

HOUSE BILL NO. 156
INTRODUCED BY MATTHEWS

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING~~ REVISING THE ABILITY TO PLACE A YOUTH ADJUDICATED DELINQUENT FOR AN ACT THAT WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT IN A STATE YOUTH CORRECTIONAL FACILITY; AND AMENDING ~~SECTIONS~~ SECTION 41-5-1513 ~~AND 41-5-1522~~, MCA."

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

Section 1. Section 41-5-1513, MCA, is amended to read:

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

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

(b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for placement in a state youth correctional facility and recommend to the department that the youth not be released until the youth reaches 18 years of age. ~~The court may not place a youth adjudicated delinquent in a state youth correctional facility for an offense act that would be a misdemeanor if committed by an adult unless the court finds that the youth presents a danger to the public safety and that the placement is recommended by a mental health professional after evaluation of the youth.~~ The provisions of 41-5-355 relating to alternative placements apply to placements under this subsection (1)(b). THE COURT MAY NOT PLACE A YOUTH ADJUDICATED TO BE A DELINQUENT YOUTH IN A STATE YOUTH CORRECTIONAL FACILITY FOR AN ACT THAT WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT UNLESS:

(I) THE YOUTH COMMITTED FOUR MISDEMEANORS IN THE PRIOR 12 MONTHS;

(II) NONE OF THE FOUR PRIOR MISDEMEANORS WAS COMMITTED WITHIN 24 HOURS OF ANY OF THE OTHER THREE;

(III) A PSYCHIATRIST, PSYCHOLOGIST, PROFESSIONAL COUNSELOR, OR SOCIAL WORKER LICENSED BY THE STATE HAS EVALUATED THE YOUTH AND RECOMMENDS PLACEMENT IN A STATE YOUTH CORRECTIONAL FACILITY; AND

(IV) THE YOUTH WILL PRESENT A DANGER TO THE PUBLIC IF THE YOUTH IS NOT PLACED IN A STATE YOUTH CORRECTIONAL FACILITY.

(c) require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a sexual offense or violent offense, as defined in 46-23-502, if committed by an adult, to register as a

sexual or violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection.

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

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

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

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

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

~~Section 2. Section 41-5-1522, MCA, is amended to read:~~

~~"41-5-1522. Commitment to department -- restrictions on placement. When a youth is committed to the department, the department shall determine the appropriate placement and rehabilitation program for the youth after considering the recommendations made under 41-5-123 by the youth placement committee. Placement is subject to the following limitations:~~

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

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

~~(3) The department may not place a youth in need of intervention, a youth adjudicated delinquent for~~

~~commission of an act that would not be an offense a felony if committed by an adult, or a youth who violates a consent adjustment in a state youth correctional facility."~~

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