (e) Pine Hills school;
- (f) Montana developmental center;
- (g) Montana center for the aged;
- (h) Swan River youth forest camp;
- (i) Eastmont human services center; and
- ~~(j) --Montana-youth-treatment-center; and~~

~~(k)~~ (j) Any other institution which provides care and services for juvenile delinquents, including but not limited to youth forest camps and juvenile reception and evaluation centers.

(2) A state institution may not be moved, discontinued, or abandoned without prior consent of the legislature."

Section 11. Section 53-1-402, MCA, is amended to read:

"53-1-402. Residents subject to per diem and ancillary charges. The department shall collect and process per diem and ancillary payments for the care of residents in the following institutions:

- (1) Montana state hospital;
- (2) Montana developmental center;
- (3) Montana veterans' home;

- (4) Montana center for the aged;
- (5) Eastmont human services center; ~~and~~
- ~~(6) Montana youth treatment center.~~

Section 12. Section 53-21-112, MCA, is amended to read:

"53-21-112. Voluntary admission of minors. (1) Notwithstanding any other provision of law, a minor who is 16 years of age or older may consent to receive mental health services to be rendered by:

- (a) a facility that is not a state institution; or
- (b) a person licensed to practice medicine or psychology in this state.

(2) Except as provided by this section, the provisions of 53-21-111 apply to the voluntary admission of a minor to a mental health facility but not to the state hospital ~~or the Montana youth treatment center.~~

(3) Except as provided by this subsection, voluntary admission of a minor to a mental health facility for an inpatient course of treatment shall be for the same period of time as that for an adult. A minor voluntarily admitted shall have the right to be released within 5 days of his request as provided in 53-21-111(3). The minor himself may make such request. Unless there has been a periodic review and a voluntary readmission consented to by the minor patient and his counsel, voluntary admission terminates at

the expiration of 1 year. Counsel shall be appointed for the minor at the minor's request or at any time he is faced with potential legal proceedings.

(4) If, in any application for voluntary admission for any period of time to a mental health facility, a minor fails to join in the consent of his parents or guardian to the voluntary admission, then the application for admission shall be treated as a petition for involuntary commitment. Notice of the substance of this subsection and of the right to counsel shall be set forth in conspicuous type in a conspicuous location on any form or application used for the voluntary admission of a minor to a mental health facility. The notice shall be explained to the minor."

Section 13. Section 53-30-211, MCA, is amended to read:

"53-30-211. Transfer of child to other facility or institution -- notice. The department of institutions upon recommendation of the superintendent of a facility may transfer a child resident in one of its juvenile facilities to any other facility or institution under the jurisdiction and control of the department. ~~However, except as provided for in 53-21-130, no youth may be transferred to the Montana youth treatment center without following the commitment procedures of 53-21-505.~~

NEW SECTION. Section 14. Repealer. Sections

53-21-164, 53-21-501, 53-21-502, and 53-21-505, MCA, are repealed.

NEW SECTION. Section 15. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 16. Extension of authority. Any existing authority of the department of institutions to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 17. Effective dates. Sections 1 through 5 and this section are effective on passage and approval. All other sections are effective on the date the deed of sale of the Montana youth treatment center from the board of land commissioners is filed by the buyer with the Yellowstone County clerk and recorder.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB036, as originally introduced.

Description of Proposed Legislation:

An act to discontinue state operation of the Montana Youth Treatment Center and to authorize the sale of the facility by the Board of Land Commissioners and to amend the laws relating to the operation of the Center and to provide an effective date.

Assumptions:

1. The facility will not become medicaid eligible if it remains state owned.
2. The facility will be sold effective 10/1/86.
3. Assumes an average daily population of 44 and all are medicaid eligible.
4. Assumes the privately owned facility will be medicaid eligible.
5. Assumes that the medicaid appropriation for SRS remains as the House passed version of HB30 in the June 1986 Special Session.

Fiscal Impact:Expenditures:

	Estimated Under Current Law	FY87 Estimated Under Proposed Law	Estimated Increase (Decrease)
<u>Department of Institutions</u>			
General Fund	\$2,442,087	\$ 724,579	(\$ 1,717,509)
Federal & Private	41,555	6,547	(35,008)
Proprietary	28,065	1,920	(26,145)
TOTAL	\$2,511,707	\$ 733,045*	(\$ 1,778,662)
<u>Department of SRS</u>			
General Fund	0	\$ 989,345**	\$ 989,345
Federal & Private	0	2,024,655	2,024,655
TOTAL	\$ 0	\$3,014,000	\$ 3,014,000

*Reflects termination pay and closing costs.

**In HB30 of the June 1986 Special Session the House has taken \$651,993 of General Fund out of the SRS FY87 authorized budget assuming the sale of the Montana Youth Treatment Center.

David L. Hunter 6/23/86
BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JK Kelly June 23, 1986
PRIMARY SPONSOR DATE

Fiscal Note for HB 36, as introduced

Fiscal Note Request HB036, as originally introduced.
Form BD15 page 2
(continued)

Revenues:

Sale of the Center	\$3,275,000
Special Improvement District Reversions	<u>103,000</u>
Total General Fund Revenue	\$3,378,000

Net General Fund Impact:

Department of Institutions Reduced Expenditures	\$1,717,509
Social and Rehabilitative Services Additional Expenditures	<u>(989,345)</u>
Net Expenditure Difference	\$ 728,164
Sale Revenue	<u>3,378,000</u>
Net Positive to General Fund	\$4,106,164

Long-Range Effect of Proposed Legislation:

1. This legislation will remove \$2,442,087 from the general fund base of the Dept. of Institution budget each subsequent fiscal year beginning FY88.
2. SRS will continue to receive federal funds requiring a general fund match.

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 36

INTRODUCED BY ADDY, KEATING, MENAHAN, RAPP-SVRCEK,

REGAN, STEPHENS, VINCENT, MONTAYNE, DONALDSON,

DRISCOLL, NEUMAN, BRADLEY

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT TO DISCONTINUE STATE
OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; TO
AUTHORIZE THE SALE OF THE FACILITY BY THE BOARD OF LAND
COMMISSIONERS; TO GENERALLY REVISE THE LAWS RELATING TO
OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; AMENDING
SECTIONS 41-5-207, 41-5-403, 41-5-523, 53-1-104, 53-1-202,
53-1-402, 53-21-112, AND 53-30-211, MCA; REPEALING SECTIONS
53-21-164, 53-21-501, 53-21-502, AND 53-21-505, MCA; AND
PROVIDING EFFECTIVE DATES."

WHEREAS, it is the desire of the State of Montana to
provide effective treatment for appropriate seriously
mentally ill adolescents in inpatient hospital settings; and

WHEREAS, the State of Montana desires to sell the
Montana Youth Treatment Center to a private health care
provider specializing in adolescent psychiatric treatment;

AND

THEREFORE, the Legislature of the State of Montana
finds it appropriate to discontinue the state operation of

~~the Montana Youth Treatment Center and hereby authorizes the
Board of Land Commissioners to sell the facility.~~

WHEREAS, THERE ARE MANY NATIONALLY KNOWN GROUPS THAT
HAVE SHOWN INTEREST IN THE PURCHASE OF THE MONTANA YOUTH
TREATMENT CENTER AND ALL SUCH GROUPS SHOULD HAVE A CHANCE TO
SUBMIT A PROPOSAL TO PURCHASE.

THEREFORE, WHEN AN APPROPRIATE BUYER CAN BE FOUND TO
OFFER QUALITY CARE FOR MONTANA YOUTH, THE STATE OF MONTANA
WILL DISCONTINUE THE STATE OPERATION OF THE MONTANA YOUTH
TREATMENT CENTER AND HEREBY AUTHORIZES THE BOARD OF LAND
COMMISSIONERS TO SELL THE FACILITY AS PROVIDED IN THIS ACT.

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

NEW SECTION. Section 1. Authority to discontinue
operation. Pursuant to 53-1-202, the legislature authorizes
the department of institutions to discontinue operation of
the Montana youth treatment center located in Billings,
Montana.

NEW SECTION. Section 2. Sale of youth treatment
center. (1) Pursuant to 53-1-202, the board of land
commissioners may sell the Montana youth treatment center to
a private health care provider that specializes in
adolescent psychiatric treatment. THE BOARD OF LAND
COMMISSIONERS IS AUTHORIZED TO SELL THE MONTANA YOUTH
TREATMENT CENTER TO A PRIVATE HEALTH CARE PROVIDER WHO HAS

SECOND READING

1 DOCUMENTED EXPERIENCE IN PROVIDING SPECIALIZED ADOLESCENT
 2 PSYCHIATRIC TREATMENT THAT INCLUDES AN EDUCATIONAL
 3 COMPONENT. THE SALE IS MADE PURSUANT TO 77-2-302, EXCEPT
 4 THAT THE 60-DAY PUBLIC NOTICE REQUIREMENT OF THAT SECTION IS
 5 WAIVED.

6 (2) ~~For--30--days--following--passage--and--approval--of~~
 7 ~~{this--act--},--the--board--of--land--commissioners--may--receive~~
 8 ~~proposals--for--purchase--from--interested--private--health--care~~
 9 ~~providers. THE DEPARTMENT OF INSTITUTIONS SHALL ADVERTISE~~
 10 ~~THE PROPOSED SALE IN AT LEAST ONE NATIONALLY DISTRIBUTED~~
 11 ~~TRADE PUBLICATION AND SHALL NOTIFY IN WRITING THOSE HEALTH~~
 12 ~~CARE PROVIDERS THAT COULD POTENTIALLY MEET THE CONDITIONS OF~~
 13 ~~THE PROPOSED SALE. INTERESTED PARTIES MUST BE ALLOWED 60~~
 14 ~~DAYS TO SUBMIT PROPOSALS FOR PURCHASE FROM THE DATE THE~~
 15 ~~ADVERTISEMENT IS PUBLISHED. Each proposal must contain an~~
 16 ~~agreement to purchase the facility for cash at a sale price~~
 17 ~~of no less than the appraised value of \$3,275,000, plus~~
 18 ~~reimbursement of \$103,000 to the state for a prepaid special~~
 19 ~~improvement district assessment.~~

20 ~~{3}--The--directors--of--the--departments--of--institutions,~~
 21 ~~health--and--environmental--sciences,--and--social--and~~
 22 ~~rehabilitation--services--shall--review--the--proposals--for~~
 23 ~~purchase--and--recommend--a--purchaser--to--the--board--before--a~~
 24 ~~sale--is--made.~~

25 (3) TO PROTECT AND INDEMNIFY THE STATE AGAINST FAILURE

1 OR REFUSAL OF A PROSPECTIVE PURCHASER TO CONSUMMATE THE
 2 SALE, EACH PROPOSAL MUST BE ACCOMPANIED BY SECURITY IN THE
 3 AMOUNT OF 2% OF THE APPRAISED VALUE CONTAINED IN SUBSECTION
 4 (2). THE SECURITY SHALL CONSIST OF CASH, CASHIER'S CHECK,
 5 CERTIFIED CHECK, BANK MONEY ORDER, OR BANK DRAFT, IN ANY
 6 CASE DRAWN ON A BANK LOCATED IN THE STATE OF MONTANA, OR A
 7 BOND OR BONDS EXECUTED BY A SURETY AUTHORIZED TO DO BUSINESS
 8 IN THE STATE OF MONTANA. IF A PROSPECTIVE PURCHASER FAILS OR
 9 REFUSES TO CONSUMMATE THE SALE, THE SECURITY IS FORFEITED TO
 10 THE STATE AND MUST BE DEPOSITED IN THE GENERAL FUND. THE
 11 SECURITY MUST BE RETURNED TO A PROSPECTIVE PURCHASER WHOSE
 12 PROPOSAL IS NOT ACCEPTED BY THE STATE.

