

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT SWITCHING FUNDS FOR VARIOUS YOUTH COURT ACT
5 PROGRAMS FOR YOUTH FROM THE DEPARTMENT OF CORRECTIONS TO THE SUPREME COURT AND
6 THE YOUTH COURTS; PROVIDING FOR ADMINISTRATION OF THE FUNDS AND PROGRAMS; PROVIDING
7 STATUTORY APPROPRIATIONS; AMENDING SECTIONS 17-7-502, 41-5-103, 41-5-112, 41-5-121, 41-5-124,
8 41-5-130, 41-5-131, 41-5-132, 41-5-1512, 41-5-1522, 41-5-1525, 41-5-2002, 41-5-2003, 41-5-2004, 41-5-2005,
9 41-5-2006, 52-5-109, AND 53-1-203, MCA; REPEALING SECTION 41-5-123, MCA; AND PROVIDING AN
10 EFFECTIVE DATE."
11

12 WHEREAS, the historical practice of appropriating youth court placement funds in the Department of
13 Corrections' budget is no longer appropriate because youth courts are part of the Judicial Branch; and

14 WHEREAS, the responsibility for providing youth probation services is no longer a county responsibility
15 and now rests with the State of Montana through the Judicial Branch; and

16 WHEREAS, the Judicial Branch should assume responsibility and accountability for programs managed
17 by Judicial Branch employees, including the out-of-home placement of juveniles by youth courts and youth court
18 employees.

19 THEREFORE, the Legislature of the State of Montana directs that the juvenile placement budget and
20 the regional administrative officers associated with the budget be transferred to the Judicial Branch.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
23

24 NEW SECTION. **Section 1. Youth court development programs account -- statutory**
25 **appropriation.** (1) There is a youth court development programs account in the state special revenue fund.
26 Money is deposited in the account pursuant to 41-5-132. The money in the account is statutorily appropriated,
27 as provided in 17-7-502, to the supreme court for the purposes of subsection (2).

28 (2) The money in the account may be used by the office of court administrator:
29 (a) as matching funds for federal money for intervention and prevention programs for youth and their
30 families;



- 1 (b) to fund the youth courts' prevention and intervention services for youth; and
 2 (c) to pay for evaluations of the effectiveness of programs and services for youth.

3

4 **Section 2.** Section 17-7-502, MCA, is amended to read:

5 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 6 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
 7 the need for a biennial legislative appropriation or budget amendment.

8 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 9 of the following provisions:

10 (a) The law containing the statutory authority must be listed in subsection (3).

11 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 12 appropriation is made as provided in this section.

13 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
 14 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
 15 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222;
 16 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
 17 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612;
 18 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-112; [section 1]; 42-2-105; 44-12-206;
 19 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108;
 20 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003;
 21 90-6-710; and 90-9-306.

22 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 25 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 26 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 27 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
 28 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
 29 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
 30 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates

1 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion
2 of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch.
3 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003,
4 the inclusion of 2-15-151 terminates June 30, 2005.)"

5

6 **Section 3.** Section 41-5-103, MCA, is amended to read:

7 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise,
8 the following definitions apply:

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

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

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

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

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

17 (6) "Cost containment funds" means ~~the funds retained by the department under~~ referred to in 41-5-132
18 ~~for distribution by the cost containment review panel.~~

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

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

21 (9) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to
22 41-5-206.

23 (10) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth
24 has been given but does not include a person who has only physical custody.

