

1 HOUSE BILL NO. 113

2 INTRODUCED BY MCCULLOCH

3 BY REQUEST OF THE JUVENILE JUSTICE AND MENTAL HEALTH STUDY COMMISSION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A JUDICIAL DISTRICT JUVENILE PILOT
6 PROJECT FOR A FAMILY-FOCUSED COURT SYSTEM AND COMMUNITY COORDINATION; CREATING
7 YOUTH ASSESSMENT PLACEMENTS, FAMILY ASSESSMENTS, AND ASSESSMENT OFFICERS TO
8 EVALUATE THE STRENGTHS AND NEEDS OF A YOUTH AND THE FAMILY OF A YOUTH BROUGHT TO
9 THE ATTENTION OF YOUTH COURT; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
10 SERVICES TO LICENSE YOUTH ASSESSMENT PLACEMENTS; DEFINING "VICTIMS" AND OTHER TERMS;
11 ALLOWING THE APPOINTMENT OF JUDGES PRO TEMPORE OR SPECIAL MASTERS FOR YOUTH COURT
12 PRELIMINARY MATTERS; PROVIDING FOR YOUTH ASSESSMENT PLACEMENTS FOR PLACEMENTS PRIOR
13 TO ADJUDICATION AND FOR DISPOSITION; PROVIDING CRITERIA FOR YOUTH ASSESSMENT
14 PLACEMENTS; IDENTIFYING THE TYPES OF PLACEMENTS ALLOWED FOR ASSESSMENT; AMENDING
15 SECTIONS 41-3-1102, 41-3-1103, 41-5-103, 41-5-201, 41-5-301, 41-5-303, 41-5-305, 41-5-306,
16 41-5-401, 41-5-403, 41-5-522, AND 41-5-523, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
17 AND A TERMINATION DATE."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20
21 NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the
22 "Family-Focused Court System and Community Coordination Pilot Project Act".

23
24 NEW SECTION. **Section 2. Purpose.** (1) It is the purpose of [sections 1 through 9] to enable
25 communities to better coordinate fragmented services to youth who are currently being served by many
26 agencies and who are impacting the courts at varying levels. Youth who are coming into contact with the
27 youth court have many needs that must be addressed in a coordinated way. A youth's issues must not
28 be ignored until they come to the attention of the juvenile justice system for an alleged criminal offense,
29 but must be addressed at the first indication of trouble. These first indications are often truancy, running
30 away, and other offenses that are offenses because of the youth's age.

1 (2) The legislature finds that balanced and restorative justice principles provide guidance for the
2 purposes of the pilot projects provided for in [section 3] for holding youth accountable for their actions,
3 providing protection to the community, and developing competency skills for youth and their families.

4 (3) The legislature finds that a youth's parents and family are an integral part of a youth's life and
5 that assessment of the strengths and needs of the family are vital in the assessment of the youth's
6 strengths and needs.

7 (4) The legislature finds that a fragmented system does not hold the youth accountable for the
8 youth's actions, the family accountable for their responsibilities, or the state and local agencies accountable
9 for their responsibilities. All agencies and the family need to work in concert to address the youth's
10 problems.

11 (5) The legislature finds that the pilot projects are intended to respect the unique needs of rural and
12 urban counties and single-judge and multijudge judicial districts and to provide for flexibility at the county
13 level within the judicial district.

14
15 **NEW SECTION. Section 3. Judicial district juvenile pilot project for family-focused court system**
16 **and community coordination.** (1) There is a judicial district juvenile pilot project program. A pilot project
17 is administered within a judicial district and must consist of:

18 (a) a community team providing a single point of entry for youth, including but not limited to
19 delinquent youth, youth in need of supervision, and abused or neglected youth;

20 (b) a youth assessment program to coordinate youth assessment placements;

21 (c) a family assessment coordination team; and

22 (d) a judge pro tempore, special master, or research assistant.

23 (2) There may be more than one pilot project.

24 (3) A community team shall designate a youth assessment program, including the location where
25 all youth are taken upon referral and the location for youth assessment placements. A youth assessment
26 program may be staffed for up to 24 hours a day. A community team shall develop procedures for a youth
27 assessment program including:

28 (a) a preliminary screening;

29 (b) an indepth assessment, if the preliminary screening determines a need;

30 (c) assignment of a child to a family assessment coordination team; and

1 (d) immediate notification of parents upon referral of a child.

2 (4) A family assessment coordination team is a multidisciplinary team of community professionals
3 and families that meet on a regular basis to assess, plan, and staff the needs of referred youth.

4 (5) A community team shall operate within the parameters established in the written cooperative
5 agreement of agencies as provided in [section 5].

6
7 **NEW SECTION. Section 4. Community team -- authority -- duties and responsibilities.** (1) Each
8 judicial district that participates in the pilot project shall designate a community team.

9 (2) The members of a community team must include:

10 (a) a chief juvenile probation officer or designee;

11 (b) a representative of the department of corrections;

12 (c) a representative of the school district;

13 (d) a child protective services representative of the department of public health and human
14 services;

15 (e) a representative of the public mental health program;

16 (f) a representative of law enforcement; and

17 (g) a person, preferably an Indian, knowledgeable about Indian culture and family matters, including
18 but not limited to a representative from a tribal court or reservation or an Indian representative from the
19 community.

20 (3) Other members may be added to the community team by majority vote.

21 (4) A member of a community team who represents an agency must be authorized by the agency
22 to commit resources and make decisions on behalf of the agency.

23 (5) The community team may be a county interdisciplinary child information team, as provided in
24 52-2-211, or a local interagency staffing group, as provided in 52-2-203, if the members listed in
25 subsection (2) of this section who are not represented on any group are added to the team and the written
26 agreement is entered into for the purposes of the pilot project.

27 (6) The community team is responsible for:

28 (a) developing and approving a written cooperative agreement as provided in [section 5];

29 (b) determining the location of the youth assessment program;

30 (c) coordinating funding and decisionmaking for the implementation of the recommendations of the

1 family assessment coordination teams; and

2 (d) coordinating victim programs and involvement.

3

4 **NEW SECTION. Section 5. Written cooperative agreement.** (1) All members of a community team
5 shall sign a written cooperative agreement.

6 (2) The written cooperative agreement must include:

7 (a) a defined commitment from each member of staff time and types of resources to be devoted
8 to the support of the community team and family assessment coordination teams;

9 (b) defined responsibilities of each agency represented on the community team;

10 (c) flexible funding strategies, pooling of resources, and strategies for the provision of services to
11 the youth as expeditiously as possible;

12 (d) a determination of which youth are eligible for referral and from which agencies youth may be
13 referred;

14 (e) a listing of resources that the family assessment coordination teams can access to provide
15 services to the youth and to the family;

16 (f) policies and procedures to provide the greatest possible involvement of parents and families in
17 the assessment process;

18 (g) policies and procedures to address the concerns and wishes of parents and families;

19 (h) provisions for recognizing the rights of victims and the procedures by which the concerns of
20 victims will be addressed and by which victims will be included in information sharing; and

21 (i) a commitment to incorporate the principles of community protection, youth accountability, and
22 competency development in the pilot project and an explanation of how the principles will be incorporated.