13 (4) (A) A COMMITTEE SHALL REVIEW THE PROPOSALS FOR
 14 PURCHASE AND RECOMMEND A PURCHASER TO THE BOARD OF LAND
 15 COMMISSIONERS AFTER MEETING AND DISCUSSING THE FACTORS SET
 16 FORTH IN SUBSECTION (4)(B). THE REVIEW COMMITTEE MUST MAKE
 17 SUCH A RECOMMENDATION WITHIN 60 DAYS AFTER CLOSE OF
 18 ADVERTISING SET FORTH IN [SECTION 2]. THE COMMITTEE IS
 19 COMPRISED OF:

20 (I) THE DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS,
 21 WHO SHALL CHAIR THE COMMITTEE;

22 (II) THE DIRECTORS OF THE DEPARTMENTS OF HEALTH AND
 23 ENVIRONMENTAL SCIENCES AND SOCIAL AND REHABILITATION
 24 SERVICES;

25 (III) TWO MEMBERS OF THE SENATE, ONE FROM EACH PARTY,

1 TO BE APPOINTED BY THE COMMITTEE ON COMMITTEES, ONE OF WHOM
 2 MUST REPRESENT A DISTRICT IN YELLOWSTONE COUNTY AND THE
 3 OTHER FROM A DISTRICT REPRESENTING A DIFFERENT COUNTY;

4 (IV) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE
 5 FROM EACH PARTY, APPOINTED BY THE SPEAKER IN CONSULTATION
 6 WITH THE REPUBLICAN LEADER OF THE HOUSE, ONE OF WHOM MUST
 7 REPRESENT A DISTRICT IN YELLOWSTONE COUNTY AND THE OTHER
 8 FROM A DISTRICT REPRESENTING A DIFFERENT COUNTY;

9 (V) A REPRESENTATIVE OF THE MENTAL HEALTH CARE
 10 COMMUNITY FROM YELLOWSTONE COUNTY, APPOINTED BY THE
 11 GOVERNOR; AND

12 (VI) A REPRESENTATIVE, APPOINTED BY THE GOVERNOR, FROM
 13 AN ORGANIZATION REPRESENTING MENTAL HEALTH CENTERS.

14 (B) THE REVIEW COMMITTEE SHALL CONSIDER:

15 (I) VARIOUS PROPOSALS FOR PURCHASE;

16 (II) CONDITIONS OF THE SALE OF THE MONTANA YOUTH
 17 TREATMENT CENTER, INCLUDING THE QUALITY OF CARE TO BE
 18 PROVIDED, CONTINUED STATE RESPONSIBILITIES, TREATMENT COSTS,
 19 ACCREDITATION STANDARDS, CONTRACTUAL RELATIONSHIPS WITH THE
 20 STATE AND OTHER GOVERNMENTAL ENTITIES AND THE TERMS OF THOSE
 21 CONTRACTS, AND OTHER MATTERS PERTAINING TO THE
 22 ADMINISTRATION OF THE MONTANA YOUTH TREATMENT CENTER; AND

23 (III) OTHER MATTERS RELATING TO THE SALE AND SUBSEQUENT
 24 SERVICES AND COSTS OF A PRIVATELY OPERATED FACILITY.

25 (C) THE REVIEW COMMITTEE MAY NOT SHOW ANY PARTIALITY

1 OR FAVORITISM IN MAKING ITS DECISION.

2 (4)(5) Any sale of furnishings and movable equipment
 3 is in addition to the amounts stated for the land and
 4 facility.

5 (5)(6) Proceeds of the sale must be deposited in the
 6 general fund.

7 NEW SECTION. Section 3. Exempt from certificate of
 8 need review. The sale of the Montana youth treatment center
 9 and subsequent transfer of ownership to a private health
 10 care provider is exempt from the certificate of need review
 11 provisions of Title 50, chapter 5, part 3. THE REVIEW
 12 PROVIDED FOR IN [SECTION 2] AND THE NEED TO EXPEDITE
 13 TRANSFER OF THE FACILITY TO PREVENT DETERIORATION OF STAFF
 14 MORALE AND QUALITY OF CARE PROVIDED JUSTIFY THE EXEMPTION OF
 15 THE SALE AND TRANSFER OF THE MONTANA YOUTH TREATMENT CENTER
 16 FROM THE CERTIFICATE OF NEED REVIEW PROVISION OF TITLE 50,
 17 CHAPTER 5, PART 3.

18 NEW SECTION. Section 4. Treatment of mentally ill
 19 youth. The operation of the Montana youth treatment center
 20 by the buyer is subject to the laws of Montana, including
 21 the provisions of Title 53, chapter 21, regarding the
 22 treatment of mentally ill youth, and the provisions of the
 23 Montana Youth Court Act, Title 41, chapter 5.

24 NEW SECTION. Section 5. Conditions of sale. The sale
 25 of the Montana youth treatment center is subject to the

1 following conditions:

2 (1) The buyer shall agree that as long as it holds
3 title to the Montana youth treatment center it will accept
4 those youth who are committed to the facility by the
5 district courts pursuant to the Montana Youth Court Act,
6 Title 41, chapter 5, and Title 53, chapter 21. The buyer
7 shall agree to make available a minimum of 40 beds for
8 treatment of such youth. ~~If the buyer fails to comply with~~
9 ~~the provisions of this act, it may lose its hospital~~
10 ~~license. THE BUYER OR ANY SUBSEQUENT TRANSFEREE SHALL KEEP~~
11 ~~REASONABLE DOCUMENTATION OF COMPLIANCE WITH THIS CONDITION.~~
12 ~~FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SECTION MAY~~
13 ~~RESULT IN THE LOSS OF HOSPITAL LICENSURE.~~

14 (2) The buyer shall agree to maintain a hospital
15 license AS A PSYCHIATRIC HOSPITAL pursuant to Title 50,
16 chapter 5, part 2, and to operate the facility AS DEFINED IN
17 53-21-102(6) as a mental health treatment facility. The
18 buyer shall also agree to comply with state requirements
19 relating to review and recommendations by the mental
20 disabilities board of visitors.

21 (3) The buyer shall enter a written contract with the
22 board of land commissioners providing that the buyer will
23 bind by written agreement any purchaser or successor to its
24 interest by transfer of the property to the conditions
25 contained in [this act]. ~~The board of land commissioners~~

1 ~~shall approve any exception to these conditions. THE BOARD~~
2 ~~OF LAND COMMISSIONERS MAY MAKE AN EXCEPTION TO THESE~~
3 ~~CONDITIONS IN ANY SUBSEQUENT SALE OR TRANSFER.~~

4 (4) If the buyer of the facility proposes to sell the
5 facility at any time, the state of Montana has the first
6 option to repurchase the facility and land at its appraised
7 value at the time of such sale. THE BUYER AND THE STATE
8 SHALL EACH COMMISSION AN APPRAISAL BY A QUALIFIED APPRAISER
9 AT THE TIME OF SALE. THE APPRAISED VALUE IS THE AVERAGE OF
10 THE TWO APPRAISALS.

11 (5) The buyer shall demonstrate that it is able to
12 meet, at the time it proposes to purchase, the standards of
13 the joint commission on accreditation of hospitals for
14 adolescent psychiatric facilities and the certification
15 standards of the health care financing administration of the
16 United States department of health and human services for
17 inpatient psychiatric services for individuals under age 21.
18 The buyer shall demonstrate successful participation in the
19 early survey option program of the joint commission on
20 accreditation of hospitals.

21 (6) The buyer shall provide services to
22 medicaid-eligible and indigent patients AND SHALL RECEIVE NO
23 PER DIEM REIMBURSEMENT FROM THE DEPARTMENT OF INSTITUTIONS
24 FOR SERVICES PROVIDED TO YOUTH ORDERED TO THE FACILITY BY
25 THE COURTS. SUCH SERVICES BECOME THE FINANCIAL

RESPONSIBILITY OF THE BUYER, WHO MAY BILL MEDICAID OR PRIVATE INSURERS WHEN APPROPRIATE.

(7) The buyer shall accept emergency psychiatric admissions pursuant to 53-21-129 regardless of ability to pay and subject only to its licensure limitations.

(8) THE BUYER SHALL ACCEPT APPLICATIONS OF ALL MONTANA YOUTH TREATMENT CENTER EMPLOYEES WHO DESIRE TO CONTINUE EMPLOYMENT WITH THE PURCHASER. AMONG THE SUBSTANTIALLY QUALIFIED APPLICANTS, PRESENT EMPLOYEES OF THE MONTANA YOUTH TREATMENT CENTER MUST BE GIVEN PREFERENCE IN HIRING BY THE PURCHASER.

(9) MONTANA YOUTH TREATMENT CENTER EMPLOYEES WHO WISH TO REMAIN STATE EMPLOYEES SHALL BE PROVIDED RELOCATION ASSISTANCE OF UP TO \$1,000 AND ANY TRAINING NECESSARY TO QUALIFY FOR SIMILAR VACANT POSITIONS WITHIN THE DEPARTMENT OF INSTITUTIONS.

Section 6. Section 41-5-207, MCA, is amended to read:

"41-5-207. Court costs and expenses. (1) The following expenses shall be a charge upon the funds of the court or other appropriate agency when applicable, upon their certification by the court:

(a)(1) the costs of medical and other examinations and treatment of a youth ordered by the court;

(b)(2) reasonable compensation for services and related expenses for counsel appointed by the court for a

party;

(c)(3) the expenses of service of summons, notices, subpoenas, traveling expenses of witnesses, and other like expenses incurred in any proceeding under the Montana Youth Court Act as provided for by law;

(d)(4) reasonable compensation of a guardian ad litem appointed by the court;

(e)(5) cost of transcripts and printing briefs on appeal; and

(f)(6) cost of detention as provided for in 41-5-306(4).

