

HOUSE BILL NO. 152

INTRODUCED BY ADDY

BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

IN THE HOUSE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
JANUARY 25, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 26, 1989	PRINTING REPORT.
JANUARY 28, 1989	SECOND READING, DO PASS.
JANUARY 30, 1989	ENGROSSING REPORT.
JANUARY 31, 1989	THIRD READING, PASSED. AYES, 97; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 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, 48; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 11, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 152
2 INTRODUCED BY Adley
3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE YOUTH
6 COURT TO COMMIT DELINQUENT YOUTHS AND YOUTHS IN NEED OF
7 SUPERVISION TO MENTAL HEALTH FACILITIES AND ESTABLISHING THE
8 PROCEDURES FOR SUCH COMMITMENTS; AMENDING SECTION 41-5-523,
9 MCA; AND PROVIDING AN EFFECTIVE DATE."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 **Section 1.** Section 41-5-523, MCA, is amended to read:
13 **"41-5-523. Disposition of delinquent youth and youth**
14 **in need of supervision.** (1) If a youth is found to be
15 delinquent or in need of supervision, the youth court may
16 enter its judgment making any of the following dispositions:
17 (a) place the youth on probation;
18 (b) commit the youth to the department. The department
19 shall thereafter determine the appropriate placement,
20 supervision, and rehabilitation program for the youth after
21 considering the recommendation of the youth placement
22 committee as provided in 41-5-527; provided, however, that:
23 (i) in the case of a youth in need of supervision,
24 such commitment does not authorize the department to place
25 the youth in a state youth correctional facility. The court

1 shall determine whether continuation in the home would be
2 contrary to the welfare of the child and whether reasonable
3 efforts have been made to prevent or eliminate the need for
4 removal of the child from his home. The court shall include
5 such determination in the order committing the youth to the
6 department.
7 (ii) in the case of a delinquent youth who is a serious
8 juvenile offender, the judge may specify that the youth be
9 placed in physical confinement in an appropriate facility
10 only if the judge finds that such confinement is necessary
11 for the protection of the public;
12 (iii) a youth may not be held in physical confinement
13 for a period of time in excess of the maximum period of
14 imprisonment that could be imposed on an adult convicted of
15 the offense or offenses that brought the youth under the
16 jurisdiction of the youth court. Nothing in this section
17 limits the power of the department to enter into an
18 aftercare agreement with the youth pursuant to 53-30-226.
19 (iv) a youth is under the supervision of a youth
20 probation officer, except that a youth placed in a youth
21 correctional facility is supervised by the department;
22 (c) order such further care and treatment or
23 evaluation that does not obligate funding from the
24 department without the department's approval;
25 (d) order restitution by the youth or his parents;

(e) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult;

(f) require the performance of community service;

(g) require the youth, his parents, his guardians, or the persons having legal custody of the youth to receive counseling services;

(h) require the medical and psychological evaluation of the youth, his parents, his guardians, or the persons having legal custody of the youth;

(i) require the parents, guardians, or other persons having legal custody of the youth to furnish such services as the court may designate; or

(j) commit the youth to a mental health facility if, based upon the testimony of a professional person as defined in 53-21-102, the court finds 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. Upon release or discharge from the mental health facility, the youth must be returned to the court for further disposition in accordance with this section unless the court order has expired or the court no longer retains jurisdiction under 41-5-205.

~~(j)~~(k) such further care, treatment, evaluation, or relief that the court considers beneficial to the youth and

the community.

(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 a 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 for a period not to exceed 45 days. The department shall determine the place and manner of evaluation.

(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.

(4) 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.

(5) Any order of the court may be modified at any time. In the case of a youth committed to the department, an order pertaining to the youth may be modified only upon notice to the department and subsequent hearing.

(6) 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.

1 (7) The order of commitment to the department shall
2 read as follows:

1 effective July 1, 1989.

-End-

3 ORDER OF COMMITMENT

4 State of Montana)

5) ss.