23 (3) The terms of the written agreement must state how the community team and its family
24 assessment coordination teams will coordinate their efforts with the county interdisciplinary child
25 information teams as provided in 52-2-211, interdisciplinary child protective teams as provided in 41-3-108,
26 youth placement committees as provided in 41-5-525, and court-appointed special advocates. A written
27 agreement under this section may be coordinated with a cooperative agreement as provided in 52-2-203.

28 (4) For purposes of this section, the youth court is designated as the lead agency in coordinating
29 a written agreement for the purposes of developing a community team and family assessment coordination
30 teams.

1 **NEW SECTION. Section 6. Family assessment coordination teams -- duties.** (1) Each community
2 team is responsible for appointing one or more family assessment coordination teams.

3 (2) The members of a family assessment coordination team must be representatives from each
4 state and local agency that the youth or the youth's family is involved with from the groups represented
5 on the community team.

6 (3) The leader of the family assessment coordination team is the member from the agency that first
7 had contact with the youth or the member from the agency that received the most recent referral,
8 whichever the community team designates.

9 (4) The family assessment coordination team may be:

10 (a) a youth placement committee, as provided in 41-5-525;

11 (b) an interdisciplinary child protective team, as provided in 41-3-108; or

12 (c) an auxiliary team of the county interdisciplinary child information team, as provided in 52-2-211.

13 (5) The family assessment coordination team is responsible for:

14 (a) the overall administration of the youth assessment program and designation of the agency with
15 administrative duties;

16 (b) meeting on a regular basis to assess, plan for, and staff the needs of the youth referred to the
17 pilot project;

18 (c) assisting the youth court and other state and local agencies in determining the most appropriate
19 disposition for a youth in order to hold the youth accountable, to protect the community, and to give the
20 youth the opportunity to develop competency skills that address the youth's and the youth's family's
21 strengths and needs.

22
23 **NEW SECTION. Section 7. Referrals to pilot project.** (1) Any agency that is a member of a
24 community team may refer a youth to a youth assessment program.

25 (2) A parent or school representative may refer a youth who appears to be a youth in need of
26 supervision, as defined in 41-5-103, to a youth assessment program for preliminary screening by an
27 assessment officer. The family assessment coordination team must determine whether the youth qualifies
28 for indepth assessment.

29 (3) The procedures for referral from an agency represented on a community team and for referral
30 from a parent must be set forth in a written cooperative agreement. Provisions must be made for after-hour

1 referrals if the youth assessment program is not open 24 hours a day.

2 (4) When a referral is made by any person other than a youth's parent or legal guardian, the parent
3 or legal guardian must be notified immediately. Every attempt must be made to involve a parent in the
4 process. If the parent refuses to participate, the family assessment coordination team shall proceed with
5 the process for assessment and disposition as provided in 41-5-301, shall report their findings to the
6 parents, and shall place a report of the parental notification and response in the youth's file.

7
8 **NEW SECTION. Section 8. Courts.** (1) (a) If a child is referred to a youth assessment program
9 through a city court, municipal court, justice's court, or youth court for any reason, the district court may
10 assign a judge pro tempore or special master, as provided in 41-5-201, to assist the community team.

11 (b) A judge pro tempore or special master appointed for the purpose of the judicial district juvenile
12 pilot project must have education or experience in human services.

13 (c) A district court may appoint a research assistant with education or experience in human
14 services to assist a community team.

15 (2) In a judicial district with more than one judge, all court actions, such as dissolution of marriage,
16 child support, child protective services, and youth court proceedings, involving a family member must be
17 assigned to a single judge, judge pro tempore, or special master.

18 (3) All charges from a single incident involving a youth must be assigned to the same court.
19 Notification procedures between courts must be developed by the community team.

20 (4) The judicial district juvenile pilot project may be coordinated with the court assessment project
21 administered through the supreme court.

22
23 **NEW SECTION. Section 9. Administration -- oversight -- procedures.** (1) Subject to the availability
24 of funds, the crime control division of the department of justice shall establish a request for proposal
25 process to allow judicial districts to apply for the judicial district juvenile pilot project. If more than one pilot
26 project is pursued, the allocation of pilot projects must be evenly divided between urban and rural judicial
27 districts. A multijudge judicial district must be considered an urban judicial district. A single-judge judicial
28 district must be considered a rural judicial district.

29 (2) The request for proposals must require the submittal of all of the information to be included in
30 a written cooperative agreement under [section 5] and letters of support from the county commissioners

1 of the counties and the district court judges in a judicial district.

2 (3) The crime control division shall oversee the program and upon termination of the pilot project
3 shall prepare a report to the governor, the legislature, and the public regarding the success of each pilot
4 project as measured by:

5 (a) the members of the community team;

6 (b) the members of the family assessment coordination team;

7 (c) youth and families involved in the pilot project;

8 (d) a summary enumerating the youth who entered the pilot project, the disposition of the youth's
9 cases, the services rendered to the youth, and the progress of the youth at annual increments following
10 disposition.

11 (4) The crime control division is responsible for coordinating the development of a preliminary
12 screening instrument and indepth assessment guidelines and procedures with the department of corrections
13 and the department of public health and human services based on existing tools and resources and for
14 providing that information to each judicial district that is awarded a pilot project.

15

16 **Section 10.** Section 41-3-1102, MCA, is amended to read:

17 **"41-3-1102. Definitions.** For the purposes of this part, the following definitions apply:

18 (1) "Child-care agency" means a youth care facility in which substitute care is provided to 13 or
19 more children or youth.

20 (2) "Department" means the department of public health and human services provided for in
21 2-15-2201.

22 (3) "Foster child" means a person under 18 years of age who has been placed by the department
23 in a licensed youth foster home.

24 (4) "Operator of a youth care facility" means a person owning or operating a youth care facility
25 into which the operator takes any child or children for the purpose of caring for them and maintaining them
26 and for which care and maintenance the operator receives money or other consideration of value and which
27 child is neither the operator's son, daughter, nor ward, except that this part does not apply when any
28 person accepts the care and custody of a child on a temporary basis and simply as a temporary
29 accommodation for the parent or parents, guardian, or relative of the child.

30 (5) "Person" means any individual, partnership, voluntary association, or corporation.

1 (6) "Respite care" means the provision of temporary, short-term supervision or care of a foster
 2 child, in an emergency or on an intermittent basis, to provide foster parents relief from the daily care
 3 requirements of a foster child whose mental or physical condition requires special or intensive supervision
 4 or care. Respite care includes but is not limited to homemaker services, child care, and emergency care
 5 either in the home or out of the home.

6 (7) "Respite care provider" means a person who meets the qualifications and requirements
 7 established by the department to provide respite care under 41-3-1151.

8 (8) "Substitute care" means full-time care of youth in a residential setting for the purpose of
 9 providing food, shelter, security and safety, guidance, direction, and if necessary, treatment to youth who
 10 are removed from or without the care and supervision of their parents or guardian.

11 (9) "Youth assessment placement" has the meaning provided in 41-5-103.

12 ~~(9)~~(10) "Youth care facility" means a facility licensed by the department or by the appropriate
 13 licensing authority in another state and in which facility substitute care is provided to youth. The term
 14 includes youth foster homes, youth group homes, ~~and~~ child-care agencies, and youth assessment
 15 placements.

16 ~~(10)~~(11) "Youth foster home" means a youth care facility in which substitute care is provided to
 17 one to six children or youth other than the foster parents' own children, stepchildren, or wards.