~~(2) If treatment pursuant to subsection (1)(a) is ordered to be given at the Montana youth treatment center, costs shall be subject to reimbursement pursuant to Title 53, chapter 17, part 4. (Subsection (1)(f) (now (6)) terminates July 1, 1987--sec. 5, Ch. 737, L. 1985.)~~

Section 7. 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 for substitute care into a youth care facility as defined in 41-3-1102 or into a home approved by the court;

(c) placement of the youth in a private agency

1 responsible for the care and rehabilitation of such a youth;

2 (d) transfer of legal custody to the department of
3 institutions for a period of 6 months, which period may be
4 extended for 6 months upon further order of the court after
5 notice and hearing;

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

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

11 (a) age of the youth;

12 (b) ability of the youth to pay;

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

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

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

18 (3) If the court finds that placement in a youth care
19 facility other than a youth group home or youth foster home
20 is necessary and in the best interests of the youth and the
21 community, the court shall determine if the youth can
22 receive appropriate treatment in a youth care facility
23 located in Montana as follows:

24 (a) If the court finds the youth can receive
25 appropriate treatment in a youth care facility located in

1 Montana that will accept the youth, the court may not place
2 the youth in a youth care facility located outside this
3 state unless an out-of-state facility can provide
4 appropriate treatment that:

5 (i) can be obtained at a cost less than that offered
6 by any available facility in this state; and

7 (ii) is available in closer proximity to the youth's
8 place of residence than any facility located in this state.

9 (b) When the department of social and rehabilitation
10 services is ordered to pay the costs of caring for the child
11 in a youth care facility other than a youth foster home or
12 youth group home, the court shall provide the department
13 with at least 5 days' written notice and opportunity to be
14 heard before ordering the placement of the youth.

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

19 ~~(5) If custody is given to the department of~~
20 ~~institutions under subsection (1)(d), the youth may not be~~
21 ~~committed to the Montana youth treatment center unless the~~
22 ~~commitment provisions of 53-21-505 are followed."~~

23 Section 8. Section 41-5-523, MCA, is amended to read:

24 "41-5-523. Disposition of delinquent youth and youth
25 in need of supervision. (1) If a youth is found to be

1 delinquent or in need of supervision, the court may enter
2 its judgment making the following disposition:

- 3 (a) place the youth on probation;
- 4 (b) place the youth for substitute care into a youth
5 care facility as defined in 41-3-1102 or a home approved by
6 the court;
- 7 (c) place the youth in a private agency responsible
8 for the care and rehabilitation of such a youth;
- 9 (d) transfer legal custody to the department of
10 institutions; provided, however, that in the case of a youth
11 in need of supervision, such transfer of custody does not
12 authorize the department of institutions to place the youth
13 in a state youth correctional facility and such custody may
14 not continue for a period of more than 6 months without a
15 subsequent court order after notice and hearing;
- 16 (e) such further care and treatment or evaluation that
17 the court considers beneficial to the youth; or
- 18 (f) order restitution by the youth.
- 19 (2) At any time after the youth has been taken into
20 custody, the court may, with the consent of the youth in the
21 manner provided in 41-5-303 for consent by a youth to waiver
22 of his constitutional rights or after the youth has been
23 adjudicated delinquent or in need of supervision, order the
24 youth to be evaluated by the department of institutions for
25 a period not to exceed 45 days of evaluation at a reception

1 and evaluation center for youths.

2 {3}--At-any-time-after-a-youth-has-been-taken-into
3 custody,--the-court-may-request-that-the-youth-be-evaluated
4 at-the-Montana-youth-treatment-center,--for-a-period--not--to
5 exceed--60--days,--for-the-sole-purpose-of-advising-the-court
6 as-to-whether--the-youth-is-seriously-mentally-ill,--as
7 defined--in--53-21-102,--but--the-court-must-first-find-that
8 reasonable-grounds--exist--to-believe--that--the-youth-is
9 suffering-from-a-mental-disorder-as-defined-in-53-21-102.

10 {4}(3) No evaluation of a youth may be performed at
11 the Montana state hospital unless such youth is transferred
12 to the district court under 41-5-206.

13 {5}--If-the-court-determines-that-a-delinquent-youth-or
14 youth-in-need-of-supervision-is-in-need-of-treatment-at-the
15 Montana---youth---treatment---center,--the-court--must--first
16 determine,--based-on-testimony-of-a-professional-person,--as
17 defined--in--53-21-102,--that-the-youth-is-seriously-mentally
18 ill-as-defined-in-53-21-102,--The-youth-is-entitled--to--all
19 rights-provided-by-53-21-114-through-53-21-119.

20 {6}--Upon-a-finding-of-serious-mental-illness,--the
21 court-may-commit-a-delinquent-youth--to--the--department--of
22 institutions--and--recommend-that-the-youth-be-placed-at-the
23 Montana-youth-treatment-center,--Upon-release--or--discharge
24 from--the--center,--if-the-court-order-has-not-expired-or-if
25 the-youth-is-less-than-21-years-of-age,--he-must-be-retained

~~under the supervision of the department until the expiration of the court order or until he attains the age of 21.~~

~~(7)(4)~~ If the court finds that placement in a youth care facility other than a youth group home or youth foster home is necessary and in the best interests of the youth and the community, the court shall determine if the youth can receive appropriate treatment in a youth care facility located in Montana as follows:

(a) If the court finds the youth can receive appropriate treatment in a youth care facility located in Montana that will accept the youth, the court may not place the youth in a youth care facility located outside this state unless an out-of-state facility can provide appropriate treatment that:

(i) can be obtained at a cost less than that offered by any available facility in this state; and

(ii) is available in closer proximity to the youth's place of residence than any facility located in this state.

(b) When the department of social and rehabilitation services is ordered to pay the costs of caring for the child in a youth care facility other than a youth foster home or youth group home, the court shall provide the department at least 5 days' written notice and opportunity to be heard before ordering the placement of the youth.

~~(8)(5)~~ 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.

~~(9)(6)~~ 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.

~~(10)(7)~~ 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.

~~(11)(8)~~ 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

1 of institutions until

2 The names, addresses, and occupations of the parents

3 are:

4 Name	Address	Occupation
5		
6		

7 The names and addresses of their nearest relatives are:

8

9

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

11

12 Judge"

13 Section 9. Section 53-1-104, MCA, is amended to read:

14 "53-1-104. Release of arsonist -- notification of

15 department of justice. (1) Each of the following

16 institutions or facilities having the charge or custody of a

17 person convicted of arson or of a person acquitted of arson

18 on the ground of mental disease or defect shall give written

19 notification to the department of justice whenever such a

20 person is admitted or released by it:

21 (a) Montana state hospital;

22 (b) State prison;

23 (c) Mountain View school;

24 (d) Pine Hills school;

25 (e) Swan River youth forest camp; or

1 (f) Any county or city detention facility; ~~or~~

2 ~~(g) -- Montana youth treatment center.~~

3 (2) The notification shall disclose:

4 (a) the name of the person;

5 (b) where the person is or will be located; and

6 (c) the type of fire the person was involved in."

7 Section 10. Section 53-1-202, MCA, is amended to read:

8 "53-1-202. Institutions in department. (1) The

9 following institutions are in the department:

10 (a) Montana state hospital;

11 (b) Montana veterans' home;

12 (c) State prison;

13 (d) Mountain View school;

14 (e) Pine Hills school;

15 (f) Montana developmental center;

16 (g) Montana center for the aged;

17 (h) Swan River youth forest camp;

18 (i) Eastmont human services center; and

19 ~~(j) -- Montana youth treatment center; and~~

20 ~~(k) (1)~~ Any other institution which provides care and

21 services for juvenile delinquents, including but not limited

22 to youth forest camps and juvenile reception and evaluation

23 centers.

24 (2) A state institution may not be moved,

25 discontinued, or abandoned without prior consent of the

legislature."

Section 11. Section 53-1-402, MCA, is amended to read:

"53-1-402. Residents subject to per diem and ancillary charges. The department shall collect and process per diem and ancillary payments for the care of residents in the following institutions:

- (1) Montana state hospital;
- (2) Montana developmental center;
- (3) Montana veterans' home;
- (4) Montana center for the aged;
- (5) Eastmont human services center; and
- ~~(6) Montana youth treatment center.~~

Section 12. Section 53-21-112, MCA, is amended to read:

"53-21-112. Voluntary admission of minors. (1) Notwithstanding any other provision of law, a minor who is 16 years of age or older may consent to receive mental health services to be rendered by:

- (a) a facility that is not a state institution; or
- (b) a person licensed to practice medicine or psychology in this state.

(2) Except as provided by this section, the provisions of 53-21-111 apply to the voluntary admission of a minor to a mental health facility but not to the state hospital or ~~the Montana youth treatment center.~~

(3) Except as provided by this subsection, voluntary admission of a minor to a mental health facility for an inpatient course of treatment shall be for the same period of time as that for an adult. A minor voluntarily admitted shall have the right to be released within 5 days of his request as provided in 53-21-111(3). The minor himself may make such request. Unless there has been a periodic review and a voluntary readmission consented to by the minor patient and his counsel, voluntary admission terminates at the expiration of 1 year. Counsel shall be appointed for the minor at the minor's request or at any time he is faced with potential legal proceedings.

(4) If, in any application for voluntary admission for any period of time to a mental health facility, a minor fails to join in the consent of his parents or guardian to the voluntary admission, then the application for admission shall be treated as a petition for involuntary commitment. Notice of the substance of this subsection and of the right to counsel shall be set forth in conspicuous type in a conspicuous location on any form or application used for the voluntary admission of a minor to a mental health facility. The notice shall be explained to the minor."

Section 13. Section 53-30-211, MCA, is amended to read:

"53-30-211. Transfer of child to other facility or

1 institution -- notice. The department of institutions upon
 2 recommendation of the superintendent of a facility may
 3 transfer a child resident in one of its juvenile facilities
 4 to any other facility or institution under the jurisdiction
 5 and control of the department. ~~However, except as provided~~
 6 ~~for in 53-21-130, no youth may be transferred to the Montana~~
 7 ~~youth treatment center without following the commitment~~
 8 ~~procedures of 53-21-505.~~"

9 NEW SECTION. Section 14. Repealer. Sections
 10 53-21-164, 53-21-501, 53-21-502, and 53-21-505, MCA, are
 11 repealed.

12 NEW SECTION. Section 15. Severability. If a part of
 13 this act is invalid, all valid parts that are severable from
 14 the invalid part remain in effect. If a part of this act is
 15 invalid in one or more of its applications, the part remains
 16 in effect in all valid applications that are severable from
 17 the invalid applications.

18 NEW SECTION. Section 16. Extension of authority. Any
 19 existing authority of the department of institutions to make
 20 rules on the subject of the provisions of this act is
 21 extended to the provisions of this act.

