

HOUSE BILL NO. 127

INTRODUCED BY STICKNEY, DEVLIN, SPAETH, ADDY, ZOOK,
MOORE, HANSON, WHALEN, YELLOWTAIL, JOHNSON, REGAN, HANSEN

BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

IN THE HOUSE

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| JANUARY 11, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY. |
| JANUARY 12, 1989 | FIRST READING. |
| JANUARY 25, 1989 | COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. |
| JANUARY 26, 1989 | PRINTING REPORT. |
| JANUARY 27, 1989 | SECOND READING, DO PASS. |
| JANUARY 28, 1989 | ENGROSSING REPORT. |
| JANUARY 30, 1989 | THIRD READING, PASSED. AYES, 95; NOES, 4. |
| | TRANSMITTED TO SENATE. |

IN THE SENATE

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| JANUARY 31, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY. |
| | FIRST READING. |
| MARCH 7, 1989 | COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED. |
| MARCH 8, 1989 | SECOND READING, CONCURRED IN. |
| MARCH 10, 1989 | THIRD READING, CONCURRED IN. AYES, 47; NOES, 1. |

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 11, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *127*
2 INTRODUCED BY *Richard Nelson*
3 *Moore* BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES *Bill Johnson*
4 *M. Hansen* *Whalen* *Yellowtail* *Johnston* *Boyle*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO LOWER THE MAXIMUM
6 AGE FOR JURISDICTION OF THE YOUTH COURT AND THE DEPARTMENT
7 OF FAMILY SERVICES FROM AGE 21 TO AGE 19; AMENDING SECTIONS
8 41-5-203, 41-5-205, 53-30-202, 53-30-208, 53-30-212, AND
9 53-30-227, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN
10 IMMEDIATE EFFECTIVE DATE."

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

13 **Section 1.** Section 41-5-203, MCA, is amended to read:

14 "41-5-203. Jurisdiction of the court. (1) Except as
15 provided in subsection (2), the court has exclusive original
16 jurisdiction of all proceedings under the Montana Youth
17 Court Act in which a youth is alleged to be a delinquent
18 youth, a youth in need of supervision, or a youth in need of
19 care or concerning any person under 21 19 years of age
20 charged with having violated any law of the state or
21 ordinance of any city or town other than a traffic or fish
22 and game law prior to having become 18 years of age.

23 (2) Justice, municipal, and city courts have
24 concurrent jurisdiction with the youth court over all
25 alcoholic beverage violations alleged to have been committed

1 by a youth."

2 **Section 2.** Section 41-5-205, MCA, is amended to read:

3 "41-5-205. Retention of jurisdiction. Once a court
4 obtains jurisdiction over a youth, the court retains
5 jurisdiction unless terminated by the court or by mandatory
6 termination in the following cases:

7 (1) at the time the proceedings are transferred to
8 adult criminal court;

9 (2) at the time the youth is discharged by the
10 department; and

11 (3) in any event, at the time the youth reaches the
12 age of 21 19 years."

13 **Section 3.** Section 53-30-202, MCA, is amended to read:

14 "53-30-202. Establishment of youth correctional
15 facilities. The department of family services, within the
16 annual or biennial budgetary appropriation, may establish,
17 maintain, and operate facilities to properly diagnose, care
18 for, train, educate, and rehabilitate children in need of
19 these services. The children must be 10 years of age or
20 older and under 21 19 years of age. The facilities include
21 but are not limited to the Mountain View school and the Pine
22 Hills school."