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

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

28 or

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

- 1 (12) "Department" means the department of corrections provided for in 2-15-2301.
- 2 (13) (a) "Department records" means information or data, either in written or electronic form, maintained
3 by the department pertaining to youth who are committed under 41-5-1512(1)(c) or 41-5-1513(1)(b) or who are
4 under parole supervision.
- 5 (b) Department records do not include information provided by the department to the department of
6 public health and human services' management information system.
- 7 (14) "Detention" means the holding or temporary placement of a youth in the youth's home under home
8 arrest or in a facility other than the youth's own home for:
- 9 (a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into
10 custody and before final disposition of the youth's case;
- 11 (b) contempt of court or violation of a valid court order; or
12 (c) violation of a youth parole agreement.
- 13 (15) "Detention facility" means a physically restricting facility designed to prevent a youth from departing
14 at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.
- 15 (16) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days
16 to protect the youth when there is no alternative placement available.
- 17 (17) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a
18 youth ordinarily lives.
- 19 (18) "Final disposition" means the implementation of a court order for the disposition or placement of
20 a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through
21 41-5-1525.
- 22 (19) "Foster home" means a private residence licensed by the department of public health and human
23 services for placement of a youth.
- 24 (20) "Guardian" means an adult:
- 25 (a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the
26 youth; and
27 (b) whose status is created and defined by law.
- 28 (21) "Habitual truancy" means recorded absences of 10 days or more of unexcused absences in a
29 semester or absences without prior written approval of a parent or a guardian.
- 30 (22) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control

1 for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to
2 exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate
3 detention or shelter care facility.

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

5 (23) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal
6 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after
7 arrest, ~~but~~

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

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

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

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

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

17 (i) have physical custody of the youth;

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

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

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

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

23 (28) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

24 (29) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than
25 a custodial parent's home, for purposes other than preadjudicatory detention.

26 (b) The term does not include shelter care or emergency placement of less than 45 days.

27 (30) (a) "Parent" means the natural or adoptive parent, ~~but~~

28 (b) ~~The term~~ does not include:

29 (i) a person whose parental rights have been judicially terminated; ~~or nor does it include~~

30 (ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an

1 adjudication or by other clear and convincing proof.

2 (31) "Probable cause hearing" means the hearing provided for in 41-5-332.

3 (32) "Regional detention facility" means a youth detention facility established and maintained by two or
4 more counties, as authorized in 41-5-1804.

5 (33) "Restitution" means payments in cash to the victim or with services to the victim or the general
6 community when these payments are made pursuant to a consent adjustment, consent decree, or other youth
7 court order.

8 (34) "Running away from home" means that a youth has been reported to have run away from home
9 without the consent of a parent or guardian or a custodian having legal custody of the youth.

10 (35) "Secure detention facility" means a public or private facility that:

11 (a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses
12 or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and

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

15 (36) "Serious juvenile offender" means a youth who has committed an offense that would be considered
16 a felony offense if committed by an adult and that is an offense against a person, an offense against property,
17 or an offense involving dangerous drugs.

18 (37) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

19 (38) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the
20 facilities enumerated in 41-5-347.

21 (39) "Short-term detention center" means a detention facility licensed by the department for the
22 temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal
23 holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility,
24 youth assessment center, or shelter care facility.

25 (40) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the
26 Riverside youth correctional facility in Boulder.

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

30 (42) "Victim" means:

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

3 (b) an adult relative of the victim, as defined in subsection (42)(a), if the victim is a minor; and

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

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

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

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

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

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

15 (48) (a) "Youth court records" means information or data, either in written or electronic form, maintained
16 by the youth court pertaining to a youth under jurisdiction of the youth court and includes reports of preliminary
17 inquiries, petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, youth assessment
18 materials, predispositional studies, and supervision records of probationers.

19 (b) Youth court records do not include information provided by the youth court to the department of
20 public health and human services' management information system.

21 (49) "Youth detention facility" means a secure detention facility licensed by the department for the
22 temporary substitute care of youth that is:

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

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

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

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

28 (a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal
29 offense, including but not limited to a youth who:

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

- 1 (ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the
 2 control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's
 3 parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or
 4 control the youth's behavior; or
- 5 (b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion,
 6 chooses to regard as a youth in need of intervention."

7

8 **Section 4.** Section 41-5-112, MCA, is amended to read:

9 **"41-5-112. ~~Parental contributions~~ Youth court prevention programs account -- allocation of**
 10 **proceeds.** (1) There is a ~~parental contributions~~ youth court prevention programs account in the state special
 11 revenue fund. The money in the account is statutorily appropriated, as provided in 17-7-502, to the supreme
 12 court to be used for the purposes of subsection (3).