22 NEW SECTION. Section 17. Effective dates. Sections 1
 23 through 5 and this section are effective on passage and
 24 approval. All other sections are effective on the date the
 25 deed of sale of the Montana youth treatment center from the

1 board of land commissioners is ~~filed by~~ DELIVERED TO the
 2 buyer ~~with the Yellowstone County clerk and recorder.~~

-End-

HOUSE BILL NO. 36

INTRODUCED BY ADDY, KEATING, MENAHAN, RAPP-SVRCEK,

REGAN, STEPHENS, VINCENT, MONTAYNE, DONALDSON,

DRISCOLL, NEUMAN, BRADLEY

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT TO DISCONTINUE STATE
OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; TO
AUTHORIZE THE SALE OF THE FACILITY BY THE BOARD OF LAND
COMMISSIONERS; TO GENERALLY REVISE THE LAWS RELATING TO
OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; AND TO
STUDY THE FEASIBILITY OF SELLING OTHER FACILITIES; AMENDING
SECTIONS 41-5-207, 41-5-403, 41-5-523, 53-1-104, 53-1-202,
53-1-402, 53-21-112, AND 53-30-211, MCA; REPEALING SECTIONS
53-21-164, 53-21-501, 53-21-502, AND 53-21-505, MCA; AND
PROVIDING EFFECTIVE DATES."

WHEREAS, it is the desire of the State of Montana to
provide effective treatment for appropriate seriously
mentally ill adolescents in inpatient hospital settings; and

WHEREAS, the State of Montana desires to sell the
Montana Youth Treatment Center to a private health care
provider specializing in adolescent psychiatric treatment;

AND

THEREFORE, the legislature of the State of Montana

~~finds it appropriate to discontinue the state operation of
the Montana Youth Treatment Center and hereby authorizes the
Board of Land Commissioners to sell the facility.~~

WHEREAS, THERE ARE MANY NATIONALLY KNOWN GROUPS THAT
HAVE SHOWN INTEREST IN THE PURCHASE OF THE MONTANA YOUTH
TREATMENT CENTER AND ALL SUCH GROUPS SHOULD HAVE A CHANCE TO
SUBMIT A PROPOSAL TO PURCHASE.

THEREFORE, WHEN AN APPROPRIATE BUYER CAN BE FOUND TO
OFFER QUALITY CARE FOR MONTANA YOUTH, THE STATE OF MONTANA
WILL DISCONTINUE THE STATE OPERATION OF THE MONTANA YOUTH
TREATMENT CENTER AND HEREBY AUTHORIZES THE BOARD OF LAND
COMMISSIONERS TO SELL THE FACILITY AS PROVIDED IN THIS ACT.

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

NEW SECTION. Section 1. Authority to discontinue
operation. Pursuant to 53-1-202, the legislature authorizes
the department of institutions to discontinue operation of
the Montana youth treatment center located in Billings,
Montana.

NEW SECTION. Section 2. Sale of youth treatment
center. (1) Pursuant to 77-2-302, the board of land
commissioners may sell the Montana youth treatment center to
a private health care provider that specializes in
adolescent psychiatric treatment. THE BOARD OF LAND
COMMISSIONERS IS AUTHORIZED TO SELL THE MONTANA YOUTH

TREATMENT CENTER TO A PRIVATE HEALTH CARE PROVIDER WHO HAS DOCUMENTED EXPERIENCE IN PROVIDING SPECIALIZED ADOLESCENT PSYCHIATRIC TREATMENT THAT INCLUDES AN EDUCATIONAL COMPONENT. THE SALE IS MADE PURSUANT TO 77-2-302, EXCEPT THAT THE 60-DAY PUBLIC NOTICE REQUIREMENT OF THAT SECTION IS WAIVED.

(2) For 30 days following passage and approval of this act, the board of land commissioners may receive proposals for purchase from interested private health care providers. THE DEPARTMENT OF INSTITUTIONS SHALL ADVERTISE THE PROPOSED SALE IN AT LEAST ONE NATIONALLY DISTRIBUTED TRADE PUBLICATION AND SHALL NOTIFY IN WRITING THOSE HEALTH CARE PROVIDERS THAT COULD POTENTIALLY MEET THE CONDITIONS OF THE PROPOSED SALE. INTERESTED PARTIES MUST BE ALLOWED 60 DAYS TO SUBMIT PROPOSALS FOR PURCHASE FROM THE DATE THE ADVERTISEMENT IS PUBLISHED. Each proposal must contain an agreement to purchase the facility for cash at a sale price of no less than the appraised value of \$3,275,000, plus reimbursement of \$103,000 to the state for a prepaid special improvement district assessment.

(3) The directors of the departments of institutions, health and environmental sciences, and social and rehabilitation services shall review the proposals for purchase and recommend a purchaser to the board before a sale is made.

(3) TO PROTECT AND INDEMNIFY THE STATE AGAINST FAILURE OR REFUSAL OF A PROSPECTIVE PURCHASER TO CONSUMMATE THE SALE, EACH PROPOSAL MUST BE ACCOMPANIED BY SECURITY IN THE AMOUNT OF 2% OF THE APPRAISED VALUE CONTAINED IN SUBSECTION (2). THE SECURITY SHALL CONSIST OF CASH, CASHIER'S CHECK, CERTIFIED CHECK, BANK MONEY ORDER, OR BANK DRAFT, IN ANY CASE DRAWN ON A BANK LOCATED IN THE STATE OF MONTANA, OR A BOND OR BONDS EXECUTED BY A SURETY AUTHORIZED TO DO BUSINESS IN THE STATE OF MONTANA. IF A PROSPECTIVE PURCHASER FAILS OR REFUSES TO CONSUMMATE THE SALE, THE SECURITY IS FORFEITED TO THE STATE AND MUST BE DEPOSITED IN THE GENERAL FUND. THE SECURITY MUST BE RETURNED TO A PROSPECTIVE PURCHASER WHOSE PROPOSAL IS NOT ACCEPTED BY THE STATE.

(4) (A) A COMMITTEE SHALL REVIEW THE PROPOSALS FOR PURCHASE AND RECOMMEND A PURCHASER TO THE BOARD OF LAND COMMISSIONERS AFTER MEETING AND DISCUSSING THE FACTORS SET FORTH IN SUBSECTION (4)(B). THE REVIEW COMMITTEE MUST MAKE SUCH A RECOMMENDATION WITHIN 60 DAYS AFTER CLOSE OF ADVERTISING SET FORTH IN [SECTION 2]. THE COMMITTEE IS COMPRISED OF:

(I) THE DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS, WHO SHALL CHAIR THE COMMITTEE;

(II) THE DIRECTORS OF THE DEPARTMENTS OF HEALTH AND ENVIRONMENTAL SCIENCES AND SOCIAL AND REHABILITATION SERVICES;

(III) TWO MEMBERS OF THE SENATE, ONE FROM EACH PARTY, TO BE APPOINTED BY THE COMMITTEE ON COMMITTEES, ONE OF WHOM MUST REPRESENT A DISTRICT IN YELLOWSTONE COUNTY AND THE OTHER FROM A DISTRICT REPRESENTING A DIFFERENT COUNTY;

(IV) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE FROM EACH PARTY, APPOINTED BY THE SPEAKER IN CONSULTATION WITH THE REPUBLICAN LEADER OF THE HOUSE, ONE OF WHOM MUST REPRESENT A DISTRICT IN YELLOWSTONE COUNTY AND THE OTHER FROM A DISTRICT REPRESENTING A DIFFERENT COUNTY;

(V) A REPRESENTATIVE OF THE MENTAL HEALTH CARE COMMUNITY FROM YELLOWSTONE COUNTY, APPOINTED BY THE GOVERNOR; AND

(VI) A REPRESENTATIVE, APPOINTED BY THE GOVERNOR, FROM AN ORGANIZATION REPRESENTING MENTAL HEALTH CENTERS.

(B) THE REVIEW COMMITTEE SHALL CONSIDER:

(I) VARIOUS PROPOSALS FOR PURCHASE;

(II) CONDITIONS OF THE SALE OF THE MONTANA YOUTH TREATMENT CENTER, INCLUDING THE QUALITY OF CARE TO BE PROVIDED, CONTINUED STATE RESPONSIBILITIES, TREATMENT COSTS, ACCREDITATION STANDARDS, CONTRACTUAL RELATIONSHIPS WITH THE STATE AND OTHER GOVERNMENTAL ENTITIES AND THE TERMS OF THOSE CONTRACTS, AND OTHER MATTERS PERTAINING TO THE ADMINISTRATION OF THE MONTANA YOUTH TREATMENT CENTER; AND

(III) OTHER MATTERS RELATING TO THE SALE AND SUBSEQUENT SERVICES AND COSTS OF A PRIVATELY OPERATED FACILITY.

(C) THE REVIEW COMMITTEE MAY NOT SHOW ANY PARTIALITY OR FAVORITISM IN MAKING ITS DECISION.

††(5) Any sale of furnishings and movable equipment is in addition to the amounts stated for the land and facility.

†5†(6) Proceeds of the sale must be deposited in the general fund.

NEW SECTION. Section 3. Exempt from certificate of need review. The sale of the Montana youth treatment center and subsequent transfer of ownership to a private health care provider is exempt from the certificate of need review provisions of Title 50, chapter 5, part 3. THE REVIEW PROVIDED FOR IN [SECTION 2] AND THE NEED TO EXPEDITE TRANSFER OF THE FACILITY TO PREVENT DETERIORATION OF STAFF MORALE AND QUALITY OF CARE PROVIDED JUSTIFY THE EXEMPTION OF THE SALE AND TRANSFER OF THE MONTANA YOUTH TREATMENT CENTER FROM THE CERTIFICATE OF NEED REVIEW PROVISION OF TITLE 50, CHAPTER 5, PART 3.

NEW SECTION. Section 4. Treatment of mentally ill youth. The operation of the Montana youth treatment center by the buyer is subject to the laws of Montana, including the provisions of Title 53, chapter 21, regarding the treatment of mentally ill youth, and the provisions of the Montana Youth Court Act, Title 41, chapter 5.

NEW SECTION. Section 5. Conditions of sale. The sale

1 of the Montana youth treatment center is subject to the
2 following conditions:

3 (1) The buyer shall agree that as long as it holds
4 title to the Montana youth treatment center it will accept
5 those youth who are committed to the facility by the
6 district courts pursuant to the Montana Youth Court Act,
7 Title 41, chapter 5, and Title 53, chapter 21. The buyer
8 shall agree to make available a minimum of 40 beds for
9 treatment of such youth. ~~if the buyer fails to comply with~~
10 ~~the provisions of this act, it may lose its hospital~~
11 ~~license~~ THE BUYER OR ANY SUBSEQUENT TRANSFEREE SHALL KEEP
12 REASONABLE DOCUMENTATION OF COMPLIANCE WITH THIS CONDITION.
13 FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SECTION MAY
14 RESULT IN THE LOSS OF HOSPITAL LICENSURE.

15 (2) The buyer shall agree to maintain a hospital
16 license AS A PSYCHIATRIC HOSPITAL pursuant to Title 50,
17 chapter 5, part 2, and to operate the facility AS DEFINED IN
18 53-21-102(6) as a mental health treatment facility. The
19 buyer shall also agree to comply with state requirements
20 relating to review and recommendations by the mental
21 disabilities board of visitors.