6 County of)

7 In the district court for the Judicial District.

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

12 It is ordered that be committed to the department
13 of family services until

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

16 Name	Address	Occupation
17		
18		

19 The names and addresses of their nearest relatives are:
20
21

22 Witness my hand this day of, A.D. 19...
23

24 Judge"

25 NEW SECTION. **Section 2.** Effective date. [This act] is

APPROVED BY COMMITTEE
ON JUDICIARY

1 House BILL NO. 152
2 INTRODUCED BY Adley
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8 PROCEDURES FOR SUCH COMMITMENTS; AMENDING SECTION 41-5-523,
9 MCA; AND PROVIDING AN EFFECTIVE DATE."
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 **Section 1.** Section 41-5-523, MCA, is amended to read:
13 **"41-5-523. Disposition of delinquent youth and youth**
14 **in need of supervision.** (1) If a youth is found to be
15 delinquent or in need of supervision, the youth court may
16 enter its judgment making any of the following dispositions:
17 (a) place the youth on probation;
18 (b) commit the youth to the department. The department
19 shall thereafter determine the appropriate placement,
20 supervision, and rehabilitation program for the youth after
21 considering the recommendation of the youth placement
22 committee as provided in 41-5-527; provided, however, that:
23 (i) in the case of a youth in need of supervision,
24 such commitment does not authorize the department to place
25 the youth in a state youth correctional facility. The court

1 shall determine whether continuation in the home would be
2 contrary to the welfare of the child and whether reasonable
3 efforts have been made to prevent or eliminate the need for
4 removal of the child from his home. The court shall include
5 such determination in the order committing the youth to the
6 department.
7 (ii) in the case of a delinquent youth who is a serious
8 juvenile offender, the judge may specify that the youth be
9 placed in physical confinement in an appropriate facility
10 only if the judge finds that such confinement is necessary
11 for the protection of the public;
12 (iii) a youth may not be held in physical confinement
13 for a period of time in excess of the maximum period of
14 imprisonment that could be imposed on an adult convicted of
15 the offense or offenses that brought the youth under the
16 jurisdiction of the youth court. Nothing in this section
17 limits the power of the department to enter into an
18 aftercare agreement with the youth pursuant to 53-30-226.
19 (iv) a youth is under the supervision of a youth
20 probation officer, except that a youth placed in a youth
21 correctional facility is supervised by the department;
22 (c) order such further care and treatment or
23 evaluation that does not obligate funding from the
24 department without the department's approval;
25 (d) order restitution by the youth or his parents;

1 (e) impose a fine as authorized by law if the
2 violation alleged would constitute a criminal offense if
3 committed by an adult;

4 (f) require the performance of community service;

5 (g) require the youth, his parents, his guardians, or
6 the persons having legal custody of the youth to receive
7 counseling services;

8 (h) require the medical and psychological evaluation
9 of the youth, his parents, his guardians, or the persons
10 having legal custody of the youth;

11 (i) require the parents, guardians, or other persons
12 having legal custody of the youth to furnish such services
13 as the court may designate; or

14 (j) commit the youth to a mental health facility if,
15 based upon the testimony of a professional person as defined
16 in 53-21-102, the court finds that the youth is seriously
17 mentally ill as defined in 53-21-102. The youth is entitled
18 to all rights provided by 53-21-114 through 53-21-119. Upon
19 release or discharge from the mental health facility, the
20 youth must be returned to the court for further disposition
21 in accordance with this section unless the court order has
22 expired or the court no longer retains jurisdiction under
23 41-5-205.

24 ~~††~~(k) such further care, treatment, evaluation, or
25 relief that the court considers beneficial to the youth and

1 the community.

2 (2) At any time after the youth has been taken into
3 custody, the court may, with the consent of the youth in the
4 manner provided in 41-5-303 for consent by a youth to a
5 waiver of his constitutional rights or after the youth has
6 been adjudicated delinquent or in need of supervision, order
7 the youth to be evaluated by the department for a period not
8 to exceed 45 days. The department shall determine the place
9 and manner of evaluation.

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

13 (4) No youth may be committed or transferred to a
14 penal institution or other facility used for the execution
15 of sentence of adult persons convicted of crimes.

16 (5) Any order of the court may be modified at any
17 time. In the case of a youth committed to the department, an
18 order pertaining to the youth may be modified only upon
19 notice to the department and subsequent hearing.

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

1 [7] The order of commitment to the department shall
2 read as follows:

1 effective July 1, 1989.

-End-

3 ORDER OF COMMITMENT

4 State of Montana)

5) ss.

6 County of)

7 In the district court for the Judicial District.

8 On the day of, 19..,, a minor of this
9 county, years of age, was brought before me charged
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11 person to be committed to the department of family services.

12 It is ordered that be committed to the department
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14 The names, addresses, and occupations of the parents
15 are:

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19 The names and addresses of their nearest relatives are:
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25 NEW SECTION. **Section 2.** Effective date. [This act] is

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