

SENATE BILL NO. 146

INTRODUCED BY J. SHOCKLEY

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND THE SUPREME COURT

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE JUVENILE DELINQUENCY INTERVENTION ACT AND RELATED PROVISIONS; CLARIFYING THE PURPOSE OF THE ACT; REVISING THE DUTIES OF THE DEPARTMENT OF CORRECTIONS, THE OFFICE OF COURT ADMINISTRATOR, THE COST CONTAINMENT REVIEW PANEL, THE DISTRICT COURT COUNCIL, AND YOUTH COURTS RELATING TO IMPLEMENTATION OF THE JUVENILE DELINQUENCY INTERVENTION PROGRAM; REQUIRING JUDICIAL DISTRICTS TO PARTICIPATE IN THE JUVENILE DELINQUENCY INTERVENTION PROGRAM; REVISING THE DEPARTMENT OF CORRECTIONS' RULEMAKING AUTHORITY; REQUIRING THE DISTRICT COURT COUNCIL TO ADOPT CERTAIN POLICIES AND PROCEDURES; REMOVING COUNTIES' OBLIGATION TO PAY CERTAIN COSTS RELATED TO JUVENILE OUT-OF-HOME PLACEMENTS, PROGRAMS, AND SERVICES; AMENDING SECTIONS 41-5-103, 41-5-112, 41-5-121, 41-5-124, 41-5-130, 41-5-131, 41-5-132, 41-5-1503, 41-5-1512, 41-5-1513, 41-5-1522, 41-5-1523, 41-5-2002, 41-5-2003, 41-5-2004, 41-5-2005, 41-5-2006, 41-5-2011, 52-5-109, AND 53-1-203, MCA; REPEALING SECTIONS 41-5-104 AND 41-5-123, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Restrictions on use of funds. (1) Funds available to a judicial district under 41-5-130, 41-5-132, or [section 20] may not be used to:

- (a) pay salary, benefits, or training costs of a federal, state, or county employee;
- (b) purchase items for a federal, state, or county agency that the agency would normally provide for its employees;
- (c) support a program or service previously paid for by another source, except as provided in subsection (2); or
- (d) construct or remodel a physical structure.

(2) Available funds may be used to support a program providing direct services to youth that was previously funded through grant money if the program's demonstrated outcomes resulted in a reduction in

1 out-of-home placements.

2 (3) A judicial district shall comply with state procurement laws when expending available funds.

3

4 **Section 2.** Section 41-5-103, MCA, is amended to read:

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

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

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

10 (3) "Assessment officer" means a person who is authorized by the court to provide initial intake and
11 evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

12 (4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

13 (5) "Correctional facility" means a public or private, physically secure residential facility under contract
14 with the department and operated solely for the purpose of housing adjudicated delinquent youth.

15 (6) "Cost containment ~~fund~~ pool" means funds ~~retained~~ allocated by the department under 41-5-132
16 for distribution by the cost containment review panel.

17 (7) "Cost containment review panel" means the panel established in 41-5-131.

18 (8) "Court", when used without further qualification, means the youth court of the district court.

19 (9) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to
20 41-5-206.

21 (10) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth
22 has been given, ~~but~~

23 (b) The term does not include a person who has only physical custody.

24 (11) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana
25 Youth Court Act as a youth:

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

27 (b) who has been placed on probation as a delinquent youth and who has violated any condition of
28 probation.

29 (12) "Department" means the department of corrections provided for in 2-15-2301.

30 (13) (a) "Department records" means information or data, either in written or electronic form, maintained

1 by the department pertaining to youth who are committed under ~~41-5-1512(1)(c)~~ or 41-5-1513(1)(b) or who are
2 under parole supervision.

3 (b) Department records do not include information provided by the department to the department of
4 public health and human services' management information system or information maintained by the youth court
5 through the office of the court administrator.

6 (14) "Detention" means the holding or temporary placement of a youth in the youth's home under home
7 arrest or in a facility other than the youth's own home for:

8 (a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into
9 custody and before final disposition of the youth's case;

10 (b) contempt of court or violation of a valid court order; or

11 (c) violation of a youth parole agreement.

12 (15) "Detention facility" means a physically restricting facility designed to prevent a youth from departing
13 at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

14 (16) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days
15 to protect the youth when there is no alternative placement available.

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

18 (18) "Final disposition" means the implementation of a court order for the disposition or placement of a
19 youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

20 (19) (a) "Formal youth court records" means information or data, either in written or electronic form, on
21 file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes
22 petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

23 (b) The term does not include information provided by the youth court to the department of public health
24 and human services' management information system.

25 (20) "Foster home" means a private residence licensed by the department of public health and human
26 services for placement of a youth.

27 (21) "Guardian" means an adult:

28 (a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the
29 youth; and

30 (b) whose status is created and defined by law.

1 (22) "Habitual truancy" means recorded absences of 10 days or more of unexcused absences in a
2 semester or absences without prior written approval of a parent or a guardian.

3 (23) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control
4 for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed
5 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention
6 or shelter care facility.

7 (b) The term does not include a jail.

8 (24) (a) "Informal youth court records" means information or data, either in written or electronic form,
9 maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and
10 includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and
11 supervision records of probationers.

12 (b) The term does not include information provided by the youth court to the department of public health
13 and human services' management information system.

14 (25) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal
15 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after
16 arrest.

17 (b) The term does not include a colocated juvenile detention facility that complies with 28 CFR, part 31.

18 (26) "Judge", when used without further qualification, means the judge of the youth court.

19 (27) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles
20 in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

21 (28) "Law enforcement records" means information or data, either in written or electronic form, maintained
22 by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

23 (29) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that
24 gives a person the right and duty to:

25 (i) have physical custody of the youth;

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

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

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

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

- 1 (30) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.
- 2 (31) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than
3 a custodial parent's home, for purposes other than preadjudicatory detention.
- 4 (b) The term does not include shelter care or emergency placement of less than 45 days.
- 5 (32) (a) "Parent" means the natural or adoptive parent.
- 6 (b) The term does not include:
- 7 (i) a person whose parental rights have been judicially terminated; or
- 8 (ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an
9 adjudication or by other clear and convincing proof.
- 10 (33) "Probable cause hearing" means the hearing provided for in 41-5-332.
- 11 (34) "Regional detention facility" means a youth detention facility established and maintained by two or
12 more counties, as authorized in 41-5-1804.
- 13 (35) "Restitution" means payments in cash to the victim or with services to the victim or the general
14 community when these payments are made pursuant to a consent adjustment, consent decree, or other youth
15 court order.
- 16 (36) "Running away from home" means that a youth has been reported to have run away from home
17 without the consent of a parent or guardian or a custodian having legal custody of the youth.
- 18 (37) "Secure detention facility" means a public or private facility that:
- 19 (a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses
20 or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and
- 21 (b) is designed to physically restrict the movements and activities of youth or other individuals held in
22 lawful custody of the facility.
- 23 (38) "Serious juvenile offender" means a youth who has committed an offense that would be considered
24 a felony offense if committed by an adult and that is an offense against a person, an offense against property,
25 or an offense involving dangerous drugs.
- 26 (39) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.
- 27 (40) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the
28 facilities enumerated in 41-5-347.
- 29 (41) "Short-term detention center" means a detention facility licensed by the department for the temporary
30 placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending

1 a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment
2 center, or shelter care facility.