22 (3) The buyer shall enter a written contract with the
23 board of land commissioners providing that the buyer will
24 bind by written agreement any purchaser or successor to its
25 interest by transfer of the property to the conditions

1 contained in [this act]. ~~The board of land commissioners~~
2 ~~shall approve any exception to these conditions.~~ THE BOARD
3 OF LAND COMMISSIONERS MAY MAKE AN EXCEPTION TO THESE
4 CONDITIONS IN ANY SUBSEQUENT SALE OR TRANSFER.

5 (4) If the buyer of the facility proposes to sell the
6 facility at any time, the state of Montana has the first
7 option to repurchase the facility and land at its appraised
8 value at the time of such sale. THE BUYER AND THE STATE
9 SHALL EACH COMMISSION AN APPRAISAL BY A QUALIFIED APPRAISER
10 AT THE TIME OF SALE. THE APPRAISED VALUE IS THE AVERAGE OF
11 THE TWO APPRAISALS.

12 (5) The buyer shall demonstrate that it is able to
13 meet, at the time it proposes to purchase, the standards of
14 the joint commission on accreditation of hospitals for
15 adolescent psychiatric facilities and the certification
16 standards of the health care financing administration of the
17 United States department of health and human services for
18 inpatient psychiatric services for individuals under age 21.
19 The buyer shall demonstrate successful participation in the
20 early survey option program of the joint commission on
21 accreditation of hospitals.

22 (6) The buyer shall provide services to
23 medicaid-eligible and indigent patients AND SHALL RECEIVE NO
24 PER DIEM REIMBURSEMENT FROM THE DEPARTMENT OF INSTITUTIONS
25 FOR SERVICES PROVIDED TO YOUTH ORDERED TO THE FACILITY BY

1 THE COURTS. SUCH SERVICES BECOME THE FINANCIAL
 2 RESPONSIBILITY OF THE BUYER, WHO MAY BILL MEDICAID OR
 3 PRIVATE INSURERS WHEN APPROPRIATE.

4 (7) The buyer shall accept emergency psychiatric
 5 admissions pursuant to 53-21-129 regardless of ability to
 6 pay and subject only to its licensure limitations.

7 (8) THE BUYER SHALL ACCEPT APPLICATIONS OF ALL MONTANA
 8 YOUTH TREATMENT CENTER EMPLOYEES WHO DESIRE TO CONTINUE
 9 EMPLOYMENT WITH THE PURCHASER. AMONG THE SUBSTANTIALLY
 10 QUALIFIED APPLICANTS, PRESENT EMPLOYEES OF THE MONTANA YOUTH
 11 TREATMENT CENTER MUST BE GIVEN PREFERENCE IN HIRING BY THE
 12 PURCHASER.

13 (9) MONTANA YOUTH TREATMENT CENTER EMPLOYEES WHO WISH
 14 TO REMAIN STATE EMPLOYEES SHALL BE PROVIDED RELOCATION
 15 ASSISTANCE OF UP TO \$1,000 AND ANY TRAINING NECESSARY TO
 16 QUALIFY FOR SIMILAR VACANT POSITIONS WITHIN THE DEPARTMENT
 17 OF INSTITUTIONS.

18 Section 6. Section 41-5-207, MCA, is amended to read:

19 "41-5-207. Court costs and expenses. ~~(1)~~ The following
 20 expenses shall be a charge upon the funds of the court or
 21 other appropriate agency when applicable, upon their
 22 certification by the court:

23 ~~(a)~~(1) the costs of medical and other examinations and
 24 treatment of a youth ordered by the court;

25 ~~(b)~~(2) reasonable compensation for services and

1 related expenses for counsel appointed by the court for a
 2 party;

3 ~~(c)~~(3) the expenses of service of summons, notices,
 4 subpoenas, traveling expenses of witnesses, and other like
 5 expenses incurred in any proceeding under the Montana Youth
 6 Court Act as provided for by law;

7 ~~(d)~~(4) reasonable compensation of a guardian ad litem
 8 appointed by the court;

9 ~~(e)~~(5) cost of transcripts and printing briefs on
 10 appeal; and

11 ~~(f)~~(6) cost of detention as provided for in
 12 41-5-306(4).

13 ~~(2)--if--treatment--pursuant--to--subsection--(1)(a)--is~~
 14 ~~ordered-to-be-given-at-the-Montana-youth--treatment--center,~~
 15 ~~costs--shall--be--subject-to-reimbursement-pursuant-to-Fife~~
 16 ~~53,--chapter--17--part--4. (Subsection (1)(f) (now (6))~~
 17 ~~terminates July 1, 1987--sec. 5, Ch. 737, L. 1985.)"~~

18 Section 7. Section 41-5-403, MCA, is amended to read:

19 "41-5-403. Disposition permitted under informal
 20 adjustment. (1) The following dispositions may be imposed by
 21 informal adjustment:

22 (a) probation;

23 (b) placement of the youth for substitute care into a
 24 youth care facility as defined in 41-3-1102 or into a home
 25 approved by the court;

(c) placement of the youth in a private agency responsible for the care and rehabilitation of such a youth;

(d) transfer of legal custody to the department of institutions for a period of 6 months, 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 court finds that placement in a youth care facility other than a youth group home or youth foster home is necessary and in the best interests of the youth and the community, the court shall determine if the youth can receive appropriate treatment in a youth care facility located in Montana as follows:

(a) If the court finds the youth can receive

appropriate treatment in a youth care facility located in Montana that will accept the youth, the court may not place the youth in a youth care facility located outside this state unless an out-of-state facility can provide appropriate treatment that:

(i) can be obtained at a cost less than that offered by any available facility in this state; and

(ii) is available in closer proximity to the youth's place of residence than any facility located in this state.

(b) When the department of social and rehabilitation services is ordered to pay the costs of caring for the child in a youth care facility other than a youth foster home or youth group home, the court shall provide the department with at least 5 days' written notice and opportunity to be heard before ordering the placement of the youth.

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

~~{5}--If--custody--is--given--to---the---department---of institutions--under--subsection--{1}{d},--the--youth--may--not--be committed--to--the--Montana--youth--treatment--center---unless--the commitment-provisions-of-53-21-505-are--followed:-"~~

Section 8. 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 the youth for substitute care into a youth care facility as defined in 41-3-1102 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;

(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; 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, 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.

~~(3) At any time after a youth has been taken into custody, the court may request that the youth be evaluated at the Montana youth treatment center, for a period not to exceed 60 days, for the sole purpose of advising the court as to whether the youth is seriously mentally ill, as defined in 53-21-102, but the court must first find that reasonable grounds exist to believe that the youth is suffering from a mental disorder as defined in 53-21-102.~~

(4)(3) No evaluation of a youth may be performed at the Montana state hospital unless such youth is transferred to the district court under 41-5-206.

~~(5) If the court determines that a delinquent youth or youth in need of supervision is in need of treatment at the Montana youth treatment center, the court must first determine, based on testimony of a professional person, as defined in 53-21-102, that the youth is seriously mentally ill as defined in 53-21-102. The youth is entitled to all rights provided by 53-21-114 through 53-21-119.~~

~~(6) Upon a finding of serious mental illness, the court may commit a delinquent youth to the department of institutions and recommend that the youth be placed at the Montana youth treatment center. Upon release or discharge from the center, if the court order has not expired or if~~

~~the youth is less than 21 years of age, he must be retained under the supervision of the department until the expiration of the court order or until he attains the age of 21.~~

~~(7)(4)~~ If the court finds that placement in a youth care facility other than a youth group home or youth foster home is necessary and in the best interests of the youth and the community, the court shall determine if the youth can receive appropriate treatment in a youth care facility located in Montana as follows:

(a) If the court finds the youth can receive appropriate treatment in a youth care facility located in Montana that will accept the youth, the court may not place the youth in a youth care facility located outside this state unless an out-of-state facility can provide appropriate treatment that:

(i) can be obtained at a cost less than that offered by any available facility in this state; and

(ii) is available in closer proximity to the youth's place of residence than any facility located in this state.

(b) When the department of social and rehabilitation services is ordered to pay the costs of caring for the child in a youth care facility other than a youth foster home or youth group home, the court shall provide the department at least 5 days' written notice and opportunity to be heard before ordering the placement of the youth.

~~(8)(5)~~ 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.

~~(9)(6)~~ 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.

~~(10)(7)~~ 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.

~~(11)(8)~~ 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.

1 It is ordered that be committed to the department
2 of institutions until

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

5 Name	6 Address	7 Occupation
8	9	10
11	12	13

8 The names and addresses of their nearest relatives are:
9
10

11 Witness my hand this day of, A.D. 19...
12
13 Judge"

14 Section 9. Section 53-1-104, MCA, is amended to read:

15 "53-1-104. Release of arsonist -- notification of
16 department of justice. (1) Each of the following
17 institutions or facilities having the charge or custody of a
18 person convicted of arson or of a person acquitted of arson
19 on the ground of mental disease or defect shall give written
20 notification to the department of justice whenever such a
21 person is admitted or released by it:

- 22 (a) Montana state hospital;
- 23 (b) State prison;
- 24 (c) Mountain View school;
- 25 (d) Pine Hills school;

- 1 (e) Swan River youth forest camp; or
- 2 (f) Any county or city detention facility; ~~or~~
- 3 ~~(g) -- Montana youth treatment center.~~
- 4 (2) The notification shall disclose:
- 5 (a) the name of the person;
- 6 (b) where the person is or will be located; and
- 7 (c) the type of fire the person was involved in."
- 8 Section 10. Section 53-1-202, MCA, is amended to read:
- 9 "53-1-202. Institutions in department. (1) The
- 10 following institutions are in the department:
- 11 (a) Montana state hospital;
- 12 (b) Montana veterans' home;
- 13 (c) State prison;
- 14 (d) Mountain View school;
- 15 (e) Pine Hills school;
- 16 (f) Montana developmental center;
- 17 (g) Montana center for the aged;
- 18 (h) Swan River youth forest camp;
- 19 (i) Eastmont human services center; and
- 20 ~~(j) -- Montana youth treatment center; and~~
- 21 ~~(k) (j)~~ Any other institution which provides care and
- 22 services for juvenile delinquents, including but not limited
- 23 to youth forest camps and juvenile reception and evaluation
- 24 centers.
- 25 (2) A state institution may not be moved,

1 discontinued, or abandoned without prior consent of the
2 legislature."

3 Section 11. Section 53-1-402, MCA, is amended to read:

4 "53-1-402. Residents subject to per diem and ancillary
5 charges. The department shall collect and process per diem
6 and ancillary payments for the care of residents in the
7 following institutions:

- 8 (1) Montana state hospital;
- 9 (2) Montana developmental center;
- 10 (3) Montana veterans' home;
- 11 (4) Montana center for the aged;
- 12 (5) Eastmont human services center;--and
- 13 ~~(6)--Montana-youth-treatment-center."~~

14 Section 12. Section 53-21-112, MCA, is amended to
15 read:

16 "53-21-112. Voluntary admission of minors. (1)
17 Notwithstanding any other provision of law, a minor who is
18 16 years of age or older may consent to receive mental
19 health services to be rendered by:

- 20 (a) a facility that is not a state institution; or
- 21 (b) a person licensed to practice medicine or
- 22 psychology in this state.

