

MONTANA JUDICIAL BRANCH JDAI Information

Bob Peake, Bureau Chief
Youth Court Services
Office of Court Administrator
rpeake@mt.gov

The Juvenile Detention Alternatives Initiative (JDAI) was launched in 1992 by the Annie E. Casey Foundation. The main objective is to reduce the number of youth who are inappropriately detained without jeopardizing community safety.

- When determining whether a youth should be detained, three questions should be considered:
 - Is the youth an immediate threat to person or property?
 - Is the youth a threat to abscond?
 - Has the youth violated a valid court order?

- Law enforcement makes the initial decision about whether to detain or arrest a juvenile. The following statutes guide the decision:
 - **41-5-341. Criteria for placement of youth in secure detention facilities.** A youth may be placed in a secure detention facility only if the youth:
 - (1) has allegedly committed an act that if committed by an adult would constitute a criminal offense and the alleged offense is one specified in [41-5-206](#);
 - (2) is alleged to be a delinquent youth and:
 - (a) has escaped from a correctional facility or secure detention facility;
 - (b) has violated a valid court order or a parole agreement;
 - (c) the youth's detention is required to protect persons or property;
 - (d) the youth has pending court or administrative action or is awaiting a transfer to another jurisdiction and may abscond or be removed from the jurisdiction of the court;
 - (e) there are not adequate assurances that the youth will appear for court when required; or
 - (f) the youth meets additional criteria for secure detention established by the youth court in the judicial district that has current jurisdiction over the youth; or
 - (3) has been adjudicated delinquent and is awaiting final disposition of the youth's case.

- **41-5-322. Release from custody -- detention -- shelter care.** (1) Whenever a peace officer believes, on reasonable grounds, that a youth can be released to a responsible person, the peace officer may release the youth to that person upon receiving a written promise from the person to bring the youth before the juvenile probation officer at a time and place specified in the written promise, or a peace officer may release the youth under any other reasonable circumstances.

(2) Whenever the peace officer believes, on reasonable grounds, that the youth must be detained, the peace officer shall notify the juvenile probation officer immediately and shall, as soon as practicable, provide the juvenile probation officer with a written report of the peace officer's reasons for holding the youth in detention. If it is necessary to hold the youth pending appearance before the youth court, then the youth must be held in a place of detention, as provided in [41-5-348](#), that is approved by the youth court.

(3) If the peace officer believes that the youth must be sheltered, the peace officer shall notify the juvenile probation officer immediately and shall provide a written report of the peace officer's reasons for placing the youth in shelter care. If the youth is then held, the youth must be placed in a shelter care facility approved by the youth court.

- JDAI concentrates on developing community –specific alternatives to detention, which provides law enforcement the flexibility needed when a juvenile arrest is made.
 - Most detention alternatives are paid for with Prevention Incentive Funds (PIF) through the Montana Supreme Court /Youth Courts. Alternatives across the state include GPS and Electronic Monitoring, Day and Evening Reporting Centers, Shelter Care and House Arrest.
 - With community-specific alternatives in place, a youth should seldom be incarcerated for a misdemeanor offense with the exception of assault, partner or family member assault, or a violation of a formal court order.
 - Those offenses underlined in 41-5-206, MCA should be the standard utilized by JDAI sites for incarcerating a youth.
 - **41-5-206. Filing in district court prior to formal proceedings in youth court.** (1) The county attorney may, in the county attorney's discretion and in accordance with the procedure provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:
 - (a) the youth charged was 12 years of age or older at the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