3 (42) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the
4 Riverside youth correctional facility in Boulder.

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

8 (44) "Victim" means:

9 (a) a person who suffers property, physical, or emotional injury as a result of an offense committed by
10 a youth that would be a criminal offense if committed by an adult;

11 (b) an adult relative of the victim, as defined in subsection (44)(a), if the victim is a minor; and

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

13 (45) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

14 (46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

15 (47) "Youth assessment center" means a staff-secured location that is licensed by the department of
16 public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and
17 comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the
18 youth's behavior.

19 (48) "Youth care facility" has the meaning provided in 52-2-602.

20 (49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which
21 a youth is alleged to be a delinquent youth or a youth in need of intervention and includes the youth court judge,
22 probation officers, and assessment officers.

23 (50) "Youth detention facility" means a secure detention facility licensed by the department for the
24 temporary substitute care of youth that is:

25 (a) (i) operated, administered, and staffed separately and independently of a jail; or

26 (ii) a colocated secure detention facility that complies with 28 CFR, part 31; and

27 (b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction
28 for contempt of court, violation of a parole agreement, or violation of a valid court order.

29 (51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

30 (a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal

1 offense, including but not limited to a youth who:

2 (i) violates any Montana municipal or state law regarding alcoholic beverages; or

3 (ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the
4 control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's
5 parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or
6 control the youth's behavior; or

7 (b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion,
8 chooses to regard as a youth in need of intervention."
9

10 **Section 3.** Section 41-5-112, MCA, is amended to read:

11 **"41-5-112. Parental contributions account -- allocation of proceeds.** (1) There is a parental
12 contributions account in the state special revenue fund.

13 (2) Contributions paid by the parents and guardians of youth under ~~41-3-446, 41-5-1501, or 41-5-1525~~
14 this chapter must be deposited in the account.

15 (3) All money in the account, except any amount required to be returned to federal ~~or county~~ sources,
16 is allocated to the department of public health and human services to carry out its duties under ~~52-1-103~~ to offset
17 the cost of out-of-home placements, programs, and services for youth under the jurisdiction of the youth court
18 or department."
19

20 **Section 4.** Section 41-5-121, MCA, is amended to read:

21 **"41-5-121. Youth placement committees -- composition.** (1) In each judicial district, the youth court
22 and the department shall establish a youth placement committee for the purposes of:

23 (a) recommending an appropriate placement of a youth ~~referred~~ committed to the youth court under
24 41-5-1512 or 41-5-1513 or committed to the department under ~~41-5-1512 and~~ 41-5-1513; or

25 (b) recommending available community services or alternative placements whenever a change is
26 required in the placement of a youth who is currently in the legal custody of the ~~department~~ youth court under
27 41-5-1512 or 41-5-1513 or the department under 41-5-1513. However, the committee may not substitute its
28 judgment for that of the superintendent of a state youth correctional facility regarding the discharge of a youth
29 from the facility or the placement of a youth on parole under the department's jurisdiction.

30 (2) (a) The committee consists of not less than five members and must include persons who are

1 knowledgeable about the youth, treatment and placement options, and other resources appropriate to address
2 the needs of the youth.

3 (b) The committee must include:

4 (i) a juvenile parole officer employed by the department;

5 (ii) a representative of the department of public health and human services;

6 (iii) the chief juvenile probation officer or the chief juvenile probation officer's designee, ~~who. The officer~~
7 or the officer's designee is the presiding officer of the committee;

8 (iv) a mental health professional; and

9 (v) if an Indian youth is involved, a person, preferably an Indian, knowledgeable about Indian culture and
10 Indian family matters.

11 (c) The committee may include:

12 (i) a representative of a school district located within the boundaries of the judicial district who has
13 knowledge of and experience with youth;

14 (ii) the youth's parent or guardian;

15 (iii) a youth services provider; and

16 (iv) the youth's juvenile probation officer.

17 (3) The youth court judge shall appoint all members of the youth placement committee except the
18 juvenile parole officer. The director of the department shall appoint the juvenile parole officer and shall, when
19 making the appointment, take into consideration:

20 (a) the juvenile parole officer's qualifications;

21 (b) the costs involved in the juvenile parole officer's attendance at youth placement committee meetings;

22 and

23 (c) the location of the juvenile parole officer's home in relation to the location of the youth placement
24 committee.

25 (4) Committee members serve without compensation.

26 (5) ~~Notwithstanding the provisions of 41-5-123, the~~ The committee may be convened by request of the
27 department to the presiding officer or by the chief juvenile probation officer ~~of the youth court.~~

28 (6) If a representative of the school district within the boundaries of which the youth is recommended to
29 be placed and will be attending school is not included on the committee, the person who convened the committee
30 shall inform the school district of the final placement decision for the youth.

1 (7) The department may not ~~disburse funds from the budget allocation accounts~~ charge expenditures
 2 to the judicial district allocations established pursuant to 41-5-130 unless the youth court and the department have
 3 established a youth placement committee as provided in this section."
 4

5 **Section 5.** Section 41-5-124, MCA, is amended to read:

6 **"41-5-124. Temporary and emergency placements -- limit.** ~~(4)~~ A temporary placement of a youth in
 7 a shelter care facility for less than 45 days or an emergency placement of a youth in a youth care facility is exempt
 8 from ~~the requirements of 41-5-123~~ review by the appropriate youth placement committee.