18 ~~(11)~~(12) "Youth group home" means a youth care facility in which substitute care is provided to
 19 7 to 12 children or youth."
 20

21 **Section 11.** Section 41-3-1103, MCA, is amended to read:

22 **"41-3-1103. Powers and duties of department.** (1) The department shall:

23 (a) administer all state and federal funds allocated to the department for youth foster homes, youth
 24 group homes, ~~and~~ child-care agencies, and youth assessment placements for youth in need of care, as
 25 defined in ~~41-5-103~~ 41-3-102;

26 (b) ~~exercise licensing authority over~~ license all youth foster homes, youth group homes, ~~and~~
 27 child-care agencies, and youth assessment placements;

28 (c) collect and disseminate information relating to youth in need of care;

29 (d) provide for training of program personnel delivering services;

30 (e) in cooperation with youth care facility providers, develop and implement standards for youth

1 care facilities;

2 (f) maintain adequate data on placements it funds in order to keep the legislature properly informed
3 of the following:

4 (i) the number of youth in need of care in out-of-home care facilities;

5 (ii) the cost per facility for services rendered;

6 (iii) the type and level of care of services provided by each facility;

7 (iv) a profile of out-of-home care placements by level of care; and

8 (v) a profile of public institutional placements; and

9 (g) administer all funds allocated to the department for residential alcohol and drug abuse treatment
10 for indigent ~~youths~~ youth in need of care, indigent ~~youths~~ youth in need of supervision, and indigent
11 delinquent ~~youths~~ youth who require treatment.

12 (2) The department may:

13 (a) enter into contracts with nonprofit corporations or associations or private organizations to
14 provide substitute care for youth in need of care in youth care facilities;

15 (b) accept gifts, grants, and donations of money and property from public and private sources to
16 initiate and maintain community-based services to youth;

17 (c) adopt rules to carry out the administration and purposes of this part.

18 (3) The department shall pay for room, board, clothing, personal needs, transportation, and
19 treatment in youth foster care homes and youth group homes for ~~youths~~ youth committed to the
20 department who need to be placed in the facilities. Payments for the clothing of a child placed in a youth
21 foster home must be provided to the extent the child needs a basic wardrobe or has a special clothing need.
22 Payments under this subsection may not exceed appropriations for the purposes of this subsection."
23

24 **Section 12.** Section 41-5-103, MCA, is amended to read:

25 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires
26 otherwise, the following definitions apply:

27 (1) "Adult" means an individual who is 18 years of age or older.

28 (2) "Agency" means any entity of state or local government authorized by law to be responsible
29 for the care or rehabilitation of youth.

30 (3) "Assessment officer" means a person who is authorized by the court to provide initial intake

1 and evaluation for a youth who appears to be in need of supervision as indicated by:

2 (a) the committing of an offense that would not be a criminal offense if committed by an adult; and

3 (b) referral from a parent or guardian, a school representative, or a law enforcement officer.

4 ~~(3)~~(4) "Commit" means to transfer to legal custody.

5 ~~(4)~~(5) "Correctional facility" means a public or private residential facility used for the placement
6 of delinquent youth or individuals convicted of criminal offenses.

7 ~~(5)~~(6) "Court", when used without further qualification, means the youth court of the district court.

8 ~~(6)~~(7) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the
9 youth has been given but does not include a person who has only physical custody.

10 ~~(7)~~(8) "Delinquent youth" means a youth:

11 (a) who has committed an offense that, if committed by an adult, would constitute a criminal
12 offense; or

13 (b) who, having been placed on probation as a delinquent youth or a youth in need of supervision,
14 violates any condition of probation.

15 ~~(8)~~(9) "Department" means the department of corrections provided for in 2-15-2301.

16 ~~(9)~~(10) "Detention" means the holding or temporary placement of a youth in the youth's home
17 under home arrest or in a facility other than the youth's own home for the purpose of ensuring the
18 continued custody of the youth at any time after the youth is taken into custody and before final disposition
19 of the youth's case.

20 ~~(10)~~(11) "Detention facility" means a physically restricting facility designed to prevent a youth from
21 departing at will. The term includes a youth detention facility, short-term detention center, and regional
22 detention facility.

23 (12) "Family" means the parents, guardians, legal custodians, and siblings or other youth with
24 whom a youth ordinarily lives.

25 (13) "Family assessment" means an evaluation and assessment of a youth and a youth's family's
26 strengths and needs as determined through a multidisciplinary evaluation, including but not limited to a
27 chemical dependency evaluation, an education assessment, a mental health evaluation using the public
28 mental health program, family-based services, and other services provided by the department of public
29 health and human services or other state and local agencies.

30 ~~(11)~~(14) "Final disposition" means the implementation of a court order for the disposition or

1 placement of a youth as provided in 41-5-523.

2 ~~(12)~~(15) "Foster home" means a private residence licensed by the department of public health and
3 human services for placement of a youth.

4 ~~(13)~~(16) "Guardianship" means the status created and defined by law between a youth and an adult
5 with the reciprocal rights, duties, and responsibilities.

6 ~~(14)~~(17) "Holdover" means a room, office, building, or other place approved by the board of crime
7 control for the temporary detention and supervision of youth in a physically unrestricting setting for a period
8 not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an
9 appropriate detention or shelter care facility. The term does not include a jail.

10 ~~(15)~~(18) "Jail" means a facility used for the confinement of adults accused or convicted of criminal
11 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults
12 after arrest.

13 ~~(16)~~(19) "Judge", when used without further qualification, means the judge of the youth court.

14 ~~(17)~~(20) (a) "Legal custody" means the legal status created by order of a court of competent
15 jurisdiction that gives a person the right and duty to:

16 (i) have physical custody of the youth;

17 (ii) determine with whom the youth shall live and for what period;

18 (iii) protect, train, and discipline the youth; and

19 (iv) provide the youth with food, shelter, education, and ordinary medical care.

20 (b) An individual granted legal custody of a youth shall personally exercise the individual's rights
21 and duties as guardian unless otherwise authorized by the court entering the order.

22 ~~(18)~~(21) "Necessary parties" includes the youth, and the youth's parents, guardian, custodian, or
23 spouse.

24 ~~(19)~~(22) "Parent" means the natural or adoptive parent but does not include a person whose
25 parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth
26 unless the putative father's paternity is established by an adjudication or by other clear and convincing
27 proof.

28 ~~(20)~~(23) "Probable cause hearing" means the hearing provided for in 41-5-303.

29 ~~(21)~~(24) "Regional detention facility" means a youth detention facility established and maintained
30 by two or more counties, as authorized in 41-5-811.

1 ~~(22)~~(25) "Restitution" means payments in cash to the victim or with services to the victim or the
2 general community when these payments are made pursuant to an informal adjustment, consent decree,
3 or other youth court order.

4 ~~(23)~~(26) "Secure detention facility" means ~~any~~ a public or private facility that:

5 (a) is used for the temporary placement of youth or individuals accused or convicted of criminal
6 offenses; and

7 (b) is designed to physically restrict the movements and activities of youth or other individuals held
8 in lawful custody of the facility.

9 ~~(24)~~(27) "Serious juvenile offender" means a youth who has committed an offense that would be
10 considered a felony offense if committed by an adult and that is an offense against a person, an offense
11 against property, or an offense involving dangerous drugs.