(i) sexual intercourse without consent as defined in 45-5-503;
(ii) deliberate homicide as defined in 45-5-102;
(iii) mitigated deliberate homicide as defined in 45-5-103;
(iv) assault on a peace officer or judicial officer as defined in 45-5-210; or
(v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either deliberate or mitigated deliberate homicide; or
(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:
(i) negligent homicide as defined in 45-5-104;
(ii) arson as defined in 45-6-103;
(iii) aggravated assault as defined in 45-5-202;
(iv) sexual assault as provided in 45-5-502(3);
(v) assault with a weapon as defined in 45-5-213;
(vi) robbery as defined in 45-5-401;
(vii) burglary or aggravated burglary as defined in 45-6-204;
(viii) aggravated kidnapping as defined in 45-5-303;
(ix) possession of explosives as defined in 45-8-335;
(x) criminal distribution of dangerous drugs as defined in 45-9-101;
(xi) criminal possession of dangerous drugs as defined in 45-9-102(4) through (6);
(xii) criminal possession with intent to distribute as defined in 45-9-103(1);
(xiii) criminal production or manufacture of dangerous drugs as defined in 45-9-110;
(xiv) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership as defined in 45-8-403;
(xv) escape as defined in 45-7-306;
(xvi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through (1)(b)(xv).

- Communities benefit greatly from implementing community alternatives to detention. Some of the greatest benefits include:
 - Keeping low-risk juveniles out of high-end services. Extensive research has shown that detaining low-level juvenile offenders exposes them to higher-risk youth, which is a risk factor for increasing criminal behavior. It's similar to throwing a shallow-end swimmer into the deep end of the pool– they either sink or learn to swim – neither of which is a good option for reducing juvenile crime.

- Keeping a youth attached to school or education. Youth who are not detained remain in school and are not at risk of falling behind or further behind in the classroom. One of the strongest protective factors identified for youth is attachment to school or education.
- Reduction in county expenses as detention costs should decrease. Detention costs range from \$190 to \$235.75 per day and it is the responsibility of counties to pay the costs (MCA, 41-5-1807). Counties could see cost savings if youth not needing detention were monitored in an alternative manner.
- Local law enforcement agencies could implement local policies to work with the JDAI recommendations. Alternatives need to be available but through partnerships with Youth Court and others, it can successful.
- A model JDAI policy is attached.

**Juvenile Detention Alternative Initiative
Policies & Procedures (Draft Model Policy)**

Subject: Detention	Policy No.: Example
Chapter: 41-5 et al, MCA, Youth Court Act	Pages: 2
Section:	Effective Date:

1.0 Policy

Youth should only be placed in secure detention if they are an immediate threat to person or property, or they may abscond. As a general rule, the only offenses which should be considered detainable should be misdemeanor assault, or partner or family member assault and those felonies listed in 41-5-206, MCA.

2.0 Definitions

"Detention" is defined in 41-5-103(14), MCA.

"Detention Facility" is defined in 41-5-103(15), MCA.

"Monitoring Device" is an electronic device defined in 46-18-1001(3), MCA.

"Youth Court Employee" means a person employed as a state employee by the Youth Court of a District Court.

3.0 Secure Detention

Each county must have a method of providing and paying for youth detention services. Detention services must meet the standards for education and medical care defined in the Youth Court Act. Pursuant to 41-5-1807, MCA, all costs for the detention of a youth in a detention facility, including medical costs incurred by the youth during detention, must be paid by the youth's county of origin.

Youth Court employees may not be involved in the management of a secure juvenile detention facility. A District Court Judge may authorize a Youth Court employee to sit on an advisory board or other similar policy-making board if requested by county detention officials.

4.0 Detention Alternatives

Counties and individual judicial districts should work together to provide pre-dispositional alternatives to detention. County funds provided for in 41-5-1803, MCA, along with juvenile program funding provided for in 41-5-130, MCA or 41-5-2012, MCA

should be utilized to pay for services and programs that can be utilized as alternatives to detention.

JDAI committees shall work together to create alternatives to detention that do not jeopardize community safety, but will allow for the immediate release of an arrested youth to the custody of a responsible adult. Alternatives may include shelter care, monitoring device, non-secure holdover programs or other similar programs.

Arrangements for an immediate release of an arrested youth to a responsible adult should be a top priority of the JDAI committee so law enforcement officials can return to assigned duties as quickly as possible. Programs should be developed in each community that includes a contact list of responsible persons willing to take custody of a youth if a parent or other family member is not immediately available.