9 ~~(2)~~ If a temporary or emergency placement of a youth continues for 45 or more days, the ~~department~~
 10 youth court shall refer the placement of the youth to the appropriate youth placement committee for review. The
 11 committee shall make a recommendation for placement to the youth court ~~in accordance with 41-5-123.~~"
 12

13 **Section 6.** Section 41-5-130, MCA, is amended to read:

14 **"41-5-130. ~~Participating and nonparticipating jurisdictions~~ Department to administer juvenile**
 15 **placement funds -- transfer of funds to conduct evaluations -- department allocation -- judicial district**
 16 **allocations -- use of annual allocations -- transfer of unexpended funds.** ~~(1) Each judicial district may elect~~
 17 ~~to participate in the juvenile delinquency intervention program.~~ (1) The department shall administer juvenile
 18 placement funds as appropriated by the legislature in accordance with this chapter. The department shall consult
 19 with the office of court administrator when developing its budget request for juvenile placement funds for
 20 submission to the budget director as provided in 17-7-112.

21 (2) For each fiscal year, the department shall transfer \$25,000 from the appropriated juvenile placement
 22 funds to the office of court administrator for evaluations of out-of-home placements, programs, and services as
 23 provided in 41-5-2003. The office shall deposit the funds in the youth court intervention and prevention account
 24 provided for in 41-5-2011.

25 (3) For each fiscal year, the department shall, after transferring funds under subsection (2) and allocating
 26 funds to the cost containment pool under 41-5-132, allocate 11% of the remaining appropriated juvenile
 27 placement funds for juvenile parole out-of-home placements, programs, and services.

28 (4) For each fiscal year, the department shall, after allocating funds under subsection (3), allocate the
 29 remaining appropriated juvenile placement funds to each judicial district according to a formula established by
 30 the cost containment review panel provided for in 41-5-131.

1 ~~(2)(5) A jurisdiction that elects to participate in the program judicial district may expend funds from a~~
 2 ~~juvenile placement fund its annual allocation for out-of-home placements or for other programs or services~~
 3 ~~intended to reduce or prevent juvenile delinquency subject to restrictions in this chapter and administrative rules~~
 4 ~~adopted by the department the provisions of subsection (6).~~

5 (3) A jurisdiction that does not elect to participate in the program may commit youth to the department
 6 for out-of-home placements pursuant to this chapter.

7 ~~(4) A jurisdiction that has not previously participated in the program may elect to participate in the~~
 8 ~~program prior to the start of a new biennium. Participation must be for a complete biennium. A jurisdiction may~~
 9 ~~elect to discontinue participation in future bienniums upon 3 months' written notice to the department prior to the~~
 10 ~~beginning of the next biennium.~~

11 ~~(5) A youth court that does not participate in the program may not expend any juvenile placement funds~~
 12 ~~for placements or services unless approved by the department pursuant to 41-5-123.~~

13 ~~(6) The department shall establish an account for each judicial district in order to administer a juvenile~~
 14 ~~placement fund as appropriated by the legislature. The accounts must be used by the youth courts for funding~~
 15 ~~out-of-home placements and for other services intended to reduce or prevent juvenile delinquency subject to~~
 16 ~~restrictions in this chapter and administrative rules adopted by the department. At the end of a fiscal year, the~~
 17 ~~balance in the accounts established under this subsection must be transferred to the youth intervention and~~
 18 ~~prevention account established in 41-5-2011.~~

19 (6) (a) Except as provided in subsection (6)(b), a judicial district shall reserve at least 80% of its annual
 20 allocation for out-of-home placements and the remainder for programs or services.

21 (b) A judicial district may reserve up to 50% of its annual allocation for programs or services if:

22 (i) the programs or services have, based on demonstrated outcomes, reduced the number of placements
 23 in correctional facilities or higher cost residential placements; and

24 (ii) the judicial district would not require funding from the cost containment pool, provided for in 41-5-132,
 25 in the same fiscal year in which the annual allocation is made under this subsection (6)(b).

26 (7) A judicial district that intends to expend funds from its annual allocation on an out-of-home placement,
 27 program, or service for a person who is 18 years of age or older shall submit to the cost containment review panel
 28 a plan describing how the funds will be used. The cost containment review panel shall approve or disapprove the
 29 plan. If the plan is approved, the judicial district may expend funds from its annual allocation to implement the
 30 plan.

1 (8) At the end of each fiscal year, after all valid obligations have been paid or encumbered for payment,
 2 the department shall transfer any unexpended funds from the judicial districts' annual allocations provided for in
 3 this section to the office of court administrator for deposit into the youth court intervention and prevention account
 4 provided for in 41-5-2011."

5
 6 **Section 7.** Section 41-5-131, MCA, is amended to read:
 7 **"41-5-131. Cost containment review panel -- duties.** (1) The department shall establish a cost
 8 containment review panel.

9 (2) ~~(a) The members of the cost containment review panel shall consist of the following members must~~
 10 ~~be appointed by the department as follows:~~

11 ~~(a)(i) two three members from appointed by the director of the department of corrections;~~

12 ~~(ii) three members appointed by the chief justice of the supreme court; and~~

13 ~~(b)(iii) a one member from who is a professional working in the field of children's mental health appointed~~
 14 ~~by the director of the department of public health and human services;~~

15 ~~(c) a representative from the field of mental health;~~

16 ~~—— (d) a youth court judge;~~

17 ~~—— (e) two chief juvenile probation officers;~~

18 ~~—— (f) a county commissioner; and~~

19 ~~—— (g) a representative of the youth justice council.~~

20 **(b) Each appointing authority under subsection (2)(a) shall appoint one person to serve as the alternate**
 21 **for a member appointed by the authority who is unable to participate in a cost containment review panel meeting.**

22 (3) Decisions of the cost containment review panel must be made by majority vote of the members of
 23 the cost containment review panel or their alternates.

24 ~~(4) The cost containment review panel shall determine the distribution of funds allocated in 41-5-132.~~

25 ~~—— (5) The cost containment review panel may evaluate the effectiveness of new or innovative programs~~
 26 ~~for the treatment of troubled youth and make recommendations to the youth courts and the department.~~

27 ~~—— (6) A youth court shall request funds from the cost containment review panel prior to exceeding its~~
 28 ~~account allocation under 41-5-130. If a panel member referred to in subsections (2)(d) through (2)(g) is a resident~~
 29 ~~of or is employed in the judicial district of a youth court requesting cost containment funds, the panel member may~~
 30 ~~not serve as a panel member for purposes of a decision regarding disbursement of cost containment funds to~~

1 the youth court and an alternate panel member must be appointed by the department for purposes of the
2 decision:

3 (4) The cost containment review panel shall:

4 (a) establish the formula for the annual allocation to each judicial district as provided in 41-5-130;

5 (b) approve or disapprove plans for out-of-home placements, programs, or services for persons 18 years
6 of age or older as provided in 41-5-130;

7 (c) recommend an amount to be allocated to the cost containment pool as provided in 41-5-132;

8 (d) approve requests by judicial districts for allocations from the cost containment pool as provided in
9 41-5-132;

10 (e) approve requests by the department for reimbursement from the cost containment pool as provided
11 in 41-5-132;

12 (f) provide recommendations on the evaluation of out-of-home placements, programs, and services as
13 provided in 41-5-2003;

14 (g) review plans submitted under [section 20] and recommend to the office of court administrator whether
15 each plan should be approved; and

16 (h) adopt procedures for the operation of the cost containment review panel."