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

15 (3) ~~All~~ The money in the account, except any amount required to be returned to federal or county
 16 sources, ~~is allocated to the department of public health and human services to carry out its duties under~~
 17 ~~52-1-103~~ may be used by the office of court administrator to:

- 18 (a) fund community intervention programs and services;
 19 (b) establish or expand community prevention programs and services;
 20 (c) provide an alternative method of funding out-of-home youth placements; and
 21 (d) provide matching funds for federal money for intervention and prevention programs for youth and
 22 their families."

23

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

25 **"41-5-121. Youth placement committees -- composition.** (1) In each judicial district, the youth court
 26 ~~and the department~~ shall establish a youth placement committee for the purposes of:

- 27 (a) recommending an appropriate placement of a youth referred to the youth court or the department
 28 under 41-5-1512 and 41-5-1513; or
- 29 (b) recommending available community services or alternative placements whenever a change is
 30 required in the placement of a youth who is currently in the custody of the department under 41-5-1512 or

1 41-5-1513. However, the committee may not substitute its judgment for that of the superintendent of a state
2 youth correctional facility regarding the discharge of a youth from the facility.

3 (2) (a) The committee consists of not less than five members and must include persons who are
4 knowledgeable about the youth, treatment and placement options, and other resources appropriate to address
5 the needs of the youth.

6 (b) The committee must include:

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

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

9 (iii) the chief probation officer or the chief probation officer's designee, who is the presiding officer of the
10 committee;

11 (iv) a mental health professional; and

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

14 (c) The committee may include:

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

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

18 (iii) a youth services provider; and

19 (iv) the youth's probation officer.

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

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

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

25 and

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

28 (4) Committee members serve without compensation.

29 (5) ~~Notwithstanding the provisions of 41-5-123, the~~ The committee may be convened by the department
30 or the probation officer of the youth court.

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

4 (7) The ~~department~~ office of court administrator may not disburse funds from the budget allocation
 5 accounts established pursuant to 41-5-130 unless the youth court ~~and the department have~~ has established a
 6 youth placement committee as provided in this section."

7

8 **Section 6.** Section 41-5-124, MCA, is amended to read:

9 **"41-5-124. Temporary and emergency placements -- limit.** ~~(1) A temporary placement of a youth in~~
 10 ~~a shelter care facility or an emergency placement of a youth in a youth care facility is exempt from the~~
 11 ~~requirements of 41-5-123.~~

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

15

16 **Section 7.** Section 41-5-130, MCA, is amended to read:

17 **"41-5-130. Participating and nonparticipating jurisdictions Out-of-home placements and other**
 18 **services account.** ~~(1) Each judicial district may elect to participate in the juvenile delinquency intervention~~
 19 ~~program.~~

20 ~~————(2) A jurisdiction that elects to participate in the program may expend funds from a juvenile placement~~
 21 ~~fund for out-of-home placements or for other services intended to reduce or prevent juvenile delinquency subject~~
 22 ~~to restrictions in this chapter and administrative rules adopted by the department.~~

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

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

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

1 ~~———(6)(1) The department office of court administrator shall establish an a youth court account for each~~
 2 ~~judicial district in order to administer a juvenile placement fund as funds appropriated by the legislature. The~~
 3 ~~accounts must be used by the youth courts for funding for out-of-home placements and other services.~~

4 (2) Each judicial district may spend the funds allocated to it for out-of-home placements and other
 5 services.

6 (3) Money allocated to a judicial district that has not been spent at the end of each fiscal year must be
 7 deposited in the youth court prevention programs account provided for in 41-5-112."

8

9 **Section 8.** Section 41-5-131, MCA, is amended to read:

10 **"41-5-131. Cost containment review panel.** (1) The department office of court administrator shall
 11 establish a cost containment review panel.

12 (2) (a) The cost containment review panel shall consist of ~~the following members appointed by the~~
 13 ~~department:~~

14 ~~———(a) two members from the department of corrections;~~

15 ~~———(b) a member from the department of public health and human services;~~

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

17 ~~———(d) a youth court judge;~~

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

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

20 ~~———(g) a representative of the youth justice council~~ seven voting members and five nonvoting members
 21 appointed by the court administrator appointed under 3-1-701.

