

1 SENATE BILL NO. 426

2 INTRODUCED BY STAPLETON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS PERTAINING TO
5 CONFIDENTIALITY AND INFORMATION SHARING OF YOUTH COURT RECORDS TO PROTECT YOUTH;
6 DEFINING FORMAL AND INFORMAL YOUTH COURT RECORDS; PROVIDING FOR ELECTRONIC
7 TRANSFER OF INFORMATION BETWEEN YOUTH COURTS AND THE DEPARTMENT OF CORRECTIONS;
8 REQUIRING THAT APPROPRIATE CONTROL METHODS BE USED BY THE YOUTH COURT AND THE
9 DEPARTMENT OF CORRECTIONS TO ENSURE ADEQUATE INTEGRITY, SECURITY, AND
10 CONFIDENTIALITY OF ANY ELECTRONIC RECORDS; REQUIRING YOUTH COURT INFORMATION TO BE
11 MAINTAINED SEPARATELY FROM ADULT RECORDS; PROVIDING A PENALTY FOR UNAUTHORIZED
12 DISCLOSURE OF OR ACCESS TO RECORDS; AND AMENDING SECTIONS 41-5-103, 41-5-215, 41-5-216,
13 41-5-1524, AND 41-5-2510, MCA."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 **Section 1.** Section 41-5-103, MCA, is amended to read:

18 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise,
19 the following definitions apply:

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

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

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

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

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

28 (6) "Cost containment funds" means funds retained by the department under 41-5-132 for distribution
29 by the cost containment review panel.

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

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

2 (9) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to
3 41-5-206.

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

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

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

9 or

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

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

13 (13) (a) "Department records" means information or data, either in written or electronic form, maintained
14 by the department pertaining to youth who are committed under 41-5-1512(1)(c) or 41-5-1513(1)(b) or who are
15 under parole supervision.

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

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

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

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

24 (c) violation of a youth parole agreement.

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

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

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

1 (18) "Final disposition" means the implementation of a court order for the disposition or placement of
2 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
3 41-5-1525.

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

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

10 ~~(19)~~(20) "Foster home" means a private residence licensed by the department of public health and
11 human services for placement of a youth.

12 ~~(20)~~(21) "Guardian" means an adult:

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

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

16 ~~(21)~~(22) "Habitual truancy" means recorded absences of 10 days or more of unexcused absences in
17 a semester or absences without prior written approval of a parent or a guardian.

18 ~~(22)~~(23) (a) "Holdover" means a room, office, building, or other place approved by the board of crime
19 control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not
20 to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate
21 detention or shelter care facility.

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

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

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

29 ~~(23)~~(25) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal
30 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after

1 arrest, ~~but~~

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

4 ~~(24)~~(26) "Judge", when used without further qualification, means the judge of the youth court.

5 ~~(25)~~(27) "Juvenile home arrest officer" means a court-appointed officer administering or supervising
6 juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

7 ~~(26)~~(28) "Law enforcement records" means information or data, either in written or electronic form,
8 maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

9 ~~(27)~~(29) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction
10 that gives a person the right and duty to:

11 (i) have physical custody of the youth;

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

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

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

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

17 ~~(28)~~(30) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

18 ~~(29)~~(31) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other
19 than a custodial parent's home, for purposes other than preadjudicatory detention.

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

21 ~~(30)~~(32) (a) "Parent" means the natural or adoptive parent, ~~but~~

22 (b) The term does not include:

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

24 (ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an
25 adjudication or by other clear and convincing proof.

26 ~~(31)~~(33) "Probable cause hearing" means the hearing provided for in 41-5-332.

27 ~~(32)~~(34) "Regional detention facility" means a youth detention facility established and maintained by two
28 or more counties, as authorized in 41-5-1804.

29 ~~(33)~~(35) "Restitution" means payments in cash to the victim or with services to the victim or the general
30 community when these payments are made pursuant to a consent adjustment, consent decree, or other youth

1 court order.

2 ~~(34)~~(36) "Running away from home" means that a youth has been reported to have run away from home
3 without the consent of a parent or guardian or a custodian having legal custody of the youth.

4 ~~(35)~~(37) "Secure detention facility" means a public or private facility that:

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

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

9 ~~(36)~~(38) "Serious juvenile offender" means a youth who has committed an offense that would be
10 considered a felony offense if committed by an adult and that is an offense against a person, an offense against
11 property, or an offense involving dangerous drugs.

12 ~~(37)~~(39) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

13 ~~(38)~~(40) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to
14 the facilities enumerated in 41-5-347.

15 ~~(39)~~(41) "Short-term detention center" means a detention facility licensed by the department for the
16 temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal
17 holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility,
18 youth assessment center, or shelter care facility.

19 ~~(40)~~(42) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City
20 or the Riverside youth correctional facility in Boulder.