17
18 **Section 8.** Section 41-5-132, MCA, is amended to read:

19 **"41-5-132. Cost containment fund pool -- allocation of appropriated funds -- ~~use of funds~~**
20 **authorization of allocation from pool -- transfer of unexpended funds.** (1) (a) The department of corrections
21 shall establish a cost containment fund for the purposes of 41-5-131 and pool. After considering the cost
22 containment review panel's recommendation as provided for in subsection (1)(b), the department shall allocate
23 to the fund cost containment pool at the beginning of each fiscal year not less than \$1 million each fiscal year from
24 the funds appropriated for the juvenile placement budget for the fiscal biennium beginning July 1, 2001, to be
25 used for the purposes of 41-5-131 placements.

26 (2)(b) The department shall determine the amount of the cost containment fund at the beginning of each
27 fiscal year. The cost containment review panel shall submit to the department a recommended amount to be
28 allocated to the cost containment fund pool at least 1 month prior to the start of a new each fiscal year. The cost
29 containment review panel shall establish a methodology for determining the recommended amount to be
30 allocated to the cost containment pool.

1 (2) According to criteria and procedures adopted by the cost containment review panel, the cost
 2 containment review panel may authorize an allocation from the cost containment pool to a judicial district that has
 3 exceeded its annual allocation under 41-5-130 for juvenile out-of-home placements, programs, and services. The
 4 judicial district shall request an allocation from the cost containment review panel before exceeding its annual
 5 allocation.

6 (3) (a) According to criteria and procedures established by the cost containment review panel, the cost
 7 containment review panel may authorize an allocation from the cost containment pool to the department for a
 8 request submitted under subsection (3)(b).

9 (b) The department may request at the end of the fiscal year that the cost containment review panel
 10 reimburse the department from the cost containment pool for costs incurred under 41-5-1504(3) for placing a
 11 youth found to be suffering from a mental disorder, including costs for transporting the youth. Before requesting
 12 reimbursement, the department shall expend its state youth correctional facility budgets for mental health
 13 placements and any parental contributions or federal funds, for which the department has spending authority, or
 14 private insurance payments received for treatment.

15 (4) In addition to any disbursement made by the cost containment review panel under subsection (2) or
 16 (3), the department may expend funds from the cost containment pool to reimburse cost containment review
 17 panel members or alternates for travel expenses, as provided in 2-18-501 through 2-18-503, and to pay the actual
 18 costs incurred in conducting a cost containment review panel meeting, excluding salary and benefits for
 19 employees providing support services to the cost containment review panel.

20 (5) The department shall transfer any amount remaining in the cost containment pool at the end of each
 21 fiscal year to the office of court administrator for deposit in the youth court intervention and prevention account
 22 provided for in 41-5-2011."

23

24 **Section 9.** Section 41-5-1503, MCA, is amended to read:

25 **"41-5-1503. Medical or psychological evaluation of youth -- urinalysis.** (1) The youth court may order
 26 a youth to receive a medical or psychological evaluation at any time prior to final disposition if the youth waives
 27 the youth's constitutional rights in the manner provided for in 41-5-331. ~~The county determined by the court as~~
 28 ~~the residence of the youth is responsible for the cost of the evaluation, except as provided in subsection (2). A~~
 29 ~~county may contract with the department or other public or private agencies to obtain evaluation services ordered~~
 30 ~~by the court.~~ Except as provided in subsection (2), the youth court shall pay for the cost of the evaluation from

1 its judicial district's allocation provided for in 41-5-130 or [section 20].

2 (2) The youth court shall determine the financial ability of the youth's parents or guardians to pay the cost
3 of an evaluation ordered by the court under subsection (1). If they are financially able, the court shall order the
4 youth's parents or guardians to pay all or part of the cost of the evaluation.

5 (3) Subject to 41-5-1512(1)(o)(i), the youth court may not order an evaluation or placement of a youth
6 at a state youth correctional facility unless the youth is found to be a delinquent youth or is alleged to have
7 committed an offense that is listed ~~under~~ in 41-5-206.

8 (4) An evaluation of a youth may not be performed at the Montana state hospital ~~unless the youth is~~
9 ~~transferred to the district court under 41-5-208 or 41-5-1605 or the jurisdiction of the youth court is terminated~~
10 ~~following the filing of an information in district court pursuant to 41-5-206.~~

11 (5) In a proceeding alleging a youth to be a delinquent youth, upon a finding of an offense related to use
12 of alcohol or illegal drugs, the court may order the youth to undergo urinalysis for the purpose of determining
13 whether the youth is using alcoholic beverages or illegal drugs."
14

15 **Section 10.** Section 41-5-1512, MCA, is amended to read:

16 **"41-5-1512. Disposition of youth in need of intervention or youth who violate consent**
17 **adjustments.** (1) If a youth is found to be a youth in need of intervention or to have violated a consent
18 adjustment, the youth court may enter its judgment making one or more of the following dispositions:

19 (a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this
20 subsection.

21 (b) place the youth in a residence that ensures that the youth is accountable, that provides for
22 rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider
23 placement recommendations from the youth placement committee.

24 (c) commit the youth to the ~~department in jurisdictions that do not participate in the juvenile delinquency~~
25 ~~intervention program or to the youth court in jurisdictions that participate in the juvenile delinquency intervention~~
26 ~~program for the purposes of funding placement in a private, out-of-home, residential placement facility~~ subject
27 to the conditions in 41-5-1522. In an order committing a youth to ~~the department or to the youth court~~, the court
28 shall determine whether continuation in the youth's own home would be contrary to the welfare of the youth and
29 whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the
30 youth's home.