22 (b) The voting members must include:

23 (i) two youth court judges;

24 (ii) two chief juvenile probation officers;

25 (iii) one representative from the office of court administrator;

26 (iv) one representative from the field of mental health; and

27 (v) one representative from school administration.

28 (c) The nonvoting members include:

29 (i) a representative from county government;

30 (ii) a representative from city government;

1 (iii) a representative from the department of public health and human services;

2 (iv) a representative of the department of corrections; and

3 (v) a representative from the public.

4 (3) Decisions of the cost containment review panel must be by majority vote of the voting members.

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

6 (5) The cost containment review panel may evaluate the effectiveness of new or innovative programs
7 for the treatment of troubled youth and make recommendations to the youth courts and the department office
8 of court administrator.

9 (6) A youth court shall request funds from the cost containment review panel prior to exceeding its
10 account allocation under 41-5-130. If a panel member referred to in ~~subsections (2)(d) through (2)(g)~~ subsection
11 (2)(b) is a resident of or is employed in the judicial district of a youth court requesting cost containment funds,
12 the panel member may not serve as a panel member for purposes of a decision regarding disbursement of cost
13 containment funds to the youth court and an alternate panel member must be appointed by the department office
14 of court administrator for purposes of the decision."
15

16 **Section 9.** Section 41-5-132, MCA, is amended to read:

17 **"41-5-132. Cost containment fund -- allocation of appropriated funds -- use of funds.** (1) The
18 ~~department of corrections~~ office of court administrator shall establish a cost containment fund for the purposes
19 of 41-5-131 and shall allocate to the fund not less than \$1 million each fiscal year from ~~the~~ any funds
20 appropriated for the juvenile placement budget for ~~the~~ each fiscal biennium ~~beginning July 1, 2004,~~ to be used
21 for the purposes of 41-5-131.

22 (2) The ~~department~~ office of court administrator shall determine the amount of the cost containment
23 fund at the beginning of each fiscal year. The cost containment review panel shall submit a recommended
24 amount to be allocated to the cost containment fund at least 1 month prior to the start of a new fiscal year.

25 (3) Any money in the cost containment fund at the end of each fiscal year must be deposited in the
26 youth court development programs account provided for in [section 1]."
27

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

29 **"41-5-1512. Disposition of youth in need of intervention or youth who violate consent**
30 **adjustments.** (1) If a youth is found to be a youth in need of intervention or to have violated a consent

1 adjustment, the youth court may enter its judgment making one or more of the following dispositions:

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

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

7 (c) commit the youth to the ~~department in jurisdictions that do not participate in the juvenile delinquency~~
8 ~~intervention program or to the youth court in jurisdictions that participate in the juvenile delinquency intervention~~
9 ~~program~~ for the purposes of funding a private, out-of-home, residential placement subject to the conditions in
10 41-5-1522. In an order committing a youth to the ~~department or to the youth court~~, the court shall determine
11 whether continuation in the youth's own home would be contrary to the welfare of the youth and whether
12 reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's
13 home.

14 (d) order restitution for damages that result from the offense for which the youth is disposed by the youth
15 or by the person that contributed to the delinquency of the youth;

16 (e) require the performance of community service;

17 (f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth
18 to receive counseling services;

19 (g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or
20 the persons having legal custody of the youth;

21 (h) require the parents, guardians, or other persons having legal custody of the youth to furnish services
22 the court may designate;

23 (i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and
24 the community;

25 (j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based upon the
26 testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering
27 from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

28 (k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

29 (l) order confiscation of the youth's driver's license, if the youth has one, by the probation officer for a
30 specified period of time, not to exceed 90 days. The probation officer shall notify the department of justice of the

1 confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving
2 record. The probation officer shall notify the department of justice when the confiscated driver's license has been
3 returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The
4 probation officer may, in the probation officer's discretion and with the concurrence of a parent or guardian,
5 return a youth's confiscated driver's license before the termination of the time period for which it had been
6 confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of
7 a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth,
8 nor may it be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

9 (m) order the youth to pay a contribution covering all or a part of the costs for the adjudication,
10 disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention, supervision,
11 care, custody, and treatment of the youth, including the costs of counseling;

12 (n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

13 (o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or
14 facility with the following conditions:

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

18 (ii) The placement for evaluation must be on a space-available basis at the county's expense, which is
19 not reimbursable under part 19 of this chapter.