21 ~~(41)~~(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of
22 providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are
23 removed from or are without the care and supervision of their parents or guardians.

24 ~~(42)~~(44) "Victim" means:

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

27 (b) an adult relative of the victim, as defined in subsection ~~(42)~~(a) ~~(44)~~(a), if the victim is a minor; and

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

29 ~~(43)~~(45) "Youth" means an individual who is less than 18 years of age without regard to sex or
30 emancipation.

1 ~~(44)~~(46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

2 ~~(45)~~(47) "Youth assessment center" means a staff-secured location that is licensed by the department
3 of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate
4 and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing
5 the youth's behavior.

6 ~~(46)~~(48) "Youth care facility" has the meaning provided in 52-2-602.

7 ~~(47)~~(49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in
8 which a youth is alleged to be a delinquent youth or a youth in need of intervention and includes the youth court
9 judge, probation officers, and assessment officers.

10 ~~(48)~~ "Youth court records" means information or data, either in written or electronic form, maintained by
11 the youth court pertaining to a youth under jurisdiction of the youth court and includes reports of preliminary
12 inquiries, petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, youth assessment
13 materials, predispositional studies, and supervision records of probationers. Youth court records do not include
14 information provided by the youth court to the department of public health and human services' management
15 information system.

16 ~~(49)~~(50) "Youth detention facility" means a secure detention facility licensed by the department for the
17 temporary substitute care of youth that is:

- 18 (a) (i) operated, administered, and staffed separately and independently of a jail; or
19 (ii) a ~~collocated~~ colocated secure detention facility that complies with 28 CFR, part 31; and
20 (b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction
21 for contempt of court, violation of a parole agreement, or violation of a valid court order.

22 ~~(50)~~(51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

- 23 (a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal
24 offense, including but not limited to a youth who:
25 (i) violates any Montana municipal or state law regarding alcoholic beverages; or
26 (ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the
27 control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's
28 parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or
29 control the youth's behavior; or
30 (b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion,

1 chooses to regard as a youth in need of intervention."
2

3 **Section 2.** Section 41-5-215, MCA, is amended to read:

4 **"41-5-215. Youth court and department records -- notification of school.** (1) Reports Formal youth
5 court records, including reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings,
6 verdicts, and orders and decrees on file with the clerk of court are public records and are open to public
7 inspection until the records are sealed under 41-5-216.

8 (2) Social, medical, and psychological records, youth assessment materials, predispositional studies,
9 and supervision records of probationers are open only to the following:

10 (a) the youth court and its professional staff;

11 (b) representatives of any agency providing supervision and having legal custody of a youth;

12 (c) any other person, by order of the court, having a legitimate interest in the case or in the work of the
13 court;

14 (d) any court and its probation and other professional staff or the attorney for a convicted party who had
15 been a party to proceedings in the youth court when considering the sentence to be imposed upon the party;

16 (e) the county attorney;

17 (f) the youth who is the subject of the report or record, after emancipation or reaching the age of
18 majority;

19 (g) a member of a county interdisciplinary child information team formed under 52-2-211 who is not
20 listed in this subsection (2);

21 (h) members of a local interagency staffing group provided for in 52-2-203;

22 (i) persons allowed access to the reports referred to under 45-5-624(7); and

23 (j) persons allowed access under 42-3-203.

24 (3) (a) Notwithstanding the requirements of 20-5-321(1)(d) or (1)(e) and subject to the provisions of
25 subsection (3)(b) of this section, the youth court shall notify the school district that the youth presently attends
26 or the school district that the youth has applied to attend of a youth's suspected drug use or criminal activity if
27 after an investigation has been completed:

28 (i) the youth has admitted the allegation or a petition has been filed with the youth court; and

29 (ii) a juvenile probation officer has reason to believe that a youth is currently involved with drug use or
30 other criminal activity that has a bearing on the safety of children.

1 (b) Notification under subsection (3)(a) may not be given for status offenses.

2 (c) A school district may not refuse to accept the student if refusal violates the federal Individuals With
3 Disabilities Education Act or the federal Americans With Disabilities Act of 1990.

4 (d) The administrative officials of the school district may enforce school disciplinary procedures that
5 existed at the time of the admission or adjudication. The information may not be further disclosed and may not
6 be made part of the student's permanent records.

7 (4) In all cases, a victim is entitled to all information concerning the identity and disposition of the youth,
8 as provided in 41-5-1416.