23 **Section 4.** Section 53-30-208, MCA, is amended to read:

24 "53-30-208. Maximum age of commitment. No child who
25 has attained the age of 18 years shall be committed by any

1 youth court to the department of family services, except,
 2 however, that any person under 21 19 years who prior to
 3 attaining the age of 18 years came under the jurisdiction of
 4 the youth court by reason of delinquent conduct and whose
 5 adjudication of delinquency, ~~including the finding that~~
 6 ~~commitment to some institution was necessary,~~ is not made
 7 until after the child reaches the age of 18 years ~~shall~~ may
 8 be committed to the department of family services. The
 9 ~~department shall then have the obligation to test and~~
 10 ~~evaluate the person to determine the proper place of~~
 11 ~~detention for the person, who shall thereupon be confined at~~
 12 ~~that institution until the person shall have attained the~~
 13 ~~age of 21 years unless sooner discharged by the department."~~

14 **Section 5.** Section 53-30-212, MCA, is amended to read:
 15 "53-30-212. Commutation of sentence to state prison
 16 and transfer of prisoner to youth correctional facility or
 17 Swan River forest camp. (1) Upon the application of a person
 18 under 21 19 years of age who has been sentenced to the state
 19 prison or upon the application of his parents or guardian,
 20 the governor may, after consulting with the department of
 21 institutions and the department of family services and with
 22 the approval of the board of pardons, commute the sentence
 23 by committing such person to the department of family
 24 services until he is 21 19 years of age or until sooner
 25 placed or discharged.

1 (2) If such person's behavior after being committed to
 2 the department of family services indicates that he is not a
 3 proper person to reside at one of the youth correctional
 4 facilities, the governor, after consulting with the
 5 department of institutions and the department of family
 6 services and with the approval of the board of pardons, may
 7 revoke the commutation and return him to the state prison to
 8 serve out his unexpired term, and the time spent by him at
 9 one of the youth correctional facilities or while a refugee
 10 from one of the youth correctional facilities shall not be
 11 considered as a part of his original sentence.

12 (3) Upon recommendation of the warden and with the
 13 approval of the department of institutions and the
 14 department of family services, a person under 21 19 years of
 15 age who has been sentenced to the state prison may be
 16 transferred to any youth correctional facility under the
 17 jurisdiction and control of the department of family
 18 services.

19 (4) Upon recommendation of the warden and approval of
 20 a person sentenced to the state prison or application of a
 21 person sentenced to the state prison and approval of the
 22 warden and with the approval of the department of
 23 institutions, such person sentenced to the state prison who
 24 is 25 years of age or younger may be transferred to the Swan
 25 River forest camp. Prior to departmental approval of the

transfer, the person must undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.

(5) If such person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he might be released on parole or his sentence be commuted and he be discharged from custody, the superintendent of such facility, with the approval of the department of institutions and the department of family services in the case of a youth correctional facility or with the approval of the department of institutions in the case of the Swan River forest camp, may make an appropriate recommendation to the board of pardons and the governor, who may in their discretion parole such person or commute his sentence.

(6) If such person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he is not a proper person to reside in such facility, upon recommendation of the superintendent and with the approval of the department of institutions and the department of family services in the case of a youth

correctional facility or with the approval of the department of institutions in the case of the Swan River forest camp, such person shall be returned to the state prison to serve out his unexpired term."

Section 6. Section 53-30-227, MCA, is amended to read:

"53-30-227. Control over minor youth released under aftercare agreement. The department of family services has control over a ~~child~~ youth released under 53-30-226 until he attains the age of ~~21~~ 19 years, unless the youth is discharged by the department before age 19. ~~subject,~~ however, However, the youth is subject to the general jurisdiction of the various courts of Montana for acts committed by the ~~child~~ youth while under the control of the department."

Section 7. Applicability. [This act] applies to proceedings begun on or after May 1, 1989.

Section 8. Effective date. [This act] is effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 127

INTRODUCED BY STICKNEY, DEVLIN, SPAETH, ADDY, ZOOK,
MOORE, HANSON, WHALEN, YELLOWTAIL, JOHNSON, REGAN, HANSEN
BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO LOWER THE MAXIMUM
AGE FOR JURISDICTION OF THE YOUTH COURT AND THE DEPARTMENT
OF FAMILY SERVICES FROM AGE 21 TO AGE 19; AMENDING SECTIONS
41-5-203, 41-5-205, 53-30-202, 53-30-208, 53-30-212, AND
53-30-227, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN
IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 41-5-203, MCA, is amended to read:

"41-5-203. Jurisdiction of the court. (1) Except as
provided in subsection (2), the court has exclusive original
jurisdiction of all proceedings under the Montana Youth
Court Act in which a youth is alleged to be a delinquent
youth, a youth in need of supervision, or a youth in need of
care or concerning any person under 21 19 years of age
charged with having violated any law of the state or
ordinance of any city or town other than a traffic or fish
and game law prior to having become 18 years of age;

(2) Justice, municipal, and city courts have
concurrent jurisdiction with the youth court over all

alcoholic beverage violations alleged to have been committed
by a youth."

Section 2. Section 41-5-205, MCA, is amended to read:

"41-5-205. Retention of jurisdiction. Once a court
obtains jurisdiction over a youth, the court retains
jurisdiction unless terminated by the court or by mandatory
termination in the following cases:

(1) at the time the proceedings are transferred to
adult criminal court;

(2) at the time the youth is discharged by the
department; and

(3) in any event, at the time the youth reaches the
age of 21 19 years."

Section 1. Section 53-30-202, MCA, is amended to read:

"53-30-202. Establishment of youth correctional
facilities. The department of family services, within the
annual or biennial budgetary appropriation, may establish,
maintain, and operate facilities to properly diagnose, care
for, train, educate, and rehabilitate children in need of
these services. The children must be 10 years of age or
older and under 21 19 years of age. The facilities include
but are not limited to the Mountain View school and the Pine
Hills school."

Section 2. Section 53-30-208, MCA, is amended to read:

"53-30-208. Maximum age of commitment. No child who

1 has attained the age of 18 years shall be committed by any
 2 youth court to the department of family services, except,
 3 however, that any person under 21 19 years who prior to
 4 attaining the age of 18 years came under the jurisdiction of
 5 the youth court by reason of delinquent conduct and whose
 6 adjudication of delinquency, ~~including the finding that~~
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 10 ~~department shall then have the obligation to test and~~
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 12 ~~detention for the person, who shall thereupon be confined at~~
 13 ~~that institution until the person shall have attained the~~
 14 ~~age of 21 years unless sooner discharged by the department."~~

15 **Section 3.** Section 53-30-212, MCA, is amended to read:

16 "53-30-212. Commutation of sentence to state prison
 17 and transfer of prisoner to youth correctional facility or
 18 Swan River forest camp. (1) Upon the application of a person
 19 under 21 19 years of age who has been sentenced to the state
 20 prison or upon the application of his parents or guardian,
 21 the governor may, after consulting with the department of
 22 institutions and the department of family services and with
 23 the approval of the board of pardons, commute the sentence
 24 by committing such person to the department of family
 25 services until he is 21 19 years of age or until sooner

1 placed or discharged.

2 (2) If such person's behavior after being committed to
 3 the department of family services indicates that he is not a
 4 proper person to reside at one of the youth correctional
 5 facilities, the governor, after consulting with the
 6 department of institutions and the department of family
 7 services and with the approval of the board of pardons, may
 8 revoke the commutation and return him to the state prison to
 9 serve out his unexpired term, and the time spent by him at
 10 one of the youth correctional facilities or while a refugee
 11 from one of the youth correctional facilities shall not be
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 14 approval of the department of institutions and the
 15 department of family services, a person under 21 19 years of
 16 age who has been sentenced to the state prison may be
 17 transferred to any youth correctional facility under the
 18 jurisdiction and control of the department of family
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 21 a person sentenced to the state prison or application of a
 22 person sentenced to the state prison and approval of the
 23 warden and with the approval of the department of
 24 institutions, such person sentenced to the state prison who
 25 is 25 years of age or younger may be transferred to the Swan

River forest camp. Prior to departmental approval of the transfer, the person must undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.

(5) If such person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he might be released on parole or his sentence be commuted and he be discharged from custody, the superintendent of such facility, with the approval of the department of institutions and the department of family services in the case of a youth correctional facility or with the approval of the department of institutions in the case of the Swan River forest camp, may make an appropriate recommendation to the board of pardons and the governor, who may in their discretion parole such person or commute his sentence.