23 (2) Except as provided by this section, the provisions
24 of 53-21-111 apply to the voluntary admission of a minor to
25 a mental health facility but not to the state hospital or

1 ~~the-Montana-youth-treatment-center.~~

2 (3) Except as provided by this subsection, voluntary
3 admission of a minor to a mental health facility for an
4 inpatient course of treatment shall be for the same period
5 of time as that for an adult. A minor voluntarily admitted
6 shall have the right to be released within 5 days of his
7 request as provided in 53-21-111(3). The minor himself may
8 make such request. Unless there has been a periodic review
9 and a voluntary readmission consented to by the minor
10 patient and his counsel, voluntary admission terminates at
11 the expiration of 1 year. Counsel shall be appointed for the
12 minor at the minor's request or at any time he is faced with
13 potential legal proceedings.

14 (4) If, in any application for voluntary admission for
15 any period of time to a mental health facility, a minor
16 fails to join in the consent of his parents or guardian to
17 the voluntary admission, then the application for admission
18 shall be treated as a petition for involuntary commitment.
19 Notice of the substance of this subsection and of the right
20 to counsel shall be set forth in conspicuous type in a
21 conspicuous location on any form or application used for the
22 voluntary admission of a minor to a mental health facility.
23 The notice shall be explained to the minor."

24 Section 13. Section 53-30-211, MCA, is amended to
25 read:

"53-30-211. Transfer of child to other facility or institution -- notice. The department of institutions upon recommendation of the superintendent of a facility may transfer a child resident in one of its juvenile facilities to any other facility or institution under the jurisdiction and control of the department. However, ~~except as provided for in 53-21-130, no youth may be transferred to the Montana youth treatment center without following the commitment procedures of 53-21-505.~~"

NEW SECTION. SECTION 14. DEPARTMENT STUDY OF SALE FEASIBILITY OF OTHER FACILITIES. THE DEPARTMENT OF INSTITUTIONS SHALL STUDY THE FEASIBILITY OF SELLING OTHER FACILITIES UNDER ITS JURISDICTION AND TRANSFERRING THOSE FACILITIES AND THE PROGRAMS OPERATED THERE TO PRIVATE ENTITIES. IT SHALL SUBMIT TO THE LEGISLATURE A REPORT OF THIS STUDY, ALONG WITH ITS RECOMMENDATIONS, BY JANUARY 15, 1987.

NEW SECTION. Section 15. Repealer. Sections 53-21-164, 53-21-501, 53-21-502, and 53-21-505, MCA, are repealed.

NEW SECTION. Section 16. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from

the invalid applications.

NEW SECTION. Section 17. Extension of authority. Any existing authority of the department of institutions to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 18. Effective dates. Sections 1 through 5, 14, and this section are effective on passage and approval. All other sections are effective on the date the deed of sale of the Montana youth treatment center from the board of land commissioners is ~~filed~~ DELIVERED TO the buyer ~~with the Yellowstone County clerk and recorder.~~

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB036, as amended.

Description of Proposed Legislation:

An act to discontinue state operation of the Montana Youth Treatment Center and to authorize the sale of the facility by the Board of Land Commissioners and to amend the laws relating to the operation of the Center and to provide an effective date.

Assumptions:

1. The facility will not become medicaid eligible if it remains state owned.
2. The facility will be sold effective 12/01/86.
3. Assumes an average daily population of 44 and all are medicaid eligible.
4. Assumes the privately owned facility will be medicaid eligible.
5. Assumes that the medicaid appropriation for SRS remains as the House passed version of HB30 in the June 1986 Special Session.

Fiscal Impact:Expenditures:

	Estimated Under Current Law	FY87 Estimated Under Proposed Law	Estimated Increase (Decrease)
<u>Department of Institutions</u>			
General Fund	\$2,442,087	\$ 1,182,550	(\$ 1,259,537)
Federal & Private	41,555	10,862	(30,693)
Proprietary	28,065	3,200	(24,865)
TOTAL	\$2,511,707	\$ 1,196,612*	(\$ 1,315,095)
 <u>Department of SRS</u>			
General Fund	0	\$ 762,880**	\$ 762,880
Federal & Private	0	1,580,120	1,580,120
TOTAL	\$ 0	\$ 2,343,000	\$ 2,343,000

*Reflects termination pay and related closing costs.

**In HB30 of the June 1986 Special Session the House has taken \$651,993 of General Fund out of the SRS FY87 authorized budget assuming the sale of the Montana Youth Treatment Center.

David A. Hunter 6/26/86
BUDGET DIRECTOR DATE
Office of Budget and Program Planning

J. Kelly 6/26/86
PRIMARY SPONSOR DATE

Fiscal Note for HB36-as amended

Fiscal Note Request HB036, as amended.
Form BD15 page 2
(continued)

Revenues:

Sale of the Center	\$3,275,000
Special Improvement District Reversions	<u>103,000</u>
Total General Fund Revenue	\$3,378,000

Net General Fund Impact:

Department of Institutions Reduced Expenditures	\$1,259,537
Social and Rehabilitative Services Additional Expenditures	<u>(762,880)</u>
Net Expenditure Difference	\$ 496,652
 Sale Revenue	 <u>3,378,000</u>
Net Positive to General Fund	\$3,874,652

Long-Range Effect of Proposed Legislation:

1. This legislation will remove \$2,442,087 from the general fund base of the Dept. of Institution budget each subsequent fiscal year beginning FY88.
2. SRS will continue to receive federal funds requiring a general fund match.

HOUSE BILL NO. 36

INTRODUCED BY ADDY, KEATING, MENAHAN, RAPP-SVRCEK,

REGAN, STEPHENS, VINCENT, MONTAYNE, DONALDSON,

DRISCOLL, NEUMAN, BRADLEY

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT TO DISCONTINUE STATE OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; TO AUTHORIZE THE SALE OF THE FACILITY BY THE BOARD OF LAND COMMISSIONERS; TO GENERALLY REVISE THE LAWS RELATING TO OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; AND TO STUDY THE FEASIBILITY OF SELLING OTHER FACILITIES; AMENDING SECTIONS 41-5-207, 41-5-403, 41-5-523, 53-1-104, 53-1-202, 53-1-402, 53-21-112, AND 53-30-211, MCA; REPEALING SECTIONS 53-21-164, 53-21-501, 53-21-502, AND 53-21-505, MCA; AND PROVIDING EFFECTIVE DATES."

WHEREAS, it is the desire of the State of Montana to provide effective treatment for appropriate seriously mentally ill adolescents in inpatient hospital settings; and

WHEREAS, the State of Montana desires to sell the Montana Youth Treatment Center to a private health care provider specializing in adolescent psychiatric treatment;

AND

THEREFORE, the legislature of the State of Montana

~~finds--it--appropriate--to--discontinue--the--state--operation--of--the--Montana--Youth--Treatment--Center--and--hereby--authorizes--the--Board--of--Land--Commissioners--to--sell--the--facility;~~

WHEREAS, THERE ARE MANY NATIONALLY KNOWN GROUPS THAT HAVE SHOWN INTEREST IN THE PURCHASE OF THE MONTANA YOUTH TREATMENT CENTER AND ALL SUCH GROUPS SHOULD HAVE A CHANCE TO SUBMIT A PROPOSAL TO PURCHASE.

THEREFORE, WHEN AN APPROPRIATE BUYER CAN BE FOUND TO OFFER QUALITY CARE FOR MONTANA YOUTH, THE STATE OF MONTANA WILL DISCONTINUE THE STATE OPERATION OF THE MONTANA YOUTH TREATMENT CENTER AND HEREBY AUTHORIZES THE BOARD OF LAND COMMISSIONERS TO SELL THE FACILITY AS PROVIDED IN THIS ACT.

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

NEW SECTION. Section 1. Authority to discontinue operation. Pursuant to 53-1-202, the legislature authorizes the department of institutions to discontinue operation of the Montana youth treatment center located in Billings, Montana.

NEW SECTION. Section 2. Sale of youth treatment center. (1) ~~Pursuant--to--77-2-302,--the--board--of--land--commissioners--may--sell--the--Montana--youth--treatment--center--to--a--private--health--care--provider--that--specializes--in--adolescent--psychiatric--treatment;~~ THE BOARD OF LAND COMMISSIONERS IS AUTHORIZED TO SELL THE MONTANA YOUTH

TREATMENT CENTER TO A PRIVATE HEALTH CARE PROVIDER WHO HAS DOCUMENTED EXPERIENCE IN PROVIDING SPECIALIZED ADOLESCENT PSYCHIATRIC TREATMENT THAT INCLUDES AN EDUCATIONAL COMPONENT. THE SALE IS MADE PURSUANT TO 77-2-302, EXCEPT THAT THE 60-DAY PUBLIC NOTICE REQUIREMENT OF THAT SECTION IS WAIVED.

(2) For 30 days following passage and approval of this act, the board of land commissioners may receive proposals for purchase from interested private health care providers. THE DEPARTMENT OF INSTITUTIONS SHALL ADVERTISE THE PROPOSED SALE IN AT LEAST ONE NATIONALLY DISTRIBUTED TRADE PUBLICATION AND SHALL NOTIFY IN WRITING THOSE HEALTH CARE PROVIDERS THAT COULD POTENTIALLY MEET THE CONDITIONS OF THE PROPOSED SALE. INTERESTED PARTIES MUST BE ALLOWED 60 DAYS TO SUBMIT PROPOSALS FOR PURCHASE FROM THE DATE THE ADVERTISEMENT IS PUBLISHED. Each proposal must contain an agreement to purchase the facility for cash at a sale price of no less than the appraised value of \$3,275,000, plus reimbursement of \$103,000 to the state for a prepaid special improvement district assessment.

(3) The directors of the departments of institutions, health and environmental sciences, and social and rehabilitation services shall review the proposals for purchase and recommend a purchaser to the board before a sale is made.

(3) TO PROTECT AND INDEMNIFY THE STATE AGAINST FAILURE OR REFUSAL OF A PROSPECTIVE PURCHASER TO CONSUMMATE THE SALE, EACH PROPOSAL MUST BE ACCOMPANIED BY SECURITY IN THE AMOUNT OF 2% OF THE APPRAISED VALUE CONTAINED IN SUBSECTION (2). THE SECURITY SHALL CONSIST OF CASH, CASHIER'S CHECK, CERTIFIED CHECK, BANK MONEY ORDER, OR BANK DRAFT, IN ANY CASE DRAWN ON A BANK LOCATED IN THE STATE OF MONTANA, OR A BOND OR BONDS EXECUTED BY A SURETY AUTHORIZED TO DO BUSINESS IN THE STATE OF MONTANA. IF A PROSPECTIVE PURCHASER FAILS OR REFUSES TO CONSUMMATE THE SALE, THE SECURITY IS FORFEITED TO THE STATE AND MUST BE DEPOSITED IN THE GENERAL FUND. THE SECURITY MUST BE RETURNED TO A PROSPECTIVE PURCHASER WHOSE PROPOSAL IS NOT ACCEPTED BY THE STATE.