12 ~~(25)~~(28) "Shelter care" means the temporary substitute care of youth in physically unrestricting
13 facilities.

14 ~~(26)~~(29) "Shelter care facility" means a facility used for the shelter care of youth. The term is
15 limited to the facilities enumerated in 41-5-306(1)(a).

16 ~~(27)~~(30) "Short-term detention center" means a detention facility licensed by the department for
17 the temporary placement or care of youth, for a period not to exceed 96 hours, pending a probable cause
18 hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment placement,
19 or shelter care facility.

20 ~~(28)~~(31) "State youth correctional facility" means a residential facility used for the placement and
21 rehabilitation of delinquent youth, such as the Pine Hills school in Miles City ~~and the Mountain View school~~
22 ~~in Helena.~~

23 ~~(29)~~(32) "Substitute care" means full-time care of youth in a residential setting for the purpose of
24 providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who
25 are removed from or are without the care and supervision of their parents or guardian.

26 (33) "Victim" means:

27 (a) a person who suffers property loss or damage, physical injury, or emotional injury as the result
28 of an offense committed by a youth that would be a felony offense if committed by an adult;

29 (b) an adult relative of the victim if the victim is a minor;

30 (c) an adult relative of a homicide victim.

1 ~~(30)~~(34) "Youth" means an individual who is less than 18 years of age without regard to sex or
2 emancipation.

3 (35) "Youth assessment placement" means a staff-secured location licensed by the department of
4 public health and human services in which a youth may be held for up to 10 days to ascertain the youth's
5 and the youth's family's strengths and needs, including but not limited to an assessment related to mental
6 health, chemical dependency, and abuse and neglect.

7 (36) "Youth care facility" has the meaning provided in 41-3-1102.

8 ~~(34)~~(37) "Youth court" means the court established pursuant to this chapter to hear all proceedings
9 in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of
10 care and includes the youth court judge and probation officers.

11 ~~(32)~~(38) "Youth detention facility" means a secure detention facility licensed by the department for
12 the temporary substitute care of youth that:

- 13 (a) is operated, administered, and staffed separately and independently of a jail; and
14 (b) is used exclusively for the lawful detention of alleged or adjudicated delinquent youth.

15 ~~(33)~~(39) "Youth in need of care" has the meaning provided for in 41-3-102.

16 ~~(34)~~(40) "Youth in need of supervision" means a youth who commits an offense prohibited by law
17 that, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth
18 who:

19 (a) violates any Montana municipal or state law regarding ~~use of~~ alcoholic beverages, tobacco
20 products, or gambling by minors;

21 (b) continues to exhibit behavior, including running away from home or habitual truancy, beyond
22 the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of
23 the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to
24 mediate, resolve, or control the youth's behavior; or

25 (c) has committed any of the acts of a delinquent youth but whom the youth court, in its
26 discretion, chooses to regard as a youth in need of supervision."

27

28 **Section 13.** Section 41-5-201, MCA, is amended to read:

29 **"41-5-201. Youth court judge -- judges pro tempore -- special masters.** (1) Each judicial district
30 in the state shall must have at least one judge of the youth court. ~~His, whose~~ duties shall be are to:

1 (a) appoint and supervise qualified personnel to staff the youth division probation departments
2 within the judicial district;

3 (b) conduct hearings on youth court proceedings under this chapter;

4 (c) perform any other functions consistent with the legislative purpose of this chapter.

5 (2) In each multijudge judicial district the judges shall, by court rule, designate one or more of their
6 number to act as youth court judge in each county in the judicial district for a fixed period of time. Service
7 as youth court judge may be rotated among the different judges of the judicial district and among the
8 individual counties within the judicial district for given periods of time. Continuity of service of a given judge
9 as youth court judge and continuity in the operation and policies of the youth court in the county having
10 the largest population in the judicial district ~~shall~~ must be the principal consideration of the rule.

11 (3) (a) A youth court judge may appoint a judge pro tempore or a special master to conduct
12 preliminary, nondispositive matters, including but not limited to hearings for probable cause or detention
13 and taking of responses for petitions.

14 (b) A judge pro tempore or special master must be a member of the state bar of Montana."
15

16 **Section 14.** Section 41-5-301, MCA, is amended to read:

17 **"41-5-301. Preliminary investigation and disposition.** (1) Whenever the court receives information
18 from any agency or person, based upon reasonable grounds, that a youth is or appears to be a delinquent
19 youth or a youth in need of supervision or, ~~being that the youth is~~ being that the youth is subject to a court order or consent order,
20 and has violated the terms of ~~an~~ the order, a probation officer or assessment officer shall make a
21 preliminary inquiry into the matter.

22 (2) The probation officer or assessment officer may:

23 (a) require the presence of any person relevant to the inquiry;

24 (b) request subpoenas from the judge to accomplish this purpose;

25 (c) require investigation of the matter by any law enforcement agency or any other appropriate
26 state or local agency.

27 (3) If the probation officer or assessment officer determines that the facts indicate that the youth
28 is a youth in need of care, the matter must be immediately referred to the department of public health and
29 human services.

30 (4) (a) The probation officer or assessment officer in the conduct of the preliminary inquiry shall:

1 (i) advise the youth of the youth's rights under this chapter and the constitutions of the state of
2 Montana and the United States;

3 (ii) determine whether the matter is within the jurisdiction of the court;

4 (iii) determine, if the youth is in detention, a youth assessment placement, or shelter care, whether
5 detention, youth assessment, or shelter care should be continued or modified based upon criteria set forth
6 in 41-5-305.

7 (b) Once relevant information is secured, the probation officer or assessment officer shall:

8 (i) determine whether the interest of the public or the youth requires that further action be taken;

9 (ii) terminate the inquiry upon the determination that no further action be taken; and

10 (iii) release the youth immediately upon the determination that the filing of a petition is not
11 authorized.

12 (5) The probation officer or assessment officer upon determining that further action is required
13 may:

14 (a) provide counseling, refer the youth and the youth's ~~parents~~ family to another agency providing
15 appropriate services, or take any other action or make any informal adjustment that does not involve
16 probation or detention;

17 (b) provide for treatment or adjustment involving probation or other disposition authorized under
18 41-5-401 through 41-5-403 if the treatment or adjustment is voluntarily accepted by the youth's parents
19 or guardian and the youth, if the matter is referred immediately to the county attorney for review, and if
20 the probation officer or assessment officer proceeds no further unless authorized by the county attorney;
21 or

22 (c) refer the matter to the county attorney for filing a petition to order placement of a youth in a
23 youth assessment placement for up to 10 days for further evaluation of the youth and the youth's family;
24 or

25 (d) refer the matter to the county attorney for filing a petition charging the youth to be a delinquent
26 youth or a youth in need of supervision.

27 (6) The county attorney may apply to the youth court for permission to file a petition charging a
28 youth to be a delinquent youth or a youth in need of supervision. The application must be supported by
29 evidence that the youth court may require. If it appears that there is probable cause to believe that the
30 allegations of the petition are true, the youth court shall grant leave to file the petition.

1 (7) A petition charging a youth held in detention or in a youth assessment placement must be filed
2 within 7 working days from the date the youth was first taken into custody or the petition must be
3 dismissed and the youth released unless good cause is shown to further detain the youth.