- 1 (d) order restitution for damages that result from the offense for which the youth is disposed by the youth
2 or by the person ~~that~~ who contributed to the delinquency of the youth;
- 3 (e) require the performance of community service;
- 4 (f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth
5 to receive counseling services;
- 6 (g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or
7 the persons having legal custody of the youth;
- 8 (h) require the parents, guardians, or other persons having legal custody of the youth to furnish services
9 the court may designate;
- 10 (i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and
11 the community;
- 12 (j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based upon the
13 testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering
14 from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);
- 15 (k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;
- 16 (l) order confiscation of the youth's driver's license, if the youth has one, by the probation officer for a
17 specified period of time, not to exceed 90 days. The probation officer shall notify the department of justice of the
18 confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving
19 record. The probation officer shall notify the department of justice when the confiscated driver's license has been
20 returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The
21 probation officer may, in the probation officer's discretion and with the concurrence of a parent or guardian, return
22 a youth's confiscated driver's license before the termination of the time period for which it had been confiscated.
23 The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to
24 be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth, ~~nor~~ and may
25 it not be used as grounds for denying coverage for an accident or other occurrence under an existing policy.
- 26 (m) order the youth to pay a contribution covering all or a part of the costs for ~~the~~ adjudication,
27 disposition, and attorney fees for the costs of prosecuting or defending the youth; and costs of detention,
28 supervision, care, custody, and treatment of the youth, including the costs of counseling;
- 29 (n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;
- 30 (o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or

1 facility with the following conditions:

2 (i) The court may not order placement for evaluation at a youth correctional facility of a youth who has
3 committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated
4 a consent adjustment.

5 (ii) The placement for evaluation must be on a space-available basis ~~at the county's expense, which is~~
6 ~~not reimbursable under part 19 of this chapter. Except as provided in subsection (1)(o)(iii), the court shall pay the~~
7 cost of the placement for evaluation from its judicial district's allocation provided for in 41-5-130 or [section 20].

8 (iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part of
9 the costs of the evaluation if the court determines after an examination of financial ability that the parents or
10 guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial
11 responsibility of the judicial district of the court that ordered the evaluation.

12 (p) order placement of a youth in a youth assessment center for up to 10 days;

13 (q) order the youth to participate in mediation that is appropriate for the offense committed.

14 (2) The court may not order a local government entity to pay for care, treatment, intervention, or
15 placement. A court may not order a local government entity to pay for evaluation and in-state transportation of
16 a youth.

17 (3) The court may not order a state government entity to pay for care, treatment, intervention, placement,
18 or evaluation that results in a deficit in the ~~account~~ annual allocation established for that district under 41-5-130
19 without approval from the cost containment review panel."
20

21 **Section 11.** Section 41-5-1513, MCA, is amended to read:

22 **"41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent
23 youth, the youth court may enter its judgment making one or more of the following dispositions:

24 (a) any one or more of the dispositions provided in 41-5-1512;

25 (b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for
26 placement in a state youth correctional facility and recommend to the department that the youth not be released
27 until the youth reaches 18 years of age. The provisions of 41-5-355 relating to alternative placements apply to
28 placements under this subsection (1)(b). The court may not place a youth adjudicated to be a delinquent youth
29 in a state youth correctional facility for an act that would be a misdemeanor if committed by an adult unless:

30 (i) the youth committed four or more misdemeanors in the prior 12 months;

1 (ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or
2 a licensed clinical social worker has evaluated the youth and recommends placement in a state youth correctional
3 facility; and

4 (iii) the court finds that the youth will present a danger to the public if the youth is not placed in a state
5 youth correctional facility.

6 (c) require a youth found to be a delinquent youth, as the result of the commission of an offense that
7 would be a sexual offense or violent offense, as defined in 46-23-502, if committed by an adult, to register as a
8 sexual or violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a
9 disposition under this subsection.

10 (d) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender,
11 the judge may specify that the youth be placed in a state youth correctional facility, subject to the provisions of
12 subsection (2), if the judge finds that the placement is necessary for the protection of the public. The court may
13 order the department to notify the court within 5 working days before the proposed release of a youth from a youth
14 correctional facility. Once a youth is committed to the department for placement in a state youth correctional
15 facility, the department is responsible for determining an appropriate date of release or an alternative placement.

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

18 (2) If a youth has been adjudicated for a sex offense, the youth court may require completion of sex
19 offender treatment before a youth is discharged.

20 (3) The court may not order a local government entity to pay for care, treatment, intervention, or
21 placement. A court may not order a local government entity to pay for evaluation and in-state transportation of
22 a youth, except as provided in 52-5-109.

23 (4) The court may not order a state government entity to pay for care, treatment, intervention, placement,
24 or evaluation that results in a deficit in the ~~account~~ annual allocation established for that district under 41-5-130
25 without approval from the cost containment review panel."

26
27 **Section 12.** Section 41-5-1522, MCA, is amended to read:

28 **"41-5-1522. Commitment to department -- restrictions on placement.** When a youth is committed
29 to the department, the department shall determine the appropriate placement and rehabilitation program for the
30 youth after considering the recommendations made ~~under 41-5-123~~ by the youth placement committee.

1 Placement is subject to the following limitations:

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

6 (2) A youth may not be placed in or transferred to a state adult correctional facility or other facility used
7 for the execution of sentences of adults convicted of crimes.

8 (3) The department may not place a youth in need of intervention, a youth adjudicated delinquent for
9 commission of an act that would not be an offense if committed by an adult, or a youth who violates a consent
10 adjustment in a state youth correctional facility."
11

12 **Section 13.** Section 41-5-1523, MCA, is amended to read:

13 "**41-5-1523. Commitment to department or youth court -- supervision.** (1) A youth placed in a state
14 youth correctional facility or other facility or program operated by the department or who signs a parole agreement
15 under 52-5-126 must be supervised by the department.

16 (2) A youth ~~who is~~ placed in any private, out-of-home, ~~residential placement~~ facility by the youth court
17 ~~or the youth court's juvenile probation officer~~ must be supervised by the a juvenile probation officer of the youth
18 court ~~having jurisdiction over the youth under 41-5-205, whether or not the youth is committed to the department~~
19 ~~for purposes of funding a private, out-of-home, residential placement.~~

20 ~~(3) Supervision by the youth probation officer includes but is~~ Responsibilities of the juvenile probation
21 officer relating to placement of the youth include but are not limited to:

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

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

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

27 (d) managing the youth's case ~~management of the youth~~ while in a private, out-of-home, ~~residential~~
28 ~~placement~~ facility and upon release until ~~discharged by the department~~ supervision is terminated by the youth
29 court."
30

1 **Section 14.** Section 41-5-2002, MCA, is amended to read:

2 **"41-5-2002. Purpose.** The purposes of this part are to:

3 (1) provide an alternate method of funding juvenile ~~placement~~ out-of-home placements, programs, and
4 services;

5 (2) increase the ability of ~~local government youth courts~~ to respond to juvenile delinquency through early
6 intervention and expanded community alternatives; ~~and~~

7 (3) enhance the ability of ~~local government youth courts~~ to control costs;

8 (4) enhance community safety, hold youth accountable, and promote the competency development of
9 youth;

10 (5) use local resources for the placement of troubled youth, when appropriate and available;

11 (6) reduce placements in out-of-state residential facilities and programs; and

12 (7) use state youth correctional facilities when appropriate."