(4) (A) A COMMITTEE SHALL REVIEW THE PROPOSALS FOR PURCHASE AND RECOMMEND A PURCHASER TO THE BOARD OF LAND COMMISSIONERS AFTER MEETING AND DISCUSSING THE FACTORS SET FORTH IN SUBSECTION (4)(B). THE REVIEW COMMITTEE MUST MAKE SUCH A RECOMMENDATION WITHIN 60 DAYS AFTER CLOSE OF ADVERTISING SET FORTH IN [SECTION 2]. THE COMMITTEE IS COMPRISED OF:

(I) THE DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS, WHO SHALL CHAIR THE COMMITTEE;

(II) THE DIRECTORS OF THE DEPARTMENTS OF HEALTH AND ENVIRONMENTAL SCIENCES AND SOCIAL AND REHABILITATION SERVICES;

(III) TWO MEMBERS OF THE SENATE, ONE FROM EACH PARTY, TO BE APPOINTED BY THE COMMITTEE ON COMMITTEES, ONE OF WHOM MUST REPRESENT A DISTRICT IN YELLOWSTONE COUNTY AND THE OTHER FROM A DISTRICT REPRESENTING A DIFFERENT COUNTY;

(IV) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE FROM EACH PARTY, APPOINTED BY THE SPEAKER IN CONSULTATION WITH THE REPUBLICAN LEADER OF THE HOUSE, ONE OF WHOM MUST REPRESENT A DISTRICT IN YELLOWSTONE COUNTY AND THE OTHER FROM A DISTRICT REPRESENTING A DIFFERENT COUNTY;

(V) A REPRESENTATIVE OF THE MENTAL HEALTH CARE COMMUNITY FROM YELLOWSTONE COUNTY, APPOINTED BY THE GOVERNOR; AND

(VI) A REPRESENTATIVE, APPOINTED BY THE GOVERNOR, FROM AN ORGANIZATION REPRESENTING MENTAL HEALTH CENTERS.

(B) THE REVIEW COMMITTEE SHALL CONSIDER:

(I) VARIOUS PROPOSALS FOR PURCHASE;

(II) CONDITIONS OF THE SALE OF THE MONTANA YOUTH TREATMENT CENTER, INCLUDING THE QUALITY OF CARE TO BE PROVIDED, CONTINUED STATE RESPONSIBILITIES, TREATMENT COSTS, ACCREDITATION STANDARDS, CONTRACTUAL RELATIONSHIPS WITH THE STATE AND OTHER GOVERNMENTAL ENTITIES AND THE TERMS OF THOSE CONTRACTS, AND OTHER MATTERS PERTAINING TO THE ADMINISTRATION OF THE MONTANA YOUTH TREATMENT CENTER; AND

(III) OTHER MATTERS RELATING TO THE SALE AND SUBSEQUENT SERVICES AND COSTS OF A PRIVATELY OPERATED FACILITY.

(C) THE REVIEW COMMITTEE MAY NOT SHOW ANY PARTIALITY OR FAVORITISM IN MAKING ITS DECISION.

+4+(5) Any sale of furnishings and movable equipment is in addition to the amounts stated for the land and facility.

+5+(6) Proceeds of the sale must be deposited in the general fund.

NEW SECTION. Section 3. Exempt from certificate of need review. The sale of the Montana youth treatment center and subsequent transfer of ownership to a private health care provider is exempt from the certificate of need review provisions of Title 50, chapter 5, part 3. THE REVIEW PROVIDED FOR IN [SECTION 2] AND THE NEED TO EXPEDITE TRANSFER OF THE FACILITY TO PREVENT DETERIORATION OF STAFF MORALE AND QUALITY OF CARE PROVIDED JUSTIFY THE EXEMPTION OF THE SALE AND TRANSFER OF THE MONTANA YOUTH TREATMENT CENTER FROM THE CERTIFICATE OF NEED REVIEW PROVISION OF TITLE 50, CHAPTER 5, PART 3.

NEW SECTION. Section 4. Treatment of mentally ill youth. The operation of the Montana youth treatment center by the buyer is subject to the laws of Montana, including the provisions of Title 53, chapter 21, regarding the treatment of mentally ill youth, and the provisions of the Montana Youth Court Act, Title 41, chapter 5.

NEW SECTION. Section 5. Conditions of sale. The sale

1 of the Montana youth treatment center is subject to the
2 following conditions:

3 (1) The buyer shall agree that as long as it holds
4 title to the Montana youth treatment center it will accept
5 those youth who are committed to the facility by the
6 district courts pursuant to the Montana Youth Court Act,
7 Title 41, chapter 5, and Title 53, chapter 21. The buyer
8 shall agree to make available a minimum of 40 beds for
9 treatment of such youth. ~~If the buyer fails to comply with~~
10 ~~the provisions of this act, it may lose its hospital~~
11 ~~license. THE BUYER OR ANY SUBSEQUENT TRANSFEREE SHALL KEEP~~
12 ~~REASONABLE DOCUMENTATION OF COMPLIANCE WITH THIS CONDITION.~~
13 ~~FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SECTION MAY~~
14 ~~RESULT IN THE LOSS OF HOSPITAL LICENSURE.~~

15 (2) The buyer shall agree to maintain a hospital
16 license AS A PSYCHIATRIC HOSPITAL pursuant to Title 50,
17 chapter 5, part 2, and to operate the facility AS DEFINED IN
18 53-21-102(6) as a mental health treatment facility. The
19 buyer shall also agree to comply with state requirements
20 relating to review and recommendations by the mental
21 disabilities board of visitors.

22 (3) The buyer shall enter a written contract with the
23 board of land commissioners providing that the buyer will
24 bind by written agreement any purchaser or successor to its
25 interest by transfer of the property to the conditions

1 contained in [this act]. ~~The board of land commissioners~~
2 ~~shall approve any exception to these conditions. THE BOARD~~
3 ~~OF LAND COMMISSIONERS MAY MAKE AN EXCEPTION TO THESE~~
4 ~~CONDITIONS IN ANY SUBSEQUENT SALE OR TRANSFER.~~

5 (4) If the buyer of the facility proposes to sell the
6 facility at any time, the state of Montana has the first
7 option to repurchase the facility and land at its appraised
8 value at the time of such sale. THE BUYER AND THE STATE
9 SHALL EACH COMMISSION AN APPRAISAL BY A QUALIFIED APPRAISER
10 AT THE TIME OF SALE. THE APPRAISED VALUE IS THE AVERAGE OF
11 THE TWO APPRAISALS.

12 (5) The buyer shall demonstrate that it is able to
13 meet, at the time it proposes to purchase, the standards of
14 the joint commission on accreditation of hospitals for
15 adolescent psychiatric facilities and the certification
16 standards of the health care financing administration of the
17 United States department of health and human services for
18 inpatient psychiatric services for individuals under age 21.
19 The buyer shall demonstrate successful participation in the
20 early survey option program of the joint commission on
21 accreditation of hospitals.

22 (6) The buyer shall provide services to
23 medicaid-eligible and indigent patients AND SHALL RECEIVE NO
24 PER DIEM REIMBURSEMENT FROM THE DEPARTMENT OF INSTITUTIONS
25 FOR SERVICES PROVIDED TO YOUTH ORDERED TO THE FACILITY BY

1 THE COURTS. SUCH SERVICES BECOME THE FINANCIAL
 2 RESPONSIBILITY OF THE BUYER, WHO MAY BILL MEDICAID OR
 3 PRIVATE INSURERS WHEN APPROPRIATE.

4 (7) The buyer shall accept emergency psychiatric
 5 admissions pursuant to 53-21-129 regardless of ability to
 6 pay and subject only to its licensure limitations.

7 (8) THE BUYER SHALL ACCEPT APPLICATIONS OF ALL MONTANA
 8 YOUTH TREATMENT CENTER EMPLOYEES WHO DESIRE TO CONTINUE
 9 EMPLOYMENT WITH THE PURCHASER. AMONG THE SUBSTANTIALLY
 10 QUALIFIED APPLICANTS, PRESENT EMPLOYEES OF THE MONTANA YOUTH
 11 TREATMENT CENTER MUST BE GIVEN PREFERENCE IN HIRING BY THE
 12 PURCHASER.

13 (9) MONTANA YOUTH TREATMENT CENTER EMPLOYEES WHO WISH
 14 TO REMAIN STATE EMPLOYEES SHALL BE PROVIDED RELOCATION
 15 ASSISTANCE OF UP TO \$1,000 AND ANY TRAINING NECESSARY TO
 16 QUALIFY FOR SIMILAR VACANT POSITIONS WITHIN THE DEPARTMENT
 17 OF INSTITUTIONS.

18 Section 6. Section 41-5-207, MCA, is amended to read:

19 "41-5-207. Court costs and expenses. (1) The following
 20 expenses shall be a charge upon the funds of the court or
 21 other appropriate agency when applicable, upon their
 22 certification by the court:

23 (a)(1) the costs of medical and other examinations and
 24 treatment of a youth ordered by the court;

25 (b)(2) reasonable compensation for services and

1 related expenses for counsel appointed by the court for a
 2 party;

3 (c)(3) the expenses of service of summons, notices,
 4 subpoenas, traveling expenses of witnesses, and other like
 5 expenses incurred in any proceeding under the Montana Youth
 6 Court Act as provided for by law;

7 (d)(4) reasonable compensation of a guardian ad litem
 8 appointed by the court;

9 (e)(5) cost of transcripts and printing briefs on
 10 appeal; and

11 (f)(6) cost of detention as provided for in
 12 41-5-306(4).

13 (2) --If--treatment--pursuant--to--subsection--(1)(a)--is
 14 ordered-to-be-given-at-the-Montana-youth--treatment--center,
 15 costs--shall--be--subject-to-reimbursement-pursuant-to-Title
 16 53,--chapter--1,--part--4, (Subsection (1)(f) (now (6))
 17 terminates July 1, 1987--sec. 5, Ch. 737, L. 1985.)"