9 ~~(5) The identity of a youth who for the second or subsequent time admits violating or is adjudicated as~~
10 ~~having violated a statute must be disclosed by youth court officials to the administrative officials of the school~~
11 ~~in which the youth is a student. The administrative officials may enforce school disciplinary procedures that~~
12 ~~existed at the time of the admission or adjudication. The information may not be further disclosed and may not~~
13 ~~be made part of the student's permanent records.~~

14 ~~(6)(5)~~ The school district may disclose, without consent, personally identifiable information from an
15 education record of a pupil to the youth court and law enforcement authorities pertaining to violations of the
16 Montana Youth Court Act or criminal laws by the pupil. The youth court or law enforcement authorities receiving
17 the information shall certify in writing to the school district that the information will not be disclosed to any other
18 party except as provided under state law without the prior consent of the parent or guardian of the pupil.

19 ~~(7)(6)~~ Any part of records information secured from records listed in subsection (2), when presented
20 to and used by the court in a proceeding under this chapter, must also be made available to the counsel for the
21 parties to the proceedings."
22

23 **Section 3.** Section 41-5-216, MCA, is amended to read:

24 **"41-5-216. Disposition of youth court, law enforcement, and department records.** (1) ~~Youth Formal~~
25 ~~youth~~ court records, law enforcement records, and department records that are not exempt from sealing under
26 subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed ~~3 years~~
27 ~~after supervision for an offense ends~~ ON THE YOUTH'S 18TH BIRTHDAY. In those cases in which jurisdiction of the
28 court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon
29 termination of the extended jurisdiction.

30 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section

1 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
2 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
3 court.

4 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
5 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

6 (4) The requirements for sealed records in this section do not apply to MEDICAL RECORDS, fingerprints,
7 DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all
8 requirements of the court's judgment or disposition, records referred to in 42-3-203, or reports referred to in
9 45-5-624(7).

10 (5) After formal youth court records, law enforcement records, and department records are sealed, they
11 are not open to inspection except, upon order of the youth court, for good cause, including when a youth
12 commits a new offense, to:

13 (a) those persons and agencies listed in 41-5-215(2); and

14 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
15 age of majority.

16 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
17 under subsection (1), the electronic records of the management information system maintained by the
18 department of public health and human services AND BY THE DEPARTMENT relating to the youth whose records
19 are being sealed must be preserved for the express purpose of research and program evaluation as provided
20 in subsection (6)(b).

21 (b) The department of public health and human services AND THE DEPARTMENT shall disassociate the
22 offense and disposition information from the name of the youth in the RESPECTIVE management information
23 system. The offense and disposition information must be maintained separately and may be used only:

24 (i) for research and program evaluation authorized by the department of public health and human
25 services OR BY THE DEPARTMENT and subject to any applicable laws; and

26 (ii) as provided in Title 5, chapter 13.

27 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
28 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
29 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may only be
30 inspected pursuant to subsection (5).

1 (b) The informal youth court records may be maintained and inspected only by youth court personnel
 2 upon a new offense prior to the youth's 18th birthday.

3 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
 4 supervision ends and the youth was only involved in informal proceedings, informal youth court records that are
 5 in hard-copy form must be destroyed and any electronic records in the youth court management information
 6 system must disassociate the offense and disposition information from the name of the youth and may be used
 7 only for the following purposes:

8 (i) for research and program evaluation authorized by the office of the court administrator and subject
 9 to any applicable laws; and

10 (ii) as provided in Title 5, chapter 13.

11 (8) Nothing in this section prohibits the intraagency use or information sharing of formal or informal
 12 youth court records within the juvenile probation management information system. Electronic records of the
 13 youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need
 14 of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of
 15 the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its
 16 purpose or as provided in subsection (2).

17 (9) NOTHING IN THIS SECTION PROHIBITS THE INTRAAGENCY USE OR INFORMATION SHARING OF FORMAL OR
 18 INFORMAL YOUTH COURT RECORDS WITHIN THE DEPARTMENT'S YOUTH MANAGEMENT INFORMATION SYSTEM. ELECTRONIC
 19 RECORDS OF THE DEPARTMENT'S YOUTH MANAGEMENT INFORMATION SYSTEM MAY NOT BE SHARED EXCEPT AS PROVIDED
 20 IN SUBSECTION (5). IF A PERSON AUTHORIZED UNDER 41-5-215 IS IN NEED OF A COPY OF A RECORD THAT IS IN
 21 ELECTRONIC FORM, THE DEPARTMENT SHALL MAKE ONLY A PHYSICAL COPY OF THE RECORD THAT IS AUTHORIZED AND THE
 22 PERSON RECEIVING THE RECORD SHALL DESTROY THE RECORD AFTER IT HAS FULFILLED ITS PURPOSE OR AS PROVIDED
 23 IN SUBSECTION (2) OF THIS SECTION."

24
 25 **NEW SECTION. Section 4. Electronic records -- youth records to be separate -- FORMAL POLICIES**
 26 **AND ADMINISTRATIVE RULES REQUIRED.** (1) (A) The department and the youth court are required to adopt
 27 appropriate control methods to ensure adequate integrity, security, and confidentiality of any electronic records
 28 of a youth generated or maintained in any management information system.