4 (8) If a petition is not filed under this section, the complainant and victim, if any, must be informed
5 by the probation officer or assessment officer of the action and the reasons for not filing and must be
6 advised of the right to submit the matter to the county attorney for review. The county attorney, upon
7 receiving a request for review, shall consider the facts, consult with the probation officer or assessment
8 officer, and make the final decision as to whether a petition is filed."

9
10 **Section 15.** Section 41-5-303, MCA, is amended to read:

11 **"41-5-303. Rights of youth taken into custody -- questioning -- hearing for probable cause --**
12 **detention.** (1) When a youth is taken into custody for questioning upon a matter that could result in a
13 petition alleging that the youth is either a delinquent youth or a youth in need of supervision or the youth
14 is in a youth assessment placement, the following requirements must be met:

15 (a) The youth must be advised of ~~his~~ the youth's right against self-incrimination and ~~his~~ the youth's
16 right to counsel.

17 (b) The youth may waive these rights under the following situations:

18 (i) when the youth is 16 years of age or older, the youth may make an effective waiver;

19 (ii) when the youth is under ~~the age of~~ 16 years of age and the youth and a parent or guardian
20 agree, they may make an effective waiver; and

21 (iii) when the youth is under ~~the age of~~ 16 years of age and the youth and ~~his~~ the youth's parent
22 or guardian do not agree, the youth may make an effective waiver only with advice of counsel.

23 (c) The investigating officer, probation officer, assessment officer, or person assigned to give notice
24 shall immediately notify the parents, guardian, or legal custodian of the youth that the youth has been taken
25 into custody, the reasons for taking the youth into custody, and where the youth is being held. If the
26 parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or friend
27 chosen by the youth must be notified.

28 (2) Unless a youth has been released, a hearing must be held within 24 hours after the youth is
29 taken into custody, excluding weekends and legal holidays, to determine whether there is probable cause
30 to believe that the youth is a delinquent youth or a youth in need of supervision.

1 (3) The probable cause hearing required under subsection (2) may be held by the youth court, a
 2 justice of the peace, a municipal or city judge, or a magistrate having jurisdiction in the case as provided
 3 in 41-5-203. If the probable cause hearing is held by a justice of the peace, a municipal or city judge, or
 4 a magistrate, a record of the hearing must be made by a court reporter or by a tape recording of the
 5 hearing.

6 (4) At the probable cause hearing, the youth must be informed of ~~he~~ the youth's constitutional
 7 rights and ~~he~~ the youth's rights under this chapter.

8 (5) A parent, guardian, or legal custodian of the youth may be held in contempt of court for failing
 9 to be present at or to participate in the probable cause hearing unless ~~he~~ the parent, guardian, or legal
 10 custodian:

11 (a) cannot be located through diligent efforts of the investigating peace officer or peace officers;
 12 or

13 (b) is excused by the court for good cause.

14 (6) At the probable cause hearing, a guardian ad litem may be appointed as provided in 41-5-512.

15 (7) If it is determined that there is probable cause to believe the youth is a delinquent youth or is
 16 a youth in need of supervision, the court having jurisdiction in the case shall determine whether the youth
 17 should be retained in custody. If the court determines that continued custody of the youth is necessary and
 18 if the youth meets the criteria in 41-5-305, the youth may be placed in a detention facility, a youth
 19 assessment placement, or a shelter care facility as provided in 41-5-306 but may not be placed in a jail or
 20 other facility used for the confinement of adults accused or convicted of criminal offenses.

21 (8) If probable cause is not found or if a probable cause hearing is not held within the time specified
 22 in subsection (2), the youth must be immediately released from custody."
 23

24 **Section 16.** Section 41-5-305, MCA, is amended to read:

25 **"41-5-305. Criteria for placement of youth in secure detention facilities, youth assessment**
 26 **placements, or shelter care facilities. (1) A youth may not be placed in a secure detention facility unless:**

27 (a) ~~he~~ the youth has allegedly committed an act that if committed by an adult would constitute a
 28 criminal offense and the alleged offense is one specified in 41-5-206;

29 (b) ~~he~~ the youth is alleged to be a delinquent youth and:

30 (i) ~~he~~ the youth has escaped from a correctional facility or secure detention facility;

1 (ii) ~~he~~ the youth has violated a valid court order or an aftercare agreement;

2 (iii) ~~his~~ the youth's detention is required to protect persons or property;

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

5 (v) there are not adequate assurances that ~~he~~ the youth will appear for court when required; or

6 (vi) ~~he~~ the youth meets additional criteria for secure detention established by the youth court in the
7 judicial district that has current jurisdiction over ~~him~~ the youth; or

8 (c) ~~he~~ the youth has been adjudicated delinquent and is awaiting final disposition of ~~his~~ the youth's
9 case.

10 (2) A youth may not be placed in a shelter care facility unless:

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

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

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

16 (d) shelter care is necessary to assess the youth and ~~his~~ the youth's environment;

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

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

20 (3) A youth may not be placed in a youth assessment placement unless:

21 (a) the youth meets the requirements for placement in shelter care;

22 (b) the youth has not committed an act that would be a felony offense if committed by an adult;

23 (c) the youth needs an alternative, staff-secured site for evaluation and assessment of the youth
24 and the youth's family's need for services;

25 (d) the youth needs to be held accountable for the youth's actions with structured programming;

26 and

27 (e) the youth meets qualifications as outlined by the placement guidelines that are determined by
28 the department and coordinated with the guidelines used by the youth placement committees."

29
30 **Section 17.** Section 41-5-306, MCA, is amended to read:

1 **"41-5-306. Place of shelter care, youth assessment, or detention.** (1) After a probable cause
2 hearing provided for in 41-5-303, a youth alleged to be a youth in need of supervision may be placed only:

3 ~~(a) in a licensed youth foster home as defined in 41-3-1102;~~

4 ~~(b) in a facility operated by a licensed child welfare agency;~~

5 ~~(c) in a licensed youth group home as defined in 41-3-1102; or~~

6 (a) in a licensed youth care facility as defined in 41-3-1102;

7 (b) in a youth assessment placement; or

8 ~~(d)(c) under home arrest, with or without a monitoring device, either in the youth's own home or~~
9 ~~in one of the facilities described in subsections (1)(a) through (1)(e)~~ a licensed youth care facility, as
10 provided in Title 46, chapter 18, part 10.

11 (2) A youth alleged to be a youth in need of care may be placed only ~~in the facilities listed in~~
12 ~~subsection (1)~~ by the department of public health and human services as provided in Title 41, chapter 3,
13 and may not be placed in a youth assessment placement or in a jail or other facility intended or used for
14 the confinement of adults accused or convicted of criminal offenses.

15 (3) After a probable cause hearing provided for in 41-5-303, a youth alleged to be a delinquent
16 youth may be placed only:

17 (a) in the facilities described in subsection (1);

18 (b) under home arrest as provided in subsection (1);

19 (c) in a short-term detention center;

20 (d) in a youth detention facility; or

21 (e) in a community youth court program."
22

23 **Section 18.** Section 41-5-401, MCA, is amended to read:

24 **"41-5-401. Consent adjustment without petition.** (1) Before a petition is filed, the probation officer
25 or an assessment officer may enter into an informal adjustment and give counsel and advice to the youth,
26 the youth's family, and other interested parties if it appears that:

27 (a) the admitted facts bring the case within the jurisdiction of the court;

28 (b) counsel and advice without filing a petition would be in the best interests of the child, the
29 family, and the public; and

30 (c) the youth may be a youth in need of supervision and if the probation officer believes that the

1 parents, foster parents, physical custodian, or guardian exerted all reasonable efforts to mediate, resolve,
 2 or control the youth's behavior and the youth continues to exhibit behavior beyond the control of the
 3 parents, foster parents, physical custodian, or guardian.