18 Section 7. Section 41-5-403, MCA, is amended to read:

19 "41-5-403. Disposition permitted under informal
 20 adjustment. (1) The following dispositions may be imposed by
 21 informal adjustment:

22 (a) probation;

23 (b) placement of the youth for substitute care into a
 24 youth care facility as defined in 41-3-1102 or into a home
 25 approved by the court;

(c) placement of the youth in a private agency responsible for the care and rehabilitation of such a youth;

(d) transfer of legal custody to the department of institutions for a period of 6 months, 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 court finds that placement in a youth care facility other than a youth group home or youth foster home is necessary and in the best interests of the youth and the community, the court shall determine if the youth can receive appropriate treatment in a youth care facility located in Montana as follows:

(a) If the court finds the youth can receive

appropriate treatment in a youth care facility located in Montana that will accept the youth, the court may not place the youth in a youth care facility located outside this state unless an out-of-state facility can provide appropriate treatment that:

(i) can be obtained at a cost less than that offered by any available facility in this state; and

(ii) is available in closer proximity to the youth's place of residence than any facility located in this state.

(b) When the department of social and rehabilitation services is ordered to pay the costs of caring for the child in a youth care facility other than a youth foster home or youth group home, the court shall provide the department with at least 5 days' written notice and opportunity to be heard before ordering the placement of the youth.

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

~~{5}--If--custody--is--given--to---the---department---of institutions---under---subsection-{1}{d},--the-youth-may-not-be committed-to-the-Montana-youth-treatment-center--unless--the commitment-provisions-of-53-21-505-are-followed."~~

Section 8. Section 41-5-523, MCA, is amended to read:

"41-5-523. Disposition of delinquent youth and youth

1 in need of supervision. (1) If a youth is found to be
2 delinquent or in need of supervision, the court may enter
3 its judgment making the following disposition:

4 (a) place the youth on probation;
5 (b) place the youth for substitute care into a youth
6 care facility as defined in 41-3-1102 or a home approved by
7 the court;

8 (c) place the youth in a private agency responsible
9 for the care and rehabilitation of such a youth;

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

17 (e) such further care and treatment or evaluation that
18 the court considers beneficial to the youth; or

19 (f) order restitution by the youth.

20 (2) At any time after the youth has been taken into
21 custody, the court may, with the consent of the youth in the
22 manner provided in 41-5-303 for consent by a youth to waiver
23 of his constitutional rights or after the youth has been
24 adjudicated delinquent or in need of supervision, order the
25 youth to be evaluated by the department of institutions for

1 a period not to exceed 45 days of evaluation at a reception
2 and evaluation center for youths.

3 ~~(3)--At any time after a youth has been taken into~~
4 ~~custody, the court may request that the youth be evaluated~~
5 ~~at the Montana youth treatment center, for a period not to~~
6 ~~exceed 60 days, for the sole purpose of advising the court~~
7 ~~as to whether the youth is seriously mentally ill, as~~
8 ~~defined in 53-21-102, but the court must first find that~~
9 ~~reasonable grounds exist to believe that the youth is~~
10 ~~suffering from a mental disorder as defined in 53-21-102;~~

11 ~~(4)(3)~~ No evaluation of a youth may be performed at
12 the Montana state hospital unless such youth is transferred
13 to the district court under 41-5-206.

14 ~~(5)--If the court determines that a delinquent youth or~~
15 ~~youth in need of supervision is in need of treatment at the~~
16 ~~Montana youth treatment center, the court must first~~
17 ~~determine, based on testimony of a professional person, as~~
18 ~~defined in 53-21-102, that the youth is seriously mentally~~
19 ~~ill as defined in 53-21-102. The youth is entitled to all~~
20 ~~rights provided by 53-21-114 through 53-21-119.~~

21 ~~(6)--Upon a finding of serious mental illness, the~~
22 ~~court may commit a delinquent youth to the department of~~
23 ~~institutions and recommend that the youth be placed at the~~
24 ~~Montana youth treatment center. Upon release or discharge~~
25 ~~from the center, if the court order has not expired or if~~

~~the youth is less than 21 years of age, he must be retained under the supervision of the department until the expiration of the court order or until he attains the age of 21.~~

~~†7†(4)~~ If the court finds that placement in a youth care facility other than a youth group home or youth foster home is necessary and in the best interests of the youth and the community, the court shall determine if the youth can receive appropriate treatment in a youth care facility located in Montana as follows:

(a) If the court finds the youth can receive appropriate treatment in a youth care facility located in Montana that will accept the youth, the court may not place the youth in a youth care facility located outside this state unless an out-of-state facility can provide appropriate treatment that:

(i) can be obtained at a cost less than that offered by any available facility in this state; and

(ii) is available in closer proximity to the youth's place of residence than any facility located in this state.

(b) When the department of social and rehabilitation services is ordered to pay the costs of caring for the child in a youth care facility other than a youth foster home or youth group home, the court shall provide the department at least 5 days' written notice and opportunity to be heard before ordering the placement of the youth.

~~†8†(5)~~ 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.

~~†9†(6)~~ 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.

~~†10†(7)~~ 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.

~~†11†(8)~~ 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.

1 It is ordered that be committed to the department
2 of institutions until

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

5 Name	Address	Occupation
6		
7		

8 The names and addresses of their nearest relatives are:
9
10

11 Witness my hand this day of, A.D. 19...
12

13 Judge"

14 Section 9. Section 53-1-104, MCA, is amended to read:

15 "53-1-104. Release of arsonist -- notification of
16 department of justice. (1) Each of the following
17 institutions or facilities having the charge or custody of a
18 person convicted of arson or of a person acquitted of arson
19 on the ground of mental disease or defect shall give written
20 notification to the department of justice whenever such a
21 person is admitted or released by it:

- 22 (a) Montana state hospital;
- 23 (b) State prison;
- 24 (c) Mountain View school;
- 25 (d) Pine Hills school;

- 1 (e) Swan River youth forest camp; or
- 2 (f) Any county or city detention facility; ~~or~~
- 3 ~~(g) --Montana-youth-treatment-center.~~

4 (2) The notification shall disclose:

- 5 (a) the name of the person;
- 6 (b) where the person is or will be located; and
- 7 (c) the type of fire the person was involved in."

8 Section 10. Section 53-1-202, MCA, is amended to read:

9 "53-1-202. Institutions in department. (1) The
10 following institutions are in the department:

- 11 (a) Montana state hospital;
- 12 (b) Montana veterans' home;
- 13 (c) State prison;
- 14 (d) Mountain View school;
- 15 (e) Pine Hills school;
- 16 (f) Montana developmental center;
- 17 (g) Montana center for the aged;
- 18 (h) Swan River youth forest camp;
- 19 (i) Eastmont human services center; and
- 20 ~~(j) --Montana-youth-treatment-center;--and~~
- 21 ~~(k)(j)~~ Any other institution which provides care and
22 services for juvenile delinquents, including but not limited
23 to youth forest camps and juvenile reception and evaluation
24 centers.
- 25 (2) A state institution may not be moved,

1 discontinued, or abandoned without prior consent of the
2 legislature."

3 Section 11. Section 53-1-402, MCA, is amended to read:

4 "53-1-402. Residents subject to per diem and ancillary
5 charges. The department shall collect and process per diem
6 and ancillary payments for the care of residents in the
7 following institutions:

- 8 (1) Montana state hospital;
- 9 (2) Montana developmental center;
- 10 (3) Montana veterans' home;
- 11 (4) Montana center for the aged;
- 12 (5) Eastmont human services center; and
- 13 ~~(6) --Montana-youth-treatment-center."~~

14 Section 12. Section 53-21-112, MCA, is amended to
15 read:

16 "53-21-112. Voluntary admission of minors. (1)
17 Notwithstanding any other provision of law, a minor who is
18 16 years of age or older may consent to receive mental
19 health services to be rendered by:

- 20 (a) a facility that is not a state institution; or
- 21 (b) a person licensed to practice medicine or
22 psychology in this state.

23 (2) Except as provided by this section, the provisions
24 of 53-21-111 apply to the voluntary admission of a minor to
25 a mental health facility but not to the state hospital or

1 ~~the-Montana-youth-treatment-center.~~

2 (3) Except as provided by this subsection, voluntary
3 admission of a minor to a mental health facility for an
4 inpatient course of treatment shall be for the same period
5 of time as that for an adult. A minor voluntarily admitted
6 shall have the right to be released within 5 days of his
7 request as provided in 53-21-111(3). The minor himself may
8 make such request. Unless there has been a periodic review
9 and a voluntary readmission consented to by the minor
10 patient and his counsel, voluntary admission terminates at
11 the expiration of 1 year. Counsel shall be appointed for the
12 minor at the minor's request or at any time he is faced with
13 potential legal proceedings.

14 (4) If, in any application for voluntary admission for
15 any period of time to a mental health facility, a minor
16 fails to join in the consent of his parents or guardian to
17 the voluntary admission, then the application for admission
18 shall be treated as a petition for involuntary commitment.
19 Notice of the substance of this subsection and of the right
20 to counsel shall be set forth in conspicuous type in a
21 conspicuous location on any form or application used for the
22 voluntary admission of a minor to a mental health facility.
23 The notice shall be explained to the minor."

24 Section 13. Section 53-30-211, MCA, is amended to
25 read:

1 "53-30-211. Transfer of child to other facility or
 2 institution -- notice. The department of institutions upon
 3 recommendation of the superintendent of a facility may
 4 transfer a child resident in one of its juvenile facilities
 5 to any other facility or institution under the jurisdiction
 6 and control of the department. ~~However, except as provided~~
 7 ~~for in 53-21-1307, no youth may be transferred to the Montana~~
 8 ~~youth treatment center without following the commitment~~
 9 ~~procedures of 53-21-505."~~

10 NEW SECTION. SECTION 14. DEPARTMENT STUDY OF SALE
 11 FEASIBILITY OF OTHER FACILITIES. THE DEPARTMENT OF
 12 INSTITUTIONS SHALL STUDY THE FEASIBILITY OF SELLING OTHER
 13 FACILITIES UNDER ITS JURISDICTION AND TRANSFERRING THOSE
 14 FACILITIES AND THE PROGRAMS OPERATED THERE TO PRIVATE
 15 ENTITIES. IT SHALL SUBMIT TO THE LEGISLATURE A REPORT OF
 16 THIS STUDY, ALONG WITH ITS RECOMMENDATIONS, BY JANUARY 15,
 17 1987.

18 NEW SECTION. Section 15. Repealer. Sections
 19 53-21-164, 53-21-501, 53-21-502, and 53-21-505, MCA, are
 20 repealed.

21 NEW SECTION. Section 16. Severability. If a part of
 22 this act is invalid, all valid parts that are severable from
 23 the invalid part remain in effect. If a part of this act is
 24 invalid in one or more of its applications, the part remains
 25 in effect in all valid applications that are severable from

1 the invalid applications.

2 NEW SECTION. Section 17. Extension of authority. Any
 3 existing authority of the department of institutions to make
 4 rules on the subject of the provisions of this act is
 5 extended to the provisions of this act.

6 NEW SECTION. Section 18. Effective dates. Sections 1
 7 through 5, 14, and this section are effective on passage and
 8 approval. All other sections are effective on the date the
 9 deed of sale of the Montana youth treatment center from the
 10 board of land commissioners is ~~filed--by~~ DELIVERED TO the
 11 buyer ~~with the Yellowstone County clerk and recorder.~~

-End-