13

14 **Section 15.** Section 41-5-2003, MCA, is amended to read:

15 **"41-5-2003. Establishment of program -- department duties -- office of court administrator duties.**

16 (1) ~~(a)~~ There is a juvenile delinquency intervention program. Each judicial district shall participate in the program.

17 ~~(b) Participation in the juvenile delinquency intervention program is voluntary.~~

18 ~~(2) The department and the youth court shall monitor the youth court's account created under 41-5-130~~
19 ~~to ensure that the youth court does not exceed its allocated account budget.~~

20 ~~—— (3) Account funds not used by the youth court for placements must be distributed to participating youth~~
21 ~~courts in accordance with rules adopted by the department to be used for placement alternatives and early~~
22 ~~intervention alternatives.~~

23 (2) The department and the judicial district shall monitor the judicial district's annual allocation provided
24 for in 41-5-130 to ensure that the judicial district does not exceed its allocation.

25 ~~(4)(3) The department shall provide technical assistance to each youth court judicial district for the~~
26 ~~monitoring of account funds and the evaluation and development of placement alternatives and effective~~
27 ~~intervention programming~~ its annual allocation.

28 ~~(5)(4) The department shall review and monitor~~ office of court administrator shall assist each youth court
29 ~~to enable the development of in developing~~ placement alternatives by the youth courts ~~and the development of~~
30 ~~early intervention alternatives by the youth courts~~ and community intervention and prevention programs and

1 services.

2 (5) (a) Each fiscal year, the office of court administrator shall select out-of-home placements, programs,
 3 and services to be evaluated for their effectiveness in achieving the purposes provided in 41-5-2002. The cost
 4 containment review panel shall provide recommendations to the office on out-of-home placements, programs,
 5 and services to be evaluated and on the scope of the evaluation. Before conducting any evaluation, the office
 6 shall obtain approval from the district court council established in 3-1-1602.

7 (b) The department office shall report to the legislature on the results of its monitoring the results of any
 8 evaluation conducted under subsection (5)(a) each year to the department, cost containment review panel, district
 9 court council, and law and justice interim committee."

10

11 **Section 16.** Section 41-5-2004, MCA, is amended to read:

12 **"41-5-2004. Youth court duties.** Each youth court shall:

13 (1) use available resources to develop alternatives for the placement of youth;

14 (2) use available resources for early intervention strategies for troubled youth;

15 (3) use a validated risk assessment instrument approved by the department office of court administrator
 16 for the measurement of risk assessment and the effectiveness of treatment or intervention services for youth
 17 adjudicated pursuant to 41-5-1512 or 41-5-1513;

18 (4) submit quarterly reports to the office of court administrator and the department documenting the use
 19 of diversionary diversion and prevention programs and the use of placement services; and

20 ~~(5) participate in the cost containment review panel established under 41-5-131; and~~

21 ~~(6)(5) provide the department and the legislative auditor with access to all records maintained by the~~
 22 youth court."

23

24 **Section 17.** Section 41-5-2005, MCA, is amended to read:

25 **"41-5-2005. Judicial districts participating in juvenile delinquency intervention program -- youth**

26 **Youth placement committee to submit recommendation to department youth court judge -- acceptance**
 27 **or rejection of recommendation by department judge.** (1) (a) Prior to commitment of a youth to the legal

28 custody of the youth court under 41-5-1512 or 41-5-1513 or to the department pursuant to 41-5-1512 or under
 29 41-5-1513, a youth placement committee must be convened. The Except as provided in subsection (1)(b), the

30 committee shall submit in writing to the youth court judge its primary and alternative recommendations for

1 placement of the youth.

2 (b) An alternative recommendation is unnecessary if the committee's recommendation is placement in
3 a youth correctional facility.

4 (2) The committee shall first consider placement of the youth in a community-based facility or program
5 and shall give priority to placement of the youth in a facility or program located in the state of Montana.

6 (3) If in-state alternatives for placement of the youth are inappropriate, the committee may recommend
7 an out-of-state placement. The committee shall state in its recommendation the reasons why in-state services
8 are not appropriate.

9 (4) The primary and alternative recommendations of the youth placement committee must be for similar
10 facilities or programs. The youth court may require a youth placement committee to reevaluate a youth if the
11 recommended placements are dissimilar.

12 (5) If the youth court rejects both of the committee's recommendations, it shall promptly notify the
13 committee in writing of the reasons for rejecting the recommendations and shall make an appropriate placement
14 for the youth.

15 (6) The youth court may not order a placement or change of placement that results in a deficit in the
16 ~~account~~ annual allocation established for that district under 41-5-130 without approval from the cost containment
17 review panel.

18 (7) The youth court shall evaluate the cost of the placement or change of placement and ensure that the
19 placement or change of placement will not overspend the ~~budget~~ annual allocation provided by the department
20 under 41-5-130.

21 ~~(8) This section applies only to those judicial districts that elect to participate in the juvenile delinquency~~
22 ~~intervention program administered by the department."~~

23

24 **Section 18.** Section 41-5-2006, MCA, is amended to read:

25 **"41-5-2006. Rulemaking authority -- policies and procedures.** (1) The department shall adopt rules
26 necessary for the implementation of 41-5-130 through 41-5-132 and this part to perform its duties under this
27 chapter, including but not limited to rules regarding:

28 ~~(a) defining and establishing criteria for early intervention regarding troubled youth and the development~~
29 ~~of community alternatives;~~

30 ~~(b) evaluating each youth court to ensure that the court is using early intervention strategies and~~