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

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

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

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

29 (3) The court may not order a state government entity to pay for care, treatment, intervention,
30 placement, or evaluation that results in a deficit in the account established for that district under 41-5-130 without

1 approval from the cost containment review panel."
2

3 **Section 11.** Section 41-5-1522, MCA, is amended to read:

4 **"41-5-1522. Commitment to department -- restrictions on placement.** When a youth is committed
5 to the department, the department shall determine the appropriate placement and rehabilitation program for the
6 youth ~~after considering the recommendations made under 41-5-123 by the youth placement committee.~~

7 Placement is subject to the following limitations:

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

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

14 (3) The department may not place a youth in need of intervention, a youth adjudicated delinquent for
15 commission of an act that would not be an offense if committed by an adult, or a youth who violates a consent
16 adjustment in a state youth correctional facility."
17

18 **Section 12.** Section 41-5-1525, MCA, is amended to read:

19 **"41-5-1525. Contribution for costs -- order for contribution -- exceptions -- collection.** (1) If a youth
20 is placed in substitute care, a youth assessment center, or detention requiring payment by any state or local
21 government agency or committed to the department, the court shall examine the financial ability of the youth's
22 parents or guardians to pay a contribution covering all or part of the costs for the adjudication, disposition,
23 attorney fees for the costs of prosecuting or defending the youth, costs of detention, supervision, care, custody,
24 and treatment of the youth, including the costs of necessary medical, dental, and other health care.

25 (2) If the court determines that a youth's parents or guardians are financially able to pay a contribution
26 for adjudication, disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention,
27 or supervision as provided in subsection (1), the court shall order the youth's parents or guardians to pay a
28 specified amount. The order must state to which state or local government agency all or a part of the contribution
29 is due and in what order the payments must be made.

30 (3) If the court determines that the youth's parents or guardians are financially able to pay a contribution

1 as provided in subsection (1), the court shall order the youth's parents or guardians to pay an amount attributable
2 to care, custody, and treatment based on the uniform child support guidelines adopted by the department of
3 public health and human services pursuant to 40-5-209.

4 (4) (a) Except as provided in subsection (4)(b), contributions ordered under subsection (3) and each
5 modification of an existing order are enforceable by immediate or delinquency income withholding, or both,
6 under Title 40, chapter 5, part 4. An order for contribution that is inconsistent with this section is nevertheless
7 subject to withholding for the payment of the contribution without need for an amendment of the support order
8 or for any further action by the court.

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

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

13 (ii) an alternative arrangement between the ~~department~~ court and the person who is ordered to pay
14 contributions.

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

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

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

21 (d) An alternative arrangement must:

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

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

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

26 (5) Upon a showing of a change in the financial ability of the youth's parents or guardians to pay, the
27 court may modify its order for the payment of contributions required under subsection (3).

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

1 (b) The department of public health and human services may collect and enforce a contribution order
 2 under this section by any means available under law, including the remedies provided for in Title 40, chapter
 3 5, parts 2 and 4."

4
 5 **Section 13.** Section 41-5-2002, MCA, is amended to read:
 6 **"41-5-2002. Purpose.** The purposes of this part are to:
 7 (1) provide ~~an alternate~~ a stable method of funding juvenile ~~placement~~ placements and services;
 8 (2) increase the ability of ~~local government~~ youth courts to respond to juvenile delinquency through early
 9 intervention and expanded community alternatives; ~~and~~
 10 (3) enhance the ability of ~~local government~~ youth courts and the office of court administrator to control
 11 costs; ~~and~~
 12 (4) ensure community safety, hold youth accountable, and promote the competency development of
 13 youth."

