

## HOUSE BILL NO. 327

INTRODUCED BY K. DUDIK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING JUVENILE JUSTICE LAWS; REVISING  
5 THE DECLARATION OF PURPOSE OF THE MONTANA YOUTH COURT ACT; REQUIRING A PROBATION  
6 OR ASSESSMENT OFFICER TO SCREEN A YOUTH FOR CHILD ABUSE OR NEGLECT DURING A  
7 PRELIMINARY INQUIRY IN CERTAIN CIRCUMSTANCES; REVISING THE PURPOSES OF THE JUVENILE  
8 DELINQUENCY INTERVENTION ACT AND THE CRIMINALLY CONVICTED YOUTH ACT; REQUIRING THE  
9 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE NOTIFICATION TO THE STATE  
10 PROTECTION AND ADVOCACY PROGRAM FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES  
11 WHEN A CHILD SUFFERS ABUSE OR NEGLECT AT A FACILITY UNDER CERTAIN CIRCUMSTANCES;  
12 REQUIRING THAT SANCTIONS AND PUNISHMENT FOR VIOLATIONS OF RULES IN YOUTH  
13 CORRECTIONAL FACILITIES UNDER THE CONTROL OF THE DEPARTMENT OF CORRECTIONS MEET  
14 CERTAIN CRITERIA; AND AMENDING SECTIONS 41-5-102, 41-5-1202, 41-5-1802, 41-5-2002, 41-5-2502,  
15 52-2-603, AND 52-5-102, MCA."

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

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19 **Section 1.** Section 41-5-102, MCA, is amended to read:20 **"41-5-102. Declaration of purpose.** The Montana Youth Court Act must be interpreted and construed  
21 to effectuate the following express legislative purposes:22 (1) to preserve the unity and welfare of the family whenever possible and to provide for the care,  
23 protection, and wholesome mental and physical development of a youth coming within the provisions of the  
24 Montana Youth Court Act;25 (2) to prevent and reduce youth delinquency through a system that does not seek retribution but that  
26 provides:

27 (a) immediate, consistent, enforceable, and avoidable consequences of youths' actions;

28 (b) a program of rehabilitation for youth before they become adult offenders;29 ~~(b)(c)~~ a program of supervision, care, ~~rehabilitation,~~ detention, competency development, and community  
30 protection for youth before they become adult offenders;

- 1           ~~(c)~~(d) in appropriate cases, restitution as ordered by the youth court; and
- 2           ~~(d)~~(e) that, whenever removal from the home is necessary, the youth is entitled to maintain ethnic,
- 3 cultural, or religious heritage whenever appropriate;
- 4           (3) to achieve the purposes of subsections (1) and (2) in a family environment whenever possible,
- 5 separating the youth from the parents only when necessary for the welfare of the youth or for the safety and
- 6 protection of the community;
- 7           (4) to provide judicial procedures in which the parties are ensured a fair, accurate hearing and
- 8 recognition and enforcement of their constitutional and statutory rights."

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10           **Section 2.** Section 41-5-1202, MCA, is amended to read:

11           **"41-5-1202. Preliminary inquiry -- procedure -- youth assessment.** (1) In conducting a preliminary

12 inquiry under 41-5-1201, the juvenile probation officer or assessment officer shall:

13           (a) advise the youth of the youth's rights under this chapter and the constitutions of the state of Montana

14 and the United States;

15           (b) determine whether the matter is within the jurisdiction of the court;

16           (c) determine, if the youth is in detention, a youth assessment center, or shelter care, whether detention,

17 placement in a youth assessment center, or shelter care should be continued or modified based upon criteria set

18 forth in 41-5-341 through 41-5-343; and

19           (d) if the youth exhibits the behavior of running away from home, screen the youth to determine if child

20 abuse or neglect, as defined in 41-3-102, is a cause of the behavior.

21           (2) In conducting a preliminary inquiry, the juvenile probation officer or assessment officer may:

22           (a) require the presence of any person relevant to the inquiry;

23           (b) request subpoenas from the judge to accomplish this purpose;

24           (c) require investigation of the matter by any law enforcement agency or any other appropriate state or

25 local agency;

26           (d) perform a youth assessment pursuant to 41-5-1203."

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28           **Section 3.** Section 41-5-1802, MCA, is amended to read:

29           **"41-5-1802. Rules.** The department shall adopt rules governing:

30           (1) licensing procedures for regional and county detention facilities, including the requirement that a

1 youth detention facility provide an educational program for youth in need of that service; and  
 2 (2) allowed sanctions and punishments for youth residing in a youth detention facility. The rules must  
 3 ensure that punishment and sanctions:  
 4 (a) are structured to reflect the severity and frequency of the violations;  
 5 (b) are consistently and promptly imposed; and  
 6 (c) do not include placing a youth alone in a locked room."