4 (2) If a petition to order placement of a youth in a youth assessment placement under 41-5-301
 5 is granted, a consent adjustment without petition may be entered into after the assessment period is
 6 completed and before a petition or consent decree is filed.

7 (3) Any probation or other disposition imposed under this section against any youth must conform
 8 to the following procedures:

9 (a) Every consent adjustment ~~shall~~ must be reduced to writing and signed by the youth and ~~his~~ the
 10 youth's parents or the person having legal custody of the youth.

11 (b) If the probation officer believes the youth is a youth in need of supervision, the probation officer
 12 or assessment officer shall determine that the parents, foster parents, physical custodian, or guardian
 13 exerted all reasonable efforts to mediate, resolve, or control the youth's behavior and the youth continues
 14 to exhibit behavior beyond the control of the parents, foster parents, physical custodian, or guardian.

15 (c) Approval by the youth court judge is required if the complaint alleges commission of a felony
 16 or if the youth has been or will be in any way detained."

17
 18 **Section 19.** Section 41-5-403, MCA, is amended to read:

19 **"41-5-403. Disposition permitted under informal adjustment -- contributions by parents or**
 20 **guardians for youth's care.** (1) The following dispositions may be imposed by informal adjustment:

21 (a) probation;

22 (b) placement of the youth in substitute care in a youth care facility, as defined in 41-3-1102, and
 23 ~~as determined by the department~~ pursuant to recommendations made by a youth placement committee
 24 referred to in 41-5-525;

25 (c) placement of the youth with a private agency responsible for the care and rehabilitation of the
 26 youth ~~as determined by the department~~ pursuant to recommendations made by a youth placement
 27 committee referred to in 41-5-525;

28 (d) restitution upon approval of the youth court judge;

29 (e) placement of the youth under home arrest as provided in Title 46, chapter 18, part 10;

30 (f) a requirement that the youth, the youth's parents, guardians, or family, or the persons having

1 legal custody of the youth receive counseling services;

2 (g) placement in youth a assessment placement for up to 10 days.

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

5 (a) age of the youth;

6 (b) ability of the youth to pay;

7 (c) ability of the parents, legal guardian, or persons contributing to the youth's delinquency or need
8 for supervision to pay;

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

10 (e) legal remedies of the victim. However, the ability of the victim or the victim's insurer to stand
11 any loss may not be considered in any case.

12 (3) If the youth violates an aftercare agreement as provided for in 52-5-126, the youth must be
13 returned to the court for further disposition. A youth may not be placed in a state youth correctional facility
14 under informal adjustment.

15 (4) If the youth is placed in substitute care requiring payment by the department, the court shall
16 examine the financial ability of the youth's parents or guardians to pay a contribution covering all or part
17 of the costs for the care, placement, and treatment of the youth, including the costs of necessary medical,
18 dental, and other health care.

19 (5) If the court determines that the youth's parents or guardians are financially able to pay a
20 contribution as provided in subsection (4), the court shall order the youth's parents or guardians to pay an
21 amount based on the uniform child support guidelines adopted by the department of public health and
22 human services pursuant to 40-5-209.

23 (6) (a) Except as provided in subsection (6)(b), contributions ordered under this section and each
24 modification of an existing order are enforceable by immediate or delinquency income withholding, or both,
25 under Title 40, chapter 5, part 4. An order for contribution that is inconsistent with this section is
26 nevertheless subject to withholding for the payment of the contribution without need for an amendment
27 of the support order or for any further action by the court.

28 (b) A court-ordered exception from contributions under this section must be in writing and be
29 included in the order. An exception from the immediate income withholding requirement may be granted
30 if the court finds there is:

- 1 (i) good cause not to require immediate income withholding; or
2 (ii) an alternative arrangement between the department and the person who is ordered to pay
3 contributions.
- 4 (c) A finding of good cause not to require immediate income withholding must, at a minimum, be
5 based upon:
- 6 (i) a written determination and explanation by the court of the reasons why the implementation of
7 immediate income withholding is not in the best interests of the child; and
8 (ii) proof of timely payment of previously ordered support in cases involving modification of
9 contributions ordered under this section.
- 10 (d) An alternative arrangement must:
- 11 (i) provide sufficient security to ensure compliance with the arrangement;
12 (ii) be in writing and be signed by a representative of the department and the person required to
13 make contributions; and
14 (iii) if approved by the court, be entered into the record of the proceeding.
- 15 (7) (a) If the court orders the payment of contributions under this section, the department shall
16 apply to the department of public health and human services for support enforcement services pursuant
17 to Title IV-D of the Social Security Act.
- 18 (b) The department of public health and human services may collect and enforce a contribution
19 order under this section by any means available under law, including the remedies provided for in Title 40,
20 chapter 5, parts 2 and 4."

21

22 **Section 20.** Section 41-5-522, MCA, is amended to read:

- 23 **"41-5-522. Dispositional hearing.** (1) As soon as practicable after a youth is found to be a
24 delinquent youth or a youth in need of supervision, the court shall conduct a dispositional hearing. The
25 dispositional hearing may involve a determination of the financial ability of the youth's parents or guardians
26 to pay a contribution for the cost of care, commitment, and treatment of the youth as required in 41-5-523.
- 27 (2) Before conducting the dispositional hearing, the court shall direct that a social summary, family
28 assessment, or predisposition report be made in writing by a probation officer concerning the youth, the
29 youth's family, the youth's environment, and other matters relevant to the need for care or rehabilitation
30 or disposition of the case. The youth court may have the youth examined, and the results of the

1 examination must be made available to the court as part of the social summary or predisposition report. The
2 court may order the examination of a parent or guardian whose ability to care for or supervise a youth is
3 at issue before the court. The results of the examination must be included in the social summary or
4 predisposition report. The youth or the youth's parents, guardian, or counsel has the right to subpoena all
5 persons who have prepared any portion of the social summary, family assessment, or predisposition report
6 and has the right to cross-examine the parties at the dispositional hearing.

7 (3) Defense counsel must be furnished with a copy of the social summary, family assessment, or
8 predisposition report and psychological report prior to the dispositional hearing.

9 (4) The dispositional hearing must be conducted in the manner set forth in subsections (3), (4), and
10 (5) of 41-5-521. The court shall hear all evidence relevant to a proper disposition of the case best serving
11 the interests of the youth and the public. The evidence must include but is not limited to the social
12 summary, family assessment, and predisposition report provided for in subsection (2) of this section.

13 (5) If the court finds that it is in the best interest of the youth, the youth or the youth's parents
14 or guardian may be temporarily excluded from the hearing during the taking of evidence on the issues of
15 need for treatment and rehabilitation.