- 1 ~~community alternatives and is effectively controlling costs for youth placements;~~
 2 ~~—— (c) distributing unused account funds to the youth courts;~~
 3 ~~—— (d) determining the allocation of funds to the accounts for the youth courts;~~
 4 ~~—— (e) determining the amount of funds to be withheld by the department as cost containment funds;~~
 5 ~~—— (f) monitoring and auditing each youth court to ensure that account funds are being used as required~~
 6 ~~by law;~~
 7 ~~—— (g) distributing cost containment funds to youth courts;~~
 8 ~~—— (h) monitoring youth courts to promote consistency and uniformity in the placement of juvenile offenders;~~
 9 ~~—— (i) developing procedures for the operation of the cost containment review panel;~~
 10 ~~—— (j) developing one or more risk assessment tools; and~~
 11 ~~—— (k) developing procedures for removing youth with serious mental illness from the juvenile correctional~~
 12 ~~system.~~
 13 ~~—— (2) It is the intent of the legislature that rules adopted by the department encourage the use of local,~~
 14 ~~regional, and state resources for the placement of troubled youth.~~
 15 (a) monitoring judicial districts' annual allocations provided for in 41-5-130;
 16 (b) processing payments for out-of-home placements, programs, and services on behalf of the youth
 17 courts;
 18 (c) determining the amount to be allocated to the cost containment pool as provided for in 41-5-132; and
 19 (d) removing youth with ~~serious~~ A mental illness DISORDER, AS DEFINED IN 53-21-102, from state youth
 20 correctional facilities.
 21 (2) The district court council, established in 3-1-1602, shall adopt policies and procedures, subject to
 22 review by the supreme court, necessary for the youth courts and office of court administrator to perform their
 23 duties under this chapter, including but not limited to policies and procedures regarding:
 24 (a) guidelines for evaluating out-of-home placements, programs, and services as provided in 41-5-2003;
 25 (b) administration of the youth court intervention and prevention account provided for in 41-5-2011;
 26 (c) monitoring of youth courts to promote consistency and uniformity in the placement of juveniles
 27 referred to the youth courts; and
 28 (d) approval of one or more risk assessment tools to be used by the youth courts."
 29
 30

Section 19. Section 41-5-2011, MCA, is amended to read:

1 **"41-5-2011. Youth court intervention and prevention account -- statutory appropriation --**
2 **administration.** (1) There is a youth court intervention and prevention account in the state special revenue fund.
3 ~~The money in the account must be used for the youth court intervention and prevention programs authorized in~~
4 ~~this part. All unexpended funds remaining at the end of a fiscal year in the accounts established under~~
5 ~~41-5-130(6) must be transferred to the account established in this subsection. The office of court administrator~~
6 ~~shall deposit in the account the following funds transferred by the department:~~

7 (a) funds transferred under 41-5-130(2) for evaluations of out-of-home placements, programs, and
8 services;

9 (b) unexpended funds from the judicial districts' annual allocations as provided for in 41-5-130(8); and

10 (c) unexpended funds from the cost containment pool as provided for in 41-5-132.

11 (2) The youth court intervention and prevention account is statutorily appropriated, as provided in
12 17-7-502, to the supreme court ~~for the purposes of 41-5-2003(3)~~. The office of ~~the~~ court administrator shall
13 administer the account in accordance with ~~rules adopted by the department of corrections~~ [section 20]."
14

15 NEW SECTION. Section 20. Allocation to judicial districts from youth court intervention and
16 prevention account -- judicial district plans -- cost containment review panel review and
17 recommendations -- district court council and cost containment review panel policies and procedures.

18 (1) (a) At the beginning of each fiscal year, the office of court administrator shall allocate from the youth court
19 intervention and prevention account to each judicial district an amount equal to the unexpended funds from the
20 judicial district's annual allocation for the previous fiscal year under 41-5-130.

21 (b) In addition to the amount allocated under subsection (1)(a), at the beginning of each fiscal year, the
22 office of court administrator shall allocate from the youth court intervention and prevention account to all judicial
23 districts the unexpended funds from the cost containment pool transferred from the previous fiscal year under
24 41-5-132. The office shall allocate the funds according to the formula that was used to determine the judicial
25 districts' annual allocations for the previous fiscal year under 41-5-130.

26 (2) Upon approval of the youth court judge, a judicial district may submit a plan to the office of court
27 administrator for approval to expend the amounts allocated to the judicial district under subsection (1) for one or
28 more of the following purposes:

29 (a) to establish or expand community prevention and intervention programs and services for youth;

30 (b) to provide an alternative method for funding out-of-home placements; and

1 (c) to provide matching funds for federal money for intervention and prevention programs that provide
2 direct services to youth.

3 (3) Two or more judicial districts may jointly submit a plan to combine any portion of the amounts
4 allocated to the districts under subsection (1) to expend funds on a regional or statewide basis in accordance with
5 subsection (2).

6 (4) The cost containment review panel provided for in 41-5-131 shall review each plan submitted to the
7 office of court administrator. The cost containment review panel shall recommend to the office whether each plan
8 should be approved. The office shall consider the cost containment review panel's recommendation before
9 approving or disapproving a plan.

10 (5) The office of court administrator shall notify the judicial district, cost containment review panel, and
11 department in writing as to whether a plan has been approved or disapproved. If the office disapproves a plan,
12 the judicial district may submit a revised plan.

13 (6) (a) A judicial district shall expend the amounts allocated to the district under subsection (1) in
14 accordance with an approved plan by the end of the fiscal year following the fiscal year in which the amounts
15 were allocated under subsection (1).

16 (b) Any portion of the amounts allocated under subsection (1) not expended within the time provided for
17 in subsection (6)(a) must be transferred to the general fund.

18 (7) (a) Except as provided in subsection (7)(b), the district court council, established in 3-1-1602, shall
19 adopt policies and procedures, subject to review by the supreme court, for administering this section, including
20 procedures for submitting plans to the office of court administrator and criteria to be used by the office in
21 evaluating and approving the plans.

22 (b) The cost containment review panel shall adopt procedures for reviewing plans submitted to the office
23 of court administrator and making recommendations to the office on plan approval.

