

SENATE BILL NO. 361

INTRODUCED BY C. VINCENT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO TRUANCY; REVISING THE
5 DEFINITIONS OF "TRUANCY" AND "HABITUAL TRUANCY"; CLARIFYING THE AUTHORITY OF SCHOOL
6 DISTRICT TRUSTEES AND ATTENDANCE OFFICERS TO ADDRESS TRUANCY; AUTHORIZING
7 ATTENDANCE OFFICERS TO NOTIFY THE LOCAL OFFICE OF PUBLIC ASSISTANCE AND THE
8 DEPARTMENT OF JUSTICE IF A PARENT FAILS TO ADDRESS A CHILD'S TRUANCY; REMOVING A
9 PARENT WHO FAILS TO ADDRESS A CHILD'S TRUANCY FROM ELIGIBILITY FOR CERTAIN PUBLIC
10 ASSISTANCE AND REQUIRING THE RESTRICTION OF THE PARENT'S DRIVER'S LICENSE; AMENDING
11 SECTIONS 20-5-106, 41-5-103, AND 53-4-231, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN
12 APPLICABILITY DATE."

13

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

15

16 **Section 1.** Section 20-5-106, MCA, is amended to read:

17 **"20-5-106. Truancy.** (1) For the purposes of this part, "truant" or "truancy" means the persistent
18 nonattendance without excuse, as defined by district policy, for all or any part of a school day ~~equivalent to the~~
19 ~~length of one class period~~ of a child required to attend a school under 20-5-103.

20 (2) If an attendance officer discovers a child is truant, the attendance officer may make a reasonable
21 effort to notify the parent, guardian, or other person responsible for the care of the child regarding the importance
22 of school attendance as a foundation for academic achievement and that the continued truancy of the child may
23 result in the prosecution of the parent, guardian, or other person responsible for the care of the child under the
24 provisions of this section. If the child is discovered to be truant after the attendance officer has made a reasonable
25 effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer
26 may require that the parent, guardian, or other person responsible for the care of the child and the child meet with
27 an individual designated by the school district to formulate a truancy plan to address and resolve the truancy. The
28 meeting and truancy plan may include:

29 (a) efforts to identify the causes of the child's truancy and remedies to the causes, including assistance
30 available from community organizations and social service agencies;

1 (b) a contract between the student, the school, and the parent, guardian, or other person responsible
 2 for the care of the child regarding attendance obligations and consequences for failure to meet the conditions of
 3 the contract;

4 (c) a requirement that the parent, guardian, or other person responsible for the care of the child attend
 5 a parenting class hosted by the school or another community organization and pay a fee of \$10 for the class,
 6 which must be deposited in the school district's adult education or miscellaneous programs fund at the discretion
 7 of the trustees; and

8 (d) any other component or requirement determined by the trustees, attendance officer, or school district
 9 designee to decrease the likelihood of continued truancy.

10 (3) If the parent, guardian, or other person responsible for the care of the child fails to meet with the
 11 designated individual or fails to uphold the responsibilities under the provisions of the truancy plan, the
 12 attendance officer may:

13 (a) after notifying the parent, guardian, or other person responsible for the care of the child, notify the
 14 local office of public assistance of the failure as it may pertain to the eligibility for assistance pursuant to 53-4-231;

15 (b) after notifying the parent, guardian, or other person responsible for the care of the child, notify the
 16 department of justice of the failure as it may pertain to the restriction of the driver's license of the parent, guardian,
 17 or other person responsible for the care of the child pursuant to [section 4]; and

18 (c) refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination
 19 regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child.

20 ~~(3)~~(4) (a) If convicted under subsection (3)(c), the person shall be fined not more than \$100, ordered to
 21 perform up to 20 hours of community service, or required to give bond in the penal sum of \$100, with sureties,
 22 conditioned on the person's agreement to cooperate with the district in implementing the truancy plan provided
 23 for in subsection (2) for the remainder of the current school term.

24 (b) If a person fails to comply with an order of the court issued under subsection ~~(3)(a)~~ (4)(a), the person
 25 may be imprisoned in the county jail for a term of not more than 3 days.

26 ~~(4)~~(5) (a) If the child is discovered by the attendance officer to be truant on 9 or more days ~~or 54 or more~~
 27 ~~parts of a day~~ in one school year semester, the child may be referred to youth court as habitually truant under
 28 Title 41, chapter 5.

29 (b) Following a referral to youth court under subsection ~~(4)(a)~~ (5)(a), an attendance officer shall inform
 30 the youth court of any subsequent trancies by the child, and the youth court may find the child to be a youth in

1 need of intervention as defined in 41-5-103 and make any of the dispositions provided in 41-5-1512."

2

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

4 **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise,
5 the following definitions apply:

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

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

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

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

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

14 (6) "Cost containment pool" means an account from which funds are allocated by the office of court
15 administrator under 41-5-132 to a judicial district that exceeds its annual allocation for juvenile out-of-home
16 placements, programs, and services or to the department for costs incurred under 41-5-1504.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (c) violation of a youth parole agreement.