16 (6) In determining whether restitution, as authorized by 41-5-523, is appropriate in a particular
17 case, the following factors may be considered in addition to any other evidence:

18 (a) age of the youth;

19 (b) ability of the youth to pay;

20 (c) ability of the parents, legal guardian, or those that contributed to the youth's delinquency or
21 need for supervision to pay;

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

23 (e) legal remedies of the victim. However, the ability of the victim or the victim's insurer to stand
24 any loss may not be considered in any case."

25
26 **Section 21. Section 41-5-523, MCA, is amended to read:**

27 **"41-5-523. Disposition -- sentence to correctional facility -- commitment to department --**
28 **placement and evaluation of youth -- restrictions.** (1) If a youth is found to be a delinquent youth or a youth
29 in need of supervision, the youth court may enter its judgment making one or more of the following
30 dispositions:

- 1 (a) retain jurisdiction in a disposition provided under subsection (1)(b) or (1)(d);
- 2 (b) place the youth on probation;
- 3 (c) subject to subsections (1)(n)(i), (2)(a), (2)(b), and (6), sentence a youth to one of the state
4 youth correctional facilities established under 52-5-101 and, as part of the sentence, deny the youth
5 eligibility for release without the express approval of the sentencing judge until the youth reaches 18 years
6 of age. A youth may not be sentenced to a state youth correctional facility unless the department informs
7 the judge that space is available for the youth at that facility. The sentencing judge may not place
8 limitations on the release unless recommended by the youth placement committee.
- 9 (d) require a youth found to be delinquent to register as a sex offender pursuant to 46-18-254 and
10 46-23-506;
- 11 (e) place the youth in an in-state residence that ensures that the youth is accountable, provides
12 for rehabilitation, and protects the public. Before placement, the sentencing judge shall seek and consider
13 placement recommendations from the youth placement committee. The judge may not place the youth in
14 an in-state residence unless the department informs the judge that resources are available for placement
15 of the youth at that residence.
- 16 (f) commit the youth to the department. In an order committing a youth to the department:
- 17 (i) the court shall determine whether continuation in the youth's own home would be contrary to
18 the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need
19 for removal of the youth from the youth's home;
- 20 (ii) in the case of a delinquent youth who is determined by the court to be a serious juvenile
21 offender, the judge may specify that the youth be placed in a state youth correctional facility if the judge
22 finds that the placement is necessary for the protection of the public. The court may order the department
23 to notify the court within 5 working days before the proposed release of a youth from a youth correctional
24 facility. Once a youth is committed to the department for placement in a state youth correctional facility,
25 the department is responsible for determining an appropriate date of release into an appropriate placement.
- 26 (g) order restitution by the youth or the youth's parents;
- 27 (h) impose a fine as authorized by law if the violation alleged would constitute a criminal offense
28 if committed by an adult;
- 29 (i) require the performance of community service;
- 30 (j) require the youth, the youth's parents or guardians, or the persons having legal custody of the

1 youth to receive counseling services;

2 (k) require the medical and psychological evaluation of the youth, the youth's parents or guardians,
3 or the persons having legal custody of the youth;

4 (l) require the parents, guardians, or other persons having legal custody of the youth to furnish
5 services the court may designate;

6 (m) order further care, treatment, evaluation, or relief that the court considers beneficial to the
7 youth and the community and that does not obligate funding from the department for services outside the
8 state of Montana without the department's approval, except that a youth may not be placed by a youth
9 court in a residential treatment facility as defined in 50-5-101. Only the department may, pursuant to
10 subsection (1)(f), place a youth in a residential treatment facility.

11 (n) commit the youth to a mental health facility if, based upon the testimony of a professional
12 person as defined in 53-21-102, the court finds that the youth is seriously mentally ill as defined in
13 53-21-102. The youth is entitled to all rights provided by 53-21-114 through 53-21-119.

14 (i) A youth adjudicated mentally ill or seriously mentally ill as defined in 53-21-102 may not be
15 committed or sentenced to a state youth correctional facility.

16 (ii) A youth adjudicated to be mentally ill or seriously mentally ill after placement in or sentencing
17 to a state youth correctional facility must be moved to a more appropriate placement in response to the
18 youth's mental health needs and consistent with the disposition alternatives available in 53-21-127.

19 (o) place the youth under home arrest as provided in Title 46, chapter 18, part 10-;

20 (p) order placement of a youth in a youth assessment placement for up to 10 days.

21 (2) When a youth is committed to the department, the department shall determine the appropriate
22 placement and rehabilitation program for the youth after considering the recommendations made under
23 41-5-527 by the youth placement committee. Placement is subject to the following limitations:

24 (a) A youth in need of supervision or adjudicated delinquent for commission of an act that would
25 not be a criminal offense if committed by an adult may not be placed in a state youth correctional facility.

26 (b) A youth may not be held in a state youth correctional facility for a period of time in excess of
27 the maximum period of imprisonment that could be imposed on an adult convicted of the offense or
28 offenses that brought the youth under the jurisdiction of the youth court. This section does not limit the
29 power of the department to enter into an aftercare agreement with the youth pursuant to 52-5-126.

30 (c) A youth may not be placed in or transferred to a penal institution or other facility used for the

1 execution of sentence of adults convicted of crimes.

2 (3) A youth placed in a state youth correctional facility or other facility or program operated by the
3 department or who signs an aftercare agreement under 52-5-126 must be supervised by the department.
4 A youth who is placed in any other placement by the department, the youth court, or the youth court's
5 juvenile probation officer must be supervised by the probation officer of the youth court having jurisdiction
6 over the youth under 41-5-205 whether or not the youth is committed to the department. Supervision by
7 the youth probation officer includes but is not limited to:

8 (a) submitting information and documentation necessary for the person, committee, or team that
9 is making the placement recommendation to determine an appropriate placement for the youth;

10 (b) securing approval for payment of special education costs from the youth's school district of
11 residence or the office of public instruction, as required in Title 20, chapter 7, part 4;

12 (c) submitting an application to a facility in which the youth may be placed; and

13 (d) case management of the youth.

14 (4) The youth court may order a youth to receive a medical or psychological evaluation at any time
15 prior to final disposition if the youth waives the youth's constitutional rights in the manner provided for in
16 41-5-303. The county determined by the court as the residence of the youth is responsible for the cost of
17 the evaluation, except as provided in subsection (5). A county may contract with the department or other
18 public or private agencies to obtain evaluation services ordered by the court.

19 (5) The youth court shall determine the financial ability of the youth's parents to pay the cost of
20 an evaluation ordered by the court under subsection (4). If they are financially able, the court shall order
21 the youth's parents to pay all or part of the cost of the evaluation.

22 (6) The youth court may not order placement or evaluation of a youth at a state youth correctional
23 facility unless the youth is found to be a delinquent youth or is alleged to have committed an offense that
24 is transferable to criminal court under 41-5-206.

25 (7) An evaluation of a youth may not be performed at the Montana state hospital unless the youth
26 is transferred to the district court under 41-5-206, 41-5-208, or 41-5-1105.

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

30 (9) Whenever the court commits a youth to the department, it shall transmit with the dispositional

1 judgment copies of medical reports, social history material, family assessment material, education records,
2 and any other clinical, predisposition, or other reports and information pertinent to the care and treatment
3 of the youth.

4 (10) If a youth is committed to the department, the court shall examine the financial ability of the
5 youth's parents or guardians to pay a contribution covering all or part of the costs for the care,
6 commitment, and treatment of the youth, including the costs of necessary medical, dental, and other health
7 care.