14
 15 **Section 14.** Section 41-5-2003, MCA, is amended to read:
 16 **"41-5-2003. Establishment of program -- ~~department duties of office of court administrator.~~** (1) ~~(a)~~
 17 There is a juvenile delinquency intervention program.
 18 ~~(b) Participation in the juvenile delinquency intervention program is voluntary.~~
 19 (2) The ~~department and the~~ office of court administrator and each youth court shall monitor the youth
 20 ~~court's~~ court account created under 41-5-130 to ensure that the youth court does not exceed its allocated
 21 account budget.
 22 (3) Account funds not used by the youth court for placements must be ~~distributed~~ allocated to
 23 ~~participating~~ youth courts in accordance with ~~rules adopted by the department~~ contracts entered into between
 24 each judicial district and the office of court administrator, to be used for placement alternatives and early
 25 intervention alternatives.
 26 (4) The ~~department~~ office of court administrator shall provide technical assistance to each youth court
 27 for the monitoring of account funds and the evaluation and development of placement alternatives and effective
 28 intervention programming.
 29 (5) The ~~department~~ office of court administrator shall review and monitor each youth court to enable
 30 the development of appropriate placement alternatives ~~by the youth courts~~ and the development of early

1 intervention alternatives by the youth courts. The ~~department~~ office of court administrator shall report the results
2 of the monitoring to the legislature ~~on the results of its monitoring~~ during each regular session of the legislature."

3

4 **Section 15.** Section 41-5-2004, MCA, is amended to read:

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

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

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

8 (3) use a risk assessment instrument approved by the ~~department~~ office of court administrator for the
9 measurement of risk ~~assessment~~ and effectiveness of treatment or intervention for youth adjudicated pursuant
10 to 41-5-1512 or 41-5-1513;

11 (4) submit quarterly reports to the ~~department~~ office of court administrator documenting the use of
12 diversionary and prevention programs and the use of placement services;

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

14 (6) provide the ~~department~~ office of court administrator and the legislative auditor with access to all
15 records maintained by the youth court for the purposes of this section."

16

17 **Section 16.** Section 41-5-2005, MCA, is amended to read:

18 **~~"41-5-2005. Judicial districts participating in juvenile delinquency intervention program -- youth~~**

19 **~~Youth placement committee to submit recommendation to department -- acceptance or rejection of~~**
20 **~~recommendation by department.~~** (1) Prior to commitment of a youth to the custody of the youth court or to the
21 department pursuant to 41-5-1512 or 41-5-1513, a youth placement committee must be convened. The
22 committee shall submit in writing to the youth court judge its primary and alternative recommendations for
23 placement of the youth.

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

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

29 (4) The primary and alternative recommendations of the youth placement committee must be for similar
30 facilities or programs. The youth court may require a youth placement committee to reevaluate a youth if the

1 recommended placements are dissimilar.

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

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

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

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

12

13 **Section 17.** Section 41-5-2006, MCA, is amended to read:

14 **"41-5-2006. Rulemaking authority Adoption of administrative policies by supreme court.** (1) The
15 ~~department~~ supreme court shall adopt ~~rules~~ administrative policies necessary for the implementation of 41-5-130
16 through 41-5-132 and this part, including but not limited to:

17 (a) defining and establishing criteria for early intervention regarding troubled youth and the development
18 of community alternatives;

19 (b) evaluating each youth court to ensure that the court is using early intervention strategies and
20 community alternatives and is effectively controlling costs for youth placements;

21 ~~(c) distributing unused account funds to the youth courts;~~

22 ~~(d)~~(c) determining the allocation of funds to the accounts for the youth courts;

23 ~~(e)~~(d) determining the amount of funds to be withheld by the ~~department~~ office of court administrator
24 as cost containment funds;

25 ~~(f)~~(e) monitoring and auditing each youth court to ensure that account funds are being used as required
26 by law;

27 ~~(g)~~(f) ~~distributing~~ approving allowable expenditures from cost containment funds to youth courts;

28 ~~(h)~~(g) monitoring youth courts to promote consistency and uniformity in the placement of juvenile
29 offenders;

30 ~~(i)~~(h) developing procedures for the operation of the cost containment review panel;

1 ~~(j)~~(i) developing one or more risk assessment tools; and
 2 ~~(k)~~(i) developing procedures for removing youth with serious mental illness from the juvenile correctional
 3 system.