(6) If such person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he is not a proper person to reside in such facility, upon recommendation of the superintendent and with the approval of the department of institutions and the

department of family services in the case of a youth correctional facility or with the approval of the department of institutions in the case of the Swan River forest camp, such person shall be returned to the state prison to serve out his unexpired term."

Section 4. Section 53-30-227, MCA, is amended to read:

"53-30-227. Control over minor youth released under aftercare agreement. The department of family services has control over a child youth released under 53-30-226 until he attains the age of 21 19 years; unless the youth is discharged by the department before age 19. subject, however, However, the youth is subject to the general jurisdiction of the various courts of Montana for acts committed by the child youth while under the control of the department."

NEW SECTION. Section 5. Applicability. [This act] applies to proceedings begun on or after May JUNE 1, 1989.

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

-End-

HOUSE BILL NO. 127

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provided in subsection (2), the court has exclusive original
jurisdiction of all proceedings under the Montana Youth
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youth, a youth in need of supervision, or a youth in need of
care or concerning any person under 21 19 years of age
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and game law prior to having become 18 years of age.
(2) Justice, municipal, and city courts have
concurrent jurisdiction with the youth court over all

alcoholic beverage violations alleged to have been committed
by a youth."

Section 2. Section 41-5-205, MCA, is amended to read:
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obtains jurisdiction over a youth, the court retains
jurisdiction unless terminated by the court or by mandatory
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(1) at the time the proceedings are transferred to
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but are not limited to the Mountain View school and the Pine
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Section 2. Section 53-30-208, MCA, is amended to read:
"53-30-208. Maximum age of commitment. No child who

has attained the age of 18 years shall be committed by any youth court to the department of family services, except, however, that any person under 21 19 years who prior to attaining the age of 18 years came under the jurisdiction of the youth court by reason of delinquent conduct and whose adjudication of delinquency, ~~including the finding that commitment to some institution was necessary,~~ is not made until after the child reaches the age of 18 years shall may be committed to the department of family services. ~~The department shall then have the obligation to test and evaluate the person to determine the proper place of detention for the person, who shall thereupon be confined at that institution until the person shall have attained the age of 21 years unless sooner discharged by the department.~~"

Section 3. Section 53-30-212, MCA, is amended to read:

"53-30-212. Commutation of sentence to state prison and transfer of prisoner to youth correctional facility or Swan River forest camp. (1) Upon the application of a person under 21 19 years of age who has been sentenced to the state prison or upon the application of his parents or guardian, the governor may, after consulting with the department of institutions and the department of family services and with the approval of the board of pardons, commute the sentence by committing such person to the department of family services until he is 21 19 years of age or until sooner

placed or discharged.

(2) If such person's behavior after being committed to the department of family services indicates that he is not a proper person to reside at one of the youth correctional facilities, the governor, after consulting with the department of institutions and the department of family services and with the approval of the board of pardons, may revoke the commutation and return him to the state prison to serve out his unexpired term, and the time spent by him at one of the youth correctional facilities or while a refugee from one of the youth correctional facilities shall not be considered as a part of his original sentence.

(3) Upon recommendation of the warden and with the approval of the department of institutions and the department of family services, a person under 21 19 years of age who has been sentenced to the state prison may be transferred to any youth correctional facility under the jurisdiction and control of the department of family services.

(4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a person sentenced to the state prison and approval of the warden and with the approval of the department of institutions, such person sentenced to the state prison who is 25 years of age or younger may be transferred to the Swan

River forest camp. Prior to departmental approval of the transfer, the person must undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.

(5) If such person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he might be released on parole or his sentence be commuted and he be discharged from custody, the superintendent of such facility, with the approval of the department of institutions and the department of family services in the case of a youth correctional facility or with the approval of the department of institutions in the case of the Swan River forest camp, may make an appropriate recommendation to the board of pardons and the governor, who may in their discretion parole such person or commute his sentence.

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