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 8 **Section 4.** Section 41-5-2002, MCA, is amended to read:

9 **"41-5-2002. Purpose.** The purposes of this part are to:

10 (1) provide an alternate method of funding juvenile out-of-home placements, programs, and services;  
 11 (2) increase the ability of youth courts to respond to juvenile delinquency through early intervention and  
 12 expanded community alternatives;  
 13 (3) emphasize the rehabilitation of troubled youth;  
 14 ~~(3)~~(4) enhance the ability of youth courts to control costs;  
 15 ~~(4)~~(5) enhance community safety, hold youth accountable, and promote the competency development  
 16 of youth;  
 17 ~~(5)~~(6) use local resources for the placement of troubled youth, when appropriate and available;  
 18 ~~(6)~~(7) reduce placements in out-of-state residential facilities and programs; and  
 19 ~~(7)~~(8) use state youth correctional facilities when appropriate."

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 21 **Section 5.** Section 41-5-2502, MCA, is amended to read:

22 **"41-5-2502. Purpose.** The criminally convicted youth act must be interpreted and construed to effectuate  
 23 the following express legislative purposes:

24 (1) to protect the public;  
 25 (2) to provide for the rehabilitation of youth convicted in district court;  
 26 ~~(2)~~(3) to hold youth who commit offenses that may be filed directly in district court pursuant to 41-5-206  
 27 accountable for their actions;  
 28 ~~(3)~~(4) to provide for the custody, assessment, care, supervision, treatment, education, ~~rehabilitation~~; and  
 29 work and skill development of youth convicted in district court; and  
 30 ~~(4)~~(5) to comply with the legislative purposes set forth in 41-5-102."

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2           **Section 6.** Section 52-2-603, MCA, is amended to read:

3           **"52-2-603. Powers and duties of department.** (1) The department shall:

4           (a) administer all state and federal funds allocated to the department for youth foster homes, kinship  
5 foster homes, youth group homes, youth shelter care facilities, child-care agencies, and transitional living  
6 programs for youth in need of care, as defined in 41-3-102;

7           (b) exercise licensing authority over all youth foster homes, kinship foster homes, youth group homes,  
8 youth shelter care facilities, child-care agencies, transitional living programs, and youth assessment centers;

9           (c) collect and disseminate information relating to youth in need of care;

10          (d) provide for training of program personnel delivering services;

11          (e) in cooperation with youth care facility providers, develop and implement standards for youth care  
12 facilities;

13          (f) maintain adequate data on placements it funds in order to keep the legislature properly informed of  
14 the following:

15           (i) the number of youth in need of care in out-of-home care facilities;

16           (ii) the cost per facility for services rendered;

17           (iii) the type and level of care of services provided by each facility;

18           (iv) a profile of out-of-home care placements by level of care; and

19           (v) a profile of public institutional placements;

20          (g) administer all funds allocated to the department for residential alcohol and drug abuse treatment for  
21 indigent youth in need of care, indigent youth in need of intervention, and indigent delinquent youth who require  
22 treatment; ~~and~~

23          (h) provide reimbursement for mental health outpatient counseling services for persons who experience  
24 the death of a foster child while providing substitute care to the foster child in a youth care facility; and

25           (i) if a child suffered abuse or neglect while receiving treatment or substitute care and the person who  
26 is the subject of the report is a staff member, employee, or contractor of the facility, treatment program, center,  
27 or home, send its documented determination to the state protection and advocacy program for individuals with  
28 developmental disabilities as authorized in 42 U.S.C. 15043(a)(2).

29          (2) The department may:

30           (a) enter into contracts with nonprofit corporations or associations or private organizations to provide

1 substitute care for youth in need of care in youth care facilities;

2 (b) accept gifts, grants, and donations of money and property from public and private sources to initiate  
3 and maintain community-based services to youth;

4 (c) adopt rules to carry out the administration and purposes of this part.

5 (3) The department shall pay for room, board, clothing, personal needs, and transportation in youth foster  
6 care homes and youth group homes for youth who are in the physical or legal custody of the department and who  
7 need to be placed in the facilities. Payments for the clothing of a youth placed in a youth foster home must be  
8 provided to the extent that the youth needs a basic wardrobe or has a special clothing need. Upon approval by  
9 the department, payments under this subsection may continue for a youth up to 21 years of age who remains in  
10 substitute care. Payments under this subsection may not exceed appropriations for the purposes of this  
11 subsection.

12 (4) The department may provide a subsidy for a guardianship of a child who is in the department's legal  
13 custody if the guardianship has been approved by the department pursuant to 41-3-444 and in accordance with  
14 eligibility criteria established by department rule."  
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16 **Section 7.** Section 52-5-102, MCA, is amended to read:

17 **"52-5-102. Control and management of youth correctional facilities.** (1) The facilities provided for  
18 in 52-5-101 shall exercise their functions under the supervision and general management of the department of  
19 corrections. Except where otherwise provided by law, the department by ~~rules~~ rule shall establish standards of  
20 care and policies of admission, transfers, discharge, and parole supervision in order to provide adequate care  
21 for children and adequate service to the courts. Policies of admission may include criteria for medical  
22 examinations required under 52-5-108.

23 (2) The department shall develop special programs within each facility that are adaptable to the particular  
24 needs of its operation.

25 (3) Sanctions and punishment for violations of rules regulating the conduct of youth and others in the  
26 custody of the department:

27 (a) must be structured to reflect the severity and frequency of the violations;

28 (b) must be consistently and promptly imposed; and

29 (c) may not include placing a youth alone in a locked room."  
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