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

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

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

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

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

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

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

27 (21) "Guardian" means an adult:

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

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

1 (22) "Habitual truancy" means recorded unexcused absences of 9 or more days ~~or 54 or more parts of~~
2 ~~a day, whichever is less,~~ in 4 one school year semester.

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

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

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

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

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

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

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

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

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

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

25 (i) have physical custody of the youth;

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

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

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

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

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

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

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

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

8 (44) "Victim" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **Section 3.** Section 53-4-231, MCA, is amended to read:

11 **"53-4-231. Eligibility.** (1) Subject to the provisions of subsections (2) through (6), assistance may be
12 granted under this part to:

13 (a) a dependent child;

14 (b) a specified caretaker relative or relatives, including but not limited to the natural or adoptive parents
15 of a dependent child who:

16 (i) enters into a family investment agreement, as provided for in 53-4-606, if required by the department;
17 and

18 (ii) cooperates in all assessments and screening required by the department;

19 (c) the stepparent of a dependent child who lives with the child and the child's natural or adoptive parent;

20 (d) persons under 18 years of age who live in the home with a dependent child, including but not limited
21 to siblings related to the dependent child by blood, marriage, or adoption or by law; and

22 (e) a needy pregnant woman with no other children who is receiving payments. Payments may begin
23 no earlier than the third month prior to the month in which the child is expected to be born.

24 (2) Persons who are not citizens of the United States are eligible for assistance only as provided in
25 sections 401 through 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as
26 codified in Title 8 of the United States Code.

27 (3) A person who has been convicted of a felony offense, an element of which involves the possession,
28 use, or distribution of a controlled substance, as defined in 21 U.S.C. 802, is eligible for public assistance if the
29 person is actively complying with the conditions of supervision or has discharged the sentence associated with
30 the felony conviction and if the person is actively participating in treatment, if required.

- 1 (4) The following are not eligible for assistance:
- 2 (a) persons who are receiving supplemental security income payments under the Social Security Act;
- 3 (b) an adult or a dependent child who is or is expected to be absent from the home of the specified
- 4 caretaker relative continuously for a period of time prescribed by the department by rule;
- 5 (c) a specified caretaker relative who fails to comply with requirements for reporting the absence of a
- 6 dependent child from the specified caretaker relative's home as prescribed by the department by rule;
- 7 (d) families in which the specified caretaker relative fails or refuses to assign child and medical support
- 8 rights to the department or to cooperate in establishing paternity or obtaining child or medical support as required
- 9 by the department by rule;
- 10 (e) families in which the specified caretaker relative or other adult household member, as specified by
- 11 the department by rule, fails or refuses to:
- 12 (i) cooperate in any required screening or assessment; ~~or~~
- 13 (ii) enter into a family investment agreement required by the department under 53-4-606; or
- 14 (iii) meet with the designated individual of a school district to develop a truancy plan or fails to uphold the
- 15 responsibilities under the provisions of the truancy plan under 20-5-106;
- 16 (f) teenage parents who fail or refuse to attend secondary school or another training program as required
- 17 by the department by rule;
- 18 (g) teenage parents who are not living in an adult-supervised setting as defined by the department by
- 19 rule;
- 20 (h) a fugitive felon or probation or parole violator as defined in section 103 of the Personal Responsibility
- 21 and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608; and
- 22 (i) individuals who have fraudulently misrepresented their place of residence, as defined in section 103
- 23 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608. The ineligibility
- 24 continues for a period of 10 years beginning on the date of conviction.
- 25 (5) A family is not eligible for financial assistance if the family includes an adult who has received
- 26 financial assistance in a program funded under temporary assistance for needy families in any state or states for
- 27 60 months or more, whether or not the months are consecutive, unless an exception is expressly granted by
- 28 federal law.
- 29 (6) This part may not be interpreted to entitle any individual or family to assistance under programs
- 30 funded by temporary assistance for needy families."

1

2 NEW SECTION. Section 4. Mandatory restriction for failure to address truancy -- administrative

3 **fee.** (1) The department shall restrict the driver's license or driving privilege of a person upon notification from an

4 attendance officer of a school district that the person has failed to meet with the designated individual of a school

5 district to develop a truancy plan or has failed to uphold the responsibilities under the provisions of the truancy

6 plan under 20-5-106.

7 (2) The restriction under subsection (1) must allow the person to drive only for an essential driving

8 purpose as defined by the department.

9 (3) The restriction must remain in effect until the attendance officer notifies the department that:

10 (a) the person has upheld the responsibilities under the provisions of the truancy plan under 20-5-106;

11 and

12 (b) the person has paid the school district an administrative fee of \$25.

13 (4) The school district shall deposit any administrative fee received under subsection (3)(b) in an

14 appropriate school district fund as determined by the trustees.

15

16 NEW SECTION. Section 5. Codification instruction. [Section 4] is intended to be codified as an

17 integral part of Title 61, chapter 5, part 2, and the provisions of Title 61, chapter 5, part 2, apply to [section 4].

18

19 NEW SECTION. Section 6. Effective date -- applicability. [This act] is effective July 1, 2017, and

20 applies to school years beginning on or after July 1, 2017.

21 - END -