29 (B) THE OFFICE OF THE COURT ADMINISTRATOR SHALL ADOPT FORMAL POLICIES, AND THE DEPARTMENT SHALL
 30 ADOPT ADMINISTRATIVE RULES TO INSTITUTE THE REQUIREMENTS IN SUBSECTION (1)(A).

1 (2) For the purposes of this part, any references to "sealing", "physically sealed", and "destroyed" must
 2 be interpreted to have the same meaning when applied to electronic records and must be applied to have the
 3 same force and effect. A sealed record must be made unavailable for access by any person unless upon court
 4 order as provided in 41-5-216. A destroyed record must be rendered inaccessible AND UNRECOVERABLE and
 5 disposed of in a manner in which confidentiality is protected, WHICH MAY INCLUDE DISASSOCIATING THE OFFENSE
 6 AND DISPOSITION INFORMATION FROM THE NAME OF THE YOUTH.

7 (3) After [the effective date of this act], any management information system that is developed and that
 8 contains formal or informal youth court records or department records must be maintained separately from any
 9 adult offender management information system in the criminal justice or corrections system.

10
 11 **NEW SECTION. Section 5. Penalty for unauthorized disclosure of or access to records.** A person
 12 who discloses or accesses a formal youth court record, an informal youth court record, or a department record
 13 in violation of 41-5-215 or 41-5-216 is guilty of a misdemeanor and shall be fined \$500.

14
 15 **Section 6.** Section 41-5-1524, MCA, is amended to read:

16 **"41-5-1524. Commitment to department -- transfer of records.** (1) Whenever the court commits a
 17 youth to the department, it shall transmit with the dispositional judgment copies of FORMAL AND INFORMAL YOUTH
 18 COURT RECORDS, INCLUDING medical reports, social history material, youth assessment material, education
 19 records, and any other clinical, predisposition, or other reports and information pertinent to the care and
 20 treatment of the youth.

21 (2) The youth court may share informal youth court records with the department when a youth has been
 22 committed to the department of corrections for custody. On the youth's 18th birthday or upon discharge,
 23 whichever is earlier, the department shall seal the entire record and is subject to 41-5-216(5).

24 (3) The department shall maintain the records of a youth committed to the department in a separate
 25 management information system and may not include any youth records in an adult offender management
 26 information system unless the youth has been adjudicated under 41-5-206."

27
 28 **Section 7.** Section 41-5-2510, MCA, is amended to read:

29 **"41-5-2510. Sentence review hearing.** (1) When a youth has been convicted as an adult pursuant to
 30 the provisions of 41-5-206, except for offenses punishable by death or life imprisonment or when a sentence

1 of 100 years could be imposed, the county attorney, defense attorney, or youth may, at any time before the youth
2 reaches the age of 21, request a hearing to review the sentence imposed on the youth. The department shall
3 notify the court of the youth's impending birthday no later than 90 days before the youth's 21st birthday.

4 (2) After reviewing the status report and upon motion for a hearing, the court shall determine whether
5 to hold a criminally convicted youth sentence review hearing. If the court, in its discretion, determines that a
6 sentence review hearing is warranted or is required under 41-5-2503, the hearing must be held within 90 days
7 after the filing of the request or determination. The sentencing court or county attorney shall notify the victim of
8 the offense pursuant to Title 46, chapter 24.

9 (3) The sentencing court shall review the department's records, formal youth court records, victim
10 statements, and any other pertinent information.

11 (4) The sentencing court, after considering the criminal, social, psychological, and any other records
12 of the youth; any evidence presented at the hearing; and any statements by the victim and by the parent or
13 parents or guardian of the youth and any other advocates for the youth shall determine whether the criminally
14 convicted youth has been substantially rehabilitated based upon a preponderance of the evidence.

15 (5) In the event that the sentencing court determines that the youth has been substantially rehabilitated,
16 the court shall determine whether to:

17 (a) suspend all or part of the remaining portion of the sentence, impose conditions and restrictions
18 pursuant to 46-18-201, and place the youth on probation under the direction of the department, unless otherwise
19 specified;

20 (b) impose all or part of the remaining sentence and make any additional recommendations to the
21 department regarding the placement and treatment of the criminally convicted youth; or

22 (c) impose a combination of options allowed under subsections (5)(a) and (5)(b), not to exceed the total
23 sentence remaining.

24 (6) The sentencing court may revoke a suspended sentence of a criminally convicted youth pursuant
25 to 46-18-203."

26
27 **NEW SECTION. Section 8. Codification instruction.** [Sections 4 and 5] are intended to be codified
28 as an integral part of Title 41, chapter 5, part 2, and the provisions of Title 41, chapter 5, part 2, apply to [sections
29 4 and 5].

30 - END -