

HOUSE BILL NO. 332

INTRODUCED BY K. HOLMLUND

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MAXIMUM AGE OF COMMITMENT FOR A YOUTH CORRECTIONAL FACILITY; AND AMENDING SECTIONS 41-5-1513, 41-5-1524, 52-5-101, 52-5-107, 52-5-111, AND 52-5-127, 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~~ 20 years of age. 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 or more misdemeanors in the prior 12 months;

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

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

(c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, and is required to register as a sexual offender pursuant to Title 46, chapter 23, part 5, exempt the

1 youth from the duty to register if the court finds that:

2 (i) the youth has not previously been found to have committed or been adjudicated for a sexual offense,
3 as defined in 46-23-502; and

4 (ii) registration is not necessary for protection of the public and that relief from registration is in the public's
5 best interest;

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

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

14 (2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court shall:

15 (a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of
16 46-18-111;

17 (b) designate the youth's risk level pursuant to 46-23-509;

18 (c) require completion of sexual offender treatment; and

19 (d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose on the youth
20 those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth court
21 or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed
22 pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to
23 41-5-205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is
24 transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the
25 restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the
26 supervision of the offender is transferred to the department.

27 (3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the
28 youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction
29 shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication,
30 any terms of probation or parole, and the facts of the offense for which the youth was adjudicated, except the

1 name of the victim, and provide a copy of the court's disposition order to the superintendent.

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

5 (5) The court may not order a state government entity to pay for care, treatment, intervention, placement,
6 or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without
7 approval from the office of court administrator.

8 (6) The duration of registration for a youth who is required to register as a sexual or violent offender must
9 be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration
10 of registration."
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12 **Section 2.** Section 41-5-1524, MCA, is amended to read:

13 **"41-5-1524. Commitment to department -- transfer of records.** (1) Whenever the court commits a
14 youth to the department, it shall transmit with the dispositional judgment copies of formal and informal youth court
15 records, including medical reports, social history material, youth assessment material, education records, and
16 any other clinical, predisposition, or other reports and information pertinent to the care and treatment of the youth.

17 (2) The youth court may share informal youth court records with the department when a youth has been
18 committed to the department of corrections for custody. On the youth's ~~18th~~ 20th birthday or upon discharge,
19 whichever is earlier, the department shall seal the entire record and is subject to 41-5-216(5).

20 (3) The department shall maintain the records of a youth committed to the department in a separate
21 management information system and may not include any youth records in an adult offender management
22 information system unless the youth has been adjudicated under 41-5-206."
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24 **Section 3.** Section 52-5-101, MCA, is amended to read:

25 **"52-5-101. Establishment of state youth correctional facilities -- prohibitions.** (1) The department
26 of corrections, within the annual or biennial budgetary appropriation, may establish, maintain, and operate
27 facilities to properly provide custody, assessment, care, supervision, treatment, education, rehabilitation, and work
28 and skill development for youth in need of these services. The youth must be 10 years of age or older and under
29 ~~18~~ 20 years of age. The facilities include but are not limited to the Pine Hills youth correctional facility in Miles
30 City.

1 (2) A youth alleged or found to be a youth in need of intervention may not be placed in a state youth
2 correctional facility as defined in 41-5-103."

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4 **Section 4.** Section 52-5-107, MCA, is amended to read:

5 **"52-5-107. Maximum age of commitment.** A youth who has attained ~~48~~ 20 years of age may not be
6 committed by any youth court to the department of corrections."

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8 **Section 5.** Section 52-5-111, MCA, is amended to read:

9 **"52-5-111. Commutation of sentence to state prison facility and transfer of prisoner to youth
10 correctional facility.** (1) Upon the application of a person who has not attained ~~48~~ 20 years of age who has been
11 sentenced to a state prison facility or upon the application of the youth's parents or guardian, the governor may,
12 after consulting with the department of corrections and with the approval of the board of pardons and parole,
13 commute the sentence by committing the person who may benefit from programs offered at a youth correctional
14 facility to the department of corrections until the youth is ~~48~~ 20 years of age or until sooner placed or discharged.

15 (2) If the youth's behavior after being committed to the department of corrections indicates that the youth
16 is not a proper person to reside at one of the youth correctional facilities, the governor, after consulting with the
17 department of corrections and with the approval of the board of pardons and parole, may revoke the commutation
18 and return the youth to a state prison facility to serve out the youth's unexpired term, and the time spent by the
19 youth at one of the youth correctional facilities or while a refugee from one of the youth correctional facilities is
20 not considered as a part of the youth's original sentence.

21 (3) Upon recommendation of the warden and with the approval of the department of corrections, a
22 person under ~~48~~ 20 years of age who has been sentenced to a state prison facility and who may benefit from
23 programs offered at a youth correctional facility may be transferred to any youth correctional facility under the
24 jurisdiction and control of the department of corrections.

25 (4) If the youth's behavior after transfer to a youth correctional facility indicates that the youth might be
26 released on parole or that the youth's sentence might be commuted and the youth be discharged from custody,
27 the superintendent of the facility, with the approval of the department of corrections, may make an appropriate
28 recommendation to the board of pardons and parole and the governor, who may in their discretion parole the
29 person or commute the youth's sentence.

30 (5) If the youth's behavior after transfer to a youth correctional facility indicates that the youth is not a

1 proper person to reside in the facility, upon recommendation of the superintendent and with the approval of the
2 department of corrections, the youth must be returned to a state prison facility to serve out the unexpired term."

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4 **Section 6.** Section 52-5-127, MCA, is amended to read:

5 **"52-5-127. Control over youth released under parole agreement.** The department of corrections has
6 control over a youth released pursuant to a parole agreement under 52-5-126 until the youth attains ~~18~~ 20 years
7 of age unless the youth is discharged by the department before age ~~18~~ 20. However, the youth is subject to the
8 continuing jurisdiction of the youth courts of Montana, pursuant to 41-5-205, for acts committed by the youth while
9 under the control of the department."

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