4 (2) It is the intent of the legislature that ~~rules~~ administrative policies adopted by the ~~department~~ supreme
 5 court encourage the use of local, regional, and state resources for the placement of troubled youth."
 6

7 **Section 18.** Section 52-5-109, MCA, is amended to read:

8 **"52-5-109. Commitment expenses -- transportation costs -- arrangement for transportation.** (1)

9 The expenses of committing a youth to the department or to the youth court must be borne by the committing
 10 youth court.

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

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

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

17 (b) After adjudication, the costs of transporting a youth to and from an out-of-home placement in another
 18 state must be paid by the youth court and must be paid for out of the account established under 41-5-130, except
 19 that the department shall pay transportation costs in a case in which a youth is placed in an out-of-state
 20 correctional facility pursuant to 41-5-355.

21 (3) The youth court probation office shall arrange for all transportation to and from an out-of-home
 22 placement except when the youth is under the parole supervision of the department."
 23

24 **Section 19.** Section 53-1-203, MCA, is amended to read:

25 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

26 (a) adopt rules necessary to carry out the purposes of ~~41-5-123 through~~ 41-5-124 and 41-5-125, rules
 27 necessary for the siting, establishment, and expansion of prerelease centers, and rules for the admission,
 28 custody, transfer, and release of persons in department programs except as otherwise provided by law.
 29 However, rules adopted by the department may not amend or alter the statutory powers and duties of the state
 30 board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must

1 state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations.
2 The rules must provide that a prerelease center may not be sited at any location without community support. The
3 prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable
4 mechanism for a determination of community support or objection to the siting of a prerelease center in the area
5 determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public
6 hearing conducted pursuant to Title 2, chapter 3.

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

12 (c) contract with private, nonprofit Montana corporations to establish and maintain prerelease centers
13 for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for
14 release into the community, providing an alternative placement for offenders who have violated parole, and
15 providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less
16 restrictive environment than the prison while maintaining adequate security. The centers must be operated in
17 coordination with other department correctional programs. This subsection does not affect the department's
18 authority to operate and maintain prerelease centers.

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

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

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

26 (g) administer all state and federal funds allocated to the department for youth in need of intervention
27 and delinquent youth, as defined in 41-5-103;

28 (h) collect and disseminate information relating to youth in need of intervention and delinquent youth;

29 (i) maintain adequate data on placements that it funds in order to keep the legislature properly informed
30 of the specific information, by category, related to youth in need of intervention and delinquent youth in

1 out-of-home care facilities;

2 (j) provide funding for and place youth who are adjudicated to be delinquent or in need of intervention
3 and who are committed to the department;

4 (k) administer youth correctional facilities;

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

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

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

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

10 (2) The department and a private, nonprofit Montana corporation may not enter into a contract under
11 subsection (1)(c) for a period that exceeds 10 years. The provisions of 18-4-313 that limit the term of a contract
12 do not apply to a contract authorized by subsection (1)(c). Prior to entering into a contract for a period of 10
13 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit
14 division shall review the contract and make recommendations or comments to the legislative audit committee.
15 The committee may make recommendations or comments to the department. The department shall respond
16 to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the
17 contract.

18 (3) The department of corrections may enter into contracts with nonprofit corporations or associations
19 or private organizations to provide substitute care for youth in need of intervention and delinquent youth in youth
20 correctional facilities."

21

22 **NEW SECTION.** **Section 20. Repealer.** Section 41-5-123, MCA, is repealed.

23

24 **NEW SECTION.** **Section 21. Codification instruction.** [Section 1] is intended to be codified as an
25 integral part of Title 41, chapter 5, part 1, and the provisions of Title 41, chapter 5, part 1, apply to [section 1].

26

27 **NEW SECTION.** **Section 22. Effective date.** [This act] is effective on July 1, 2005.

28

- END -