24

25 **Section 21.** Section 52-5-109, MCA, is amended to read:

26 **"52-5-109. ~~Commitment expenses -- transportation~~ Transportation costs -- arrangement for**
27 **transportation.** (1) ~~The expenses of committing a youth to the department or to the youth court must be borne~~
28 ~~by the committing youth court.~~

29 ~~—————~~ (2) (a) After adjudication, the costs of transporting a youth to and from an out-of-home placement within
30 the state must be paid as follows:

1 ~~—— (i) in a jurisdiction that does not participate in the juvenile delinquency intervention program, the county~~
2 ~~shall pay the costs;~~

3 ~~—— (ii) in a jurisdiction that participates in the juvenile delinquency intervention program, the youth court shall~~
4 ~~pay the costs from the account established under 41-5-130 or out of county funds of the committing county.~~

5 ~~—— (b) After adjudication, the costs of transporting a youth to and from an out-of-home placement in another~~
6 ~~state must be paid by the youth court and must be paid for out of the account established under 41-5-130, except~~
7 ~~that the department shall pay transportation costs in a case in which a youth is placed in an out-of-state~~
8 ~~correctional facility pursuant to 41-5-355: (1) Prior to adjudication:~~

9 (a) for a youth placed in a facility, other than a state youth correctional facility or a detention facility, the
10 judicial district of the youth court to which the youth has been referred shall pay the cost for transporting the youth
11 to the facility and for any other transportation costs incurred while the youth is in the facility. The district shall pay
12 these costs from its annual allocation provided for in 41-5-130.

13 (b) for a youth detained in a detention facility, the county of the youth court to which the youth has been
14 referred shall pay the cost for transporting the youth to the facility and for any other transportation costs while the
15 youth is in the facility.

16 (2) After adjudication:

17 (a) for a youth placed in a nonsecure facility within or outside the state, the judicial district of the youth
18 court in which the youth was adjudicated shall pay the costs for transporting the youth to and from the facility from
19 its annual allocation established under 41-5-130;

20 (b) for a youth committed to the department for placement in an in-state youth correctional facility, the
21 county of the youth court in which the youth was adjudicated shall pay the cost for transporting the youth to the
22 facility. The department shall pay the cost for transporting the youth after the youth is released from the facility
23 or provide other arrangements for transporting the youth.

24 (c) for a youth placed in an out-of-state correctional facility pursuant to 41-5-355, the department shall
25 pay the cost for transporting the youth to the facility and the cost for transporting the youth after the youth is
26 released from the facility.

27 (3) The youth court probation office shall arrange for all transportation to and from an out-of-home
28 placement except when the youth is under the parole supervision of the department or when the department is
29 responsible for transportation costs as provided for in subsections (2)(b) and (2)(c)."

30

1 **Section 22.** Section 53-1-203, MCA, is amended to read:

2 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

3 (a) adopt rules necessary to carry out the purposes of ~~41-5-123 through~~ 41-5-125, rules necessary for
4 the siting, establishment, and expansion of prerelease centers, rules for the establishment and maintenance of
5 residential methamphetamine treatment programs, and rules for the admission, custody, transfer, and release
6 of persons in department programs except as otherwise provided by law. However, rules adopted by the
7 department may not amend or alter the statutory powers and duties of the state board of pardons and parole. The
8 rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any
9 existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a
10 prerelease center may not be sited at any location without community support. The prerelease siting,
11 establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a
12 determination of community support or objection to the siting of a prerelease center in the area determined to be
13 impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted
14 pursuant to Title 2, chapter 3.

15 (b) subject to the functions of the department of administration, lease or purchase lands for use by
16 correctional facilities and classify those lands to determine those that may be most profitably used for agricultural
17 purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown
18 or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the
19 persons confined in correctional facilities;

20 (c) contract with private, nonprofit Montana corporations to establish and maintain:

21 (i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole
22 eligibility or discharge for release into the community, providing an alternative placement for offenders who have
23 violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The
24 centers shall provide a less restrictive environment than the prison while maintaining adequate security. The
25 centers must be operated in coordination with other department correctional programs. This subsection does not
26 affect the department's authority to operate and maintain prerelease centers.

27 (ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as
28 provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for
29 persons convicted of possession of methamphetamine. The department shall issue a request for proposals using
30 a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

1 (d) use the staff and services of other state agencies and units of the Montana university system, within
2 their respective statutory functions, to carry out its functions under this title;

3 (e) propose programs to the legislature to meet the projected long-range needs of corrections, including
4 programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed
5 in correctional facilities or programs;

6 (f) encourage the establishment of programs at the local and state level for the rehabilitation and
7 education of felony offenders;

8 (g) administer all state and federal funds allocated to the department for youth in need of intervention
9 and delinquent youth, as defined in 41-5-103, except as provided in [section 20];

10 (h) collect and disseminate information relating to youth ~~in need of intervention and delinquent youth~~ who
11 are committed to the department for placement in a state youth correctional facility;

12 (i) maintain adequate data on placements that it funds in order to keep the legislature properly informed
13 of the specific information, by category, related to youth in need of intervention and delinquent youth in
14 out-of-home care facilities;

15 (j) provide funding for ~~and place youth who are adjudicated to be delinquent or in need of intervention~~
16 ~~and~~ who are committed to the department for placement in a state youth correctional facility;

17 (k) administer youth correctional facilities;

18 (l) provide supervision, care, and control of youth released from a state youth correctional facility; and

19 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

20 (i) provide for delinquent youth committed to the department; and

21 (ii) coordinate and apply the principles of modern correctional administration to the facilities and programs
22 administered by the department.

23 (2) The department and a private, nonprofit Montana corporation may not enter into a contract under
24 subsection (1)(c) for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract
25 do not apply to a contract authorized by subsection (1)(c). Prior to entering into a contract for a period of 10 years,
26 the department shall submit the proposed contract to the legislative audit committee. The legislative audit division
27 shall review the contract and make recommendations or comments to the legislative audit committee. The
28 committee may make recommendations or comments to the department. The department shall respond to the
29 committee, accepting or rejecting the committee recommendations or comments prior to entering into the
30 contract.

1 (3) The department of corrections may enter into contracts with nonprofit corporations or associations
2 or private organizations to provide substitute care for ~~youth in need of intervention and delinquent youth in state~~
3 youth correctional facilities or on juvenile parole supervision.

4 (4) The department may contract with Montana corporations to operate a day reporting program as an
5 alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015.
6 The department shall adopt by rule the requirements for a day reporting program, including but not limited to
7 requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance
8 with any conditions of probation, such as drug testing."
9

10 NEW SECTION. Section 23. Repealer. Sections 41-5-104 and 41-5-123, MCA, are repealed.
11

12 NEW SECTION. Section 24. Codification instruction. (1) [Section 1] is intended to be codified as
13 an integral part of Title 41, chapter 5, part 1, and the provisions of Title 41, chapter 5, part 1, apply to [section 1].

14 (2) [Section 20] is intended to be codified as an integral part of Title 41, chapter 5, part 20, and the
15 provisions of Title 41, chapter 5, part 20, apply to [section 20].
16

17 NEW SECTION. Section 25. Effective date. [This act] is effective June 30, 2007.
18

- END -