8 (11) If the court determines that the youth's parents or guardians are financially able to pay a
9 contribution as provided in subsection (10), the court shall order the youth's parents or guardians to pay
10 an amount based on the uniform child support guidelines adopted by the department of public health and
11 human services pursuant to 40-5-209.

12 (12) (a) Except as provided in subsection (12)(b), contributions ordered under this section and each
13 modification of an existing order are enforceable by immediate or delinquency income withholding, or both,
14 under Title 40, chapter 5, part 4. An order for contribution that is inconsistent with this section is
15 nevertheless subject to withholding for the payment of the contribution without need for an amendment
16 of the support order or for any further action by the court.

17 (b) A court-ordered exception from contributions under this section must be in writing and be
18 included in the order. An exception from the immediate income withholding requirement may be granted
19 if the court finds there is:

20 (i) good cause not to require immediate income withholding; or

21 (ii) an alternative arrangement between the department and the person who is ordered to pay
22 contributions.

23 (c) A finding of good cause not to require immediate income withholding must, at a minimum, be
24 based upon:

25 (i) a written determination and explanation by the court of the reasons why the implementation of
26 immediate income withholding is not in the best interests of the youth; and

27 (ii) proof of timely payment of previously ordered support in cases involving modification of
28 contributions ordered under this section.

29 (d) An alternative arrangement must:

30 (i) provide sufficient security to ensure compliance with the arrangement;

1 (ii) be in writing and be signed by a representative of the department and the person required to
2 make contributions; and

3 (iii) if approved by the court, be entered into the record of the proceeding.

4 (13) Upon a showing of a change in the financial ability of the youth's parents or guardians to pay,
5 the court may modify its order for the payment of contributions required under subsection (11).

6 (14) (a) If the court orders the payment of contributions under this section, the department shall
7 apply to the department of public health and human services for support enforcement services pursuant
8 to Title IV-D of the Social Security Act.

9 (b) The department of public health and human services may collect and enforce a contribution
10 order under this section by any means available under law, including the remedies provided for in Title 40,
11 chapter 5, parts 2 and 4."

12

13 **NEW SECTION.** **Section 22. Codification instruction.** [Sections 1 through 9] are intended to be
14 codified as an integral part of Title 41, chapter 5, and the provisions of Title 41, chapter 5, apply to
15 [sections 1 through 9].

16

17 **NEW SECTION.** **Section 23. Coordination instruction.** If __ Bill No. __ [LC 0229] is passed and
18 approved and if it includes sections that amend 41-3-1102, 41-3-1103, 41-5-103, 41-5-201, 41-5-301,
19 41-5-303, 41-5-305, 41-5-306, 41-5-401, 41-5-403, 41-5-522, and 41-5-523, then [sections 10 through
20 21 of this act], amending 41-3-1102, 41-3-1103, 41-5-103, 41-5-201, 41-5-301, 41-5-303, 41-5-305,
21 41-5-306, 41-5-401, 41-5-403, 41-5-522, and 41-5-523, are void.

22

23 **NEW SECTION.** **Section 24. Effective date.** [This act] is effective on passage and approval.

24

25 **NEW SECTION.** **Section 25. Termination.** [This act] terminates June 30, 2001.

26

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0113, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act providing for a judicial district juvenile pilot project for a family-focused court system and community coordination; creating youth assessment placements, family assessments, and assessment officers to evaluate the strengths and needs of a youth and the family of a youth brought to the attention of youth court; requiring the Department of Public Health and Human Services to license youth assessment placements; defining "victims" and other terms; allowing the appointment of judges pro tempore or special masters for youth court preliminary matters; providing for youth assessment placements for placements prior to adjudication and for disposition; providing criteria for youth assessment placements; and identifying the types of placements allowed for assessment.

ASSUMPTIONS:

JUDICIARY:

1. The results of this legislation may require additional specialized training for District Court Judges. If the team approach presented in this bill requires that District Court Judges obtain specific expertise in an area, then specialized training may be necessary. The cost of such training cannot be estimated at this time.
2. The state funded Judiciary is responsible for District Court Judges salaries, travel, and training. These expenses would not increase as a result of this legislation.
3. The court assessment project referred to in Section 8, part 4 of this bill (page 6) is a five year federal program that requires a 25 percent general fund match. It is anticipated that the objectives of this program will be achieved by the end of fiscal 1999.
4. The results of this legislation will not increase the workload or expenses incurred by the court assessment program.
5. Per the assumptions above, no fiscal impact is anticipated for the Judiciary. Specific training costs, if necessary, cannot be estimated at this time.

DEPARTMENT OF CORRECTIONS (DOC):

6. The DOC proposal in the Executive Budget to grant approximately \$5.4 million of juvenile placement funds to Judicial Districts is approved.
7. All assessment services proposed by this bill would then be funded via this granting process as a part of the continuum of services offered to youth in need of intervention.
8. All administrative costs associated with this pilot project will be the responsibility of the Department of Justice, Crime Control Division and/or the Judicial Districts.
9. DOC representation on Community Teams will take the place of time spent leading Youth Placement Committees currently.
10. Based on the assumptions above, this bill has no fiscal impact to the DOC.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (DPHHS):

11. A contract for services will be necessary to prepare the licensing rules and policies. The contract will require full time effort for 3 months. The cost of the contract is estimated based on the salary for an entry level position at grade 16 (\$29,607/2,080 hours per year = \$14.23 per hour), and is assumed to cover 520 hours of effort (2,080/4). This yields a total cost for the contract of \$7,400 (\$14.23 X 520) in fiscal 1998.
12. Licensing and related work will require 0.50 FTE at grade 14 for up to 4 pilot projects. It is assumed that the 0.50 FTE would not start until rule making is complete. (Fiscal year 1998 FTE are 0.50 X .75 = 0.38.)

(Continued)

Dave Lewis 1-16-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Linda McCulloch 1/17/97
LINDA MCCULLOCH, PRIMARY SPONSOR DATE

Fiscal Note for HB0113, as introduced

HB113

(continued)

13. Two changes to the Child and Adult Protective Services (CAPS) computer system will be necessary in fiscal year 1998 to accommodate a new license type, at a cost of \$5,200.
14. The 0.50 FTE will require a personal computer (\$2,500), office supplies and furniture (\$500), and operating costs for network fees (\$40 per month). The computers and office supplies and furniture will be purchased in fiscal 1998. Network fees will total \$360 in fiscal 1998 (\$40 X 9 months X per partial FTE) and \$480 in fiscal 1999 (\$40 X 12 months X FTE).
15. Except for CAPS costs which are funded 50% general fund and 50% Title IV-E federal funds, all other costs are funded 80% general fund and 20% Title IV-E federal funds

FISCAL IMPACT:

DPHHS:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.38	0.50
Personal Services	10,926	14,568
Operating Costs	12,960	480
Equipment	<u>3,000</u>	<u>0</u>
Total	26,886	15,048
 <u>Funding:</u>		
General Fund (01)	19,949	12,038
Federal Funds (03)	<u>6,937</u>	<u>3,010</u>
Total	26,886	15,048
 <u>Net Impact on Fund Balance:</u>		
General Fund (01)	(19,